

February 27, 2015

Joe Panora
364 Hansen Circle
Folsom, CA 95630

Re: Your Request for Advice
Our File No. A-15-023

Dear Mr. Panora:

This letter supplements our previous letter dated January 23, 2015 (*Panora* Advice Letter, No. I-15-002) regarding the revolving door provisions of the Political Reform Act (the “Act”).¹ We base this advice on the facts presented; the Fair Political Practices Commission (the “Commission”) does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

You seek clarification about whether the one-year ban prohibits you from contacting the Prison Industry Authority (“PIA”) or the California Correctional Health Care Services (“CCHCS”) in your capacity as owner of Panora Associates in an attempt to secure contracts for other information technology companies. As explained below, because the budget, personnel, and other operations of the PIA and the CCHCS are not subject to the control of CDCR, your former employer, the one-year ban does not prohibit you from contacting those agencies to assist other technology companies in securing contracts with them.

After retiring from the CDCR where you oversaw all of its information technology, you established your own business, Panora Associates. Your company delivers technology, strategic procurement, and project advisory services to technology companies doing business with state, federal and local government entities. As part of your services, your company will help other technology companies to secure contracts with governmental entities through the normal state procurement process.

You intend to contact the PIA and the CCHCS, among other agencies, on behalf of other technology companies. It is your understanding that the operations, including the budgets and

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

personnel, of these two agencies are not under the control of the CDCR. With respect to the PIA, it is subject to independent oversight from a board not affiliated with the CDCR, and thus the CDCR has no control over its budget and personnel decisions.² You confirm that as the former Director of EIS for the CDCR, you had no authority over the PIA's information technology budget or personnel.

Similar to the PIA, the CDCR has no authority over the CCHCS's budget or personnel. Pursuant to a federal court order, a federal Receiver was appointed to oversee the CCHCS, an entity entirely separate from the CDCR.³ Here again, you confirm that as the former Director of EIS for the CDCR, you had no authority over the CCHCS's information technology budget or personnel.

Although you occasionally communicated with your counterparts at the PIA and the CCHCS concerning information technology projects while employed at the CDCR, you had no authority over them in any respect. You now seek clarification concerning your ability to contact the PIA and the CCHCS for business.

As explained in the previous advice letter, the "one-year ban" prohibits a former state employee from making, for compensation, any formal or informal appearance, or making any oral or written communication, before his or her former agency for the purpose of influencing any administrative or legislative actions or any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. (See Section 87406; Regulation 18746.1.)

However, such appearances and communications are prohibited only if they are (1) before a state agency that the public official worked for or represented, (2) before a state agency "which budget, personnel, and other operations" are subject to the control of a state agency the public official worked for or represented, or (3) before any state agency subject to the direction and control of the Governor, if the official was a designated employee of the Governor's office during the twelve months before leaving state office or employment. (Regulation 18746.1(b)(6).)

You have asked whether you can communicate with the PIA and the CCHCS in order to assist in securing contracts for other information technology companies. You were formerly employed by CDCR, not the PIA or CCHCS. In addition, your facts state that the "budget, personnel, and other operations" are not subject to the control of CDCR. Finally, you were a designated employee of the CDCR, not the Governor's office, during the twelve months before leaving your state service.

² The PIA was created in 1982 as a semiautonomous state agency to operate California's prison industries in a manner similar to private industry. (See http://pia.ca.gov/About_PIA/AboutPIA.aspx.)

³ The Receiver reports directly to federal Judge Thelton E. Henderson of the U.S. District Court for Northern California, and the Secretary of CDCR no longer has jurisdiction over medical care services in the state's 33 adult prisons. (<http://www.cphcs.ca.gov/faq.aspx#boss>)

Accordingly, based on these facts, the one-year ban does not prohibit you from appearing before or communicating with the PIA or the CCHCS in order to assist in securing contracts for other information technology companies.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

John W. Wallace
Assistant General Counsel

By: Jack Woodside
Senior Counsel, Legal Division

JW:jgl