

Ask the City Ethicist

#10: If you're thinking about leaving City service...

by

Susan C. Bronson

Question: *I am considering leaving the New York City Housing Authority, where I am a contracts administrator, to work for a company whose contracts I approve. Do the Conflicts of Interest laws govern people leaving City employment for the private sector?*



Answer: As a City employee, you may neither seek a non-City job with anyone with whom you are dealing directly in your City job nor accept such a job if it is offered.

The City's Conflicts of Interest laws prohibit a public servant from actively seeking a position or negotiating for a position with a firm while the public servant is involved with that firm as a City employee. If you sign forms authorizing payments from NYCHA to a certain vendor, for example, you cannot send your resume to that vendor or even speak to one of the vendor's employees about working there. The Conflicts of Interest Board (the "Board") fined a former project manager \$1,000 for sending his resume to a City contractor while he was working on that contractor's project. One way to avoid violating the law is to ask your supervisor to remove you from work that involves the vendor whose contracts you administer. If your supervisor agrees with your request, it's fine to contact that vendor about job hunting. If your supervisor cannot or will not reassign you, you must wait until your current assignment ends before approaching that vendor about a job. (You could also quit and go job hunting, but that approach has some obvious drawbacks.)

The following rules apply to public servants who have left City service. The intent of the rules is not to handicap City employees who have switched to the private sector, but to prevent public servants from exploiting their confidential City information and misusing their City agency contacts to advance themselves or to give their new employers an unfair advantage.

Rule 1. *You must always preserve confidentiality after leaving City service.*

Never disclose confidential information. Never use confidential information for your own advantage – or for your new employer’s benefit. What is confidential information? Any information that a member of the general public cannot obtain.

Rule 2. *You may not appear before your former City agency on business matters for one year after you leave.*

This prohibits former City employees from “appearing” before their former City agency by telephoning, writing, faxing, emailing, attending meetings, or having any other contact for their new employer on matters that require significant decision making at the City agency. The 12-month bar on appearing before your former City agency begins the day that you leave the City payroll. The Board fined a former Deputy Agency Chief Contracting Officer (“ACCO”) \$1,500 for violating the one-year bar and other post-employment laws when, less than two weeks after the Deputy ACCO left City service, he contacted his former supervisor to ask if a contract had been awarded to his new employer.

Rule 3. *You cannot work on a matter or project that you were directly involved in as a public servant.*

There is a lifetime post-employment ban that prevents a former public servant from appearing before any City agency—not just the public servant’s former agency-- on the same matter that he or she had participated in as a public servant. This applies whether or not the former public servant gets paid for that appearance. Even if the work is done “behind the scenes,” former public servants are prohibited from engaging in any paid activity involving that matter. This rule relates to conduct where the former public servant’s involvement in a decision, approval, investigation, or similar matter was “personal and substantial.” A former City engineer paid a \$3,000 fine for working for a private firm, after leaving City service, on the renovation of a courthouse whose renovation the engineer had overseen when he was on the City payroll. Such conduct as typing a contract or checking to see that an applicant had signed and dated a permit application is not considered “personal and substantial” participation.

There are three exceptions to the job-hunting rule, one-year bar, and lifetime post-employment ban. First, the rules don’t apply if you are acting on a ministerial matter, for example, if you are just picking up papers from the receptionist at your former City agency. Second, these rules don’t apply if you are going to work for another government agency. Third, in certain cases, the Board will issue waivers granting exceptions to these rules, but

waivers are pretty rare and hard to get. Before you can apply for a Board waiver, you must get permission from the head of your former City agency.

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If you are unsure whether your job hunting as a City employee or your conduct as a former City employee creates a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

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