

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: WILLIAM D. McMILLAN,)	No. 19-EEC-004
)	
)	Appeal of OEIG
)	Revolving Door
)	Determination

DECISION

This cause is before the Executive Ethics Commission (“Commission”) on appeal by William D. McMillan (“Appellant”) from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor (“OEIG”). Appellant appears pro se. The Office of the Attorney General is represented by Assistant Attorney General Neil MacDonald.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of (i) Appellant’s OEIG revolving door file, (ii) Appellant’s December 7, 2018 appeal of an OEIG Revolving Door “Restricted” determination, and (iii) the Office of the Attorney General’s December 11, 2018 Objection.

Based upon this record, the Commission makes the following findings of fact:

1. At all times relevant to this matter, Appellant William B. McMillan has been, and continues to be, an employee of the Illinois Environmental Protection Agency (IEPA), serving as Manager of the Public Water Supplies Division. Appellant has been employed with IEPA since 1985.
2. IEPA identified Appellant as an employee, who, by the nature of his duties, has the authority to participate personally and substantially in the award of State contracts, thereby subjecting him to revolving door restrictions found at 5 ILCS 430/5-45(c).
3. Appellant anticipates retiring from State employment on December 31, 2018 and would like to accept a position of Training Coordinator with the Illinois Rural Water Association (IRWA). IRWA would pay Appellant between \$40,000 to \$50,000 per year.
4. Beginning in June of 2017, Appellant drafted technical portions of a request for proposal to help smaller water systems to increase capacity. Appellant claims that his involvement in the request for proposal was completed in September of 2017.
5. IRWA was the only entity that responded to the request for proposal. Three employees evaluated the proposal, one of whom was designated by McMillan. This employee reported that while Appellant and he did speak during the evaluation process, they did not

discuss the scoring of IRWA's application. He further reported that he and Appellant did discuss some of the items that would be required of the awardee under the contract.

6. IRWA was awarded the request for proposal in late Spring of 2018. The resulting contract in the amount of \$125,000 was signed by the EPA Director on June 27, 2018.
7. On November 30, 2018, the OEIG determined that Appellant was restricted from accepting the employment opportunity with IRWA. Appellant appealed that determination on December 7, 2018 to the Executive Ethics Commission.
8. In accordance with 5 ILCS 430/5-45(g), the Executive Ethics Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General's determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. Appellant's appeal of the OEIG's November 30, 2018 revolving door determination is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (a) of the revolving door section of the State Officials and Employees Ethics Act provides:

(a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the award of State contracts, or the issuance of State contract change orders, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(a)

4. Appellant is subject to 5 ILCS 430/5-45(c), since, by the nature of his duties, he had the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions.
5. Subsection (f) of the revolving door section of the State Officials and Employees Ethics Act provides:

Any State employee in a position subject to the policies required by subsection (c) or to a determination under subsection (d), but who does not fall within the prohibition of subsection (h) below, who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Inspector General. Within 10 calendar days after receiving notification from an employee in a position subject to the policies required by subsection (c), such Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by subsection (a) or (b)... A determination by an Inspector General must be in writing, signed and dated by the Inspector General, and delivered to the subject of the determination within 10 calendar days or the person is deemed eligible for the employment opportunity.

5 ILCS 430/5-45(f).

6. Subsection (g) of the same section provides:

(g)...In deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission or Auditor General shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions.

5 ILCS 430/5-45(g)

7. Considering all relevant information and the effect of the prospective employment upon the contracting decisions referred to in subsection (a) of 5 ILCS 430/5-45, based upon the totality of the participation by the employee in those decisions, the Commission finds that Appellant William D. McMillan did not participate personally and substantially in awarding contracts to his prospective employer, within one year of her proposed termination of State employment.

WHEREFORE, for the foregoing reasons, the Commission reverses the Office of the Executive Inspector General's November 30, 2018 determination and grants this appeal. William D. McMillan may pursue his employment opportunity with IRWA.

SO ORDERED.

DATE: December 17, 2018

The Executive Ethics Commission

By: Chad D. Fornoff
Chad D. Fornoff
Administrative Law Judge
Executive Director