

Stormwater

Conflict of Interest and the Stormwater Advisory Committee



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1. What “ethics code” are we talking about?

Baltimore City Code, Article 8 covers ethics provisions for the City. This article (and all other portions of the City Code and Charter) can be found at <http://archive.baltimorecity.gov/Government/CityCharterCodes.aspx> . We also rely on advice from the City's Ethic's Office.

2. Can I serve on the SWAC if I or my employer already has a business relationship with City government?

Yes. All previous business relationships with City government must be disclosed at the time of appointment to the SWAC. Disclosure should be made, in writing, to the City Ethics Office, under penalty of perjury. SWAC appointees can work with DPW's General Counsel on this disclosure. See Ethics Code § 6-14 {" Exceptions – New board members."}

3. Can I serve on the SWAC and bid on City projects?

Members of the SWAC may bid on City projects EXCEPT for projects for the Department of Public Works. For example, SWAC members may bid on projects advertised by the Department of Transportation. See Ethics Code § 6-11. {"Prohibited employment, interests"}.

4. What if I'm only a sub-contractor for the bid?

The restriction applies to both primes and subs.

5. What if I'm employed by a company or non-profit that wants to bid on DPW contracts?

Employers of SWAC members are not generally restricted by the Ethics Code, however, if a SWAC member's employer were to bid on a DPW project, the SWAC member would be required to resign from SWAC to avoid a violation of Ethics Code § 6-11 {"Prohibited employment, interests"}.

6. What if my employer wants to bid on DPW projects but I am serving as a citizen representative, not a representative of my employer?

Ethics Code § 6-11 as described in #5, above, is applicable whether you are representing your employer on the SWAC or not.

7. What if I volunteer for or serve as an unpaid board member of a non-profit that wants to bid on DPW contracts?

Volunteers are not subject to the same conflict of interest provisions as paid employees.

8. What about after my term ends or if I resign from the SWAC? Can I bid on DPW projects then?

Former SWAC members may bid on DPW projects if they did not “significantly participate” in consideration of the project while a member of SWAC. This means that having general information about the budget for the stormwater utility is allowable, but if the SWAC delves into the details of a specific project, a former member may not subsequently bid on that project. Former SWAC members should be able to bid without restriction on DPW projects unrelated to stormwater. Under most circumstances, a conflict under this provision would bar the former SWAC member’s employer from even bidding on the matter that the employee “significantly participated” in. See Ethics Code § 6-22. {“Post-employment restrictions”}.

9. Can non-profits receive grants from DPW if they are represented on the SWAC?

If the non-profit is represented by someone who volunteers with the non-profit, then the non-profit may apply for grants but the volunteer would have to recuse him/herself from any participation in shaping the grant program that the non-profit intends to make use of. If the non-profit is represented by an employee, then the non-profit may not apply for grants from DPW. See Ethics Code § 6-11. {“Prohibited employment, interests”}.

10. If a non-profit is represented by one of its employees on the SWAC, may the non-profit pursue a grant from a third party with matching funds from DPW?

Because DPW’s commitment to provide matching funds for a grant is binding, it functions the same way as a contract under the City’s conflict of interest provisions. This means that if the SWAC member’s employer wanted to pursue a grant with matching funds from DPW, the SWAC member would be required to resign from SWAC to avoid a violation of Ethics Code § 6-11 {“Prohibited employment, interests”}.

11. If a non-profit is represented by one of its employees on the SWAC, may the non-profit pursue a grant from a third party with a letter of support from DPW if the letter does not include a financial commitment?

Yes. As long as the letter of support is coming from the Director of Public Works, there is no conflict of interest. If the letter of support were to come from the SWAC, the employee would have to recuse him/herself from participating on that issue.

12. I have another question. How do I get it answered?

Contact Dana Cooper, General Counsel for DPW at dana.cooper@baltimorecity.gov or 410-396-3312.