



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

July 21, 2026

Nicole Elliott
179 Delmar Street
San Francisco, CA 94117

**Re: Your Request for Advice
Our File No. A-26-022**

Dear Ms. Elliott:

This letter responds to your request for advice regarding the post-government employment provisions of the Political Reform Act (the “Act”).¹ Please note that we are only providing advice under the post-government employment provisions of the Act. We offer no opinion on the application, if any, of the post-government employment provisions of the Public Contract Code, or other general conflict of interest prohibitions, such as common law conflict of interest or Section 1090. Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice. This letter should not be construed as assistance on any conduct that may have already taken place. (See Regulation 18329(b)(6)(A).)

QUESTION

Do the post-government employment restrictions in the Act prohibit you, a former Director of the California Department of Cannabis Control (“Department”) who approved a contract with Metrc LLC and participated in its implementation, from accepting a position with the Board of Directors of Metrc Inc. (hereinafter referred to as the “Metrc Board”), the parent company to Metrc LLC?

CONCLUSION

The Act does not prohibit you from holding any private position, but the post-government provisions may restrict your activities for compensation. Under the one-year ban, you cannot represent another person, including Metrc Inc., for one year from December 31, 2025 by appearing before or communicating with the Department for compensation, to influence administrative or legislative actions, or to influence discretionary actions. Under the permanent ban, you have a lifetime ban on advising or assisting any person other than the State of California

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 18104 through 18998 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.

(“State”) regarding the contract with Metrc LLC, due to your participation in the formation and implementation of that contract.

FACTS AS PRESENTED BY REQUESTER

You served as the Director of the Department from July 2021 until you permanently left office on December 31, 2025. As the Director, you oversaw the Department’s regulatory and administrative programs, including the Department’s California Cannabis Track-and-Trace (“CCTT”) system and its current contract with Metrc LLC.

Background

On November 8, 2016, California voters approved Proposition 64, known as the Adult Use of Marijuana Act, which legalized recreational marijuana. Proposition 64 required a track and trace system that uses unique identifier tags and software to inventory and report the movement of cannabis and cannabis products through the licensed commercial cannabis supply chain – from seed to sale. The CCTT system tracks individual plants and traces them to their source. Growers, distributors, manufacturers, and retailers report data when they handle tagged cannabis and cannabis products, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

In 2017, Florida-based Franwell, Inc., was awarded the California contract for the CCTT system to develop the Marijuana Enforcement Tracking Reporting Compliance system, known as METRC. The initial contract term was for two years, with an option to renew for five additional one-year terms. During this time, the CCTT operations of Franwell, Inc. branched off into an independent entity, aptly named Metrc LLC. Metrc LLC provides track-and-trace services in multiple states across the United States.

Before the last extension of the 2017 contract expired, the Department² issued a Request for Information (“RFI”) for the CCTT system. This was a non-competitive procurement process. Staff scored the information received and made a recommendation to enter into a new contract with Metrc LLC. You approved and the new contract was awarded to Metrc LLC (hereinafter referred to as the “Metrc contract”). The Metrc contract term is from July 1, 2024, to June 30, 2028, with an option for the Department to extend the contract for an additional two years through June 30, 2030. As Director, you received bimonthly updates from your team, specifically from the leaders of the Information Technology Services and Compliance divisions, and Metrc LLC leadership, on implementation of the Metrc contract and use of the CCTT tool.

² In July 2021, three state entities tasked with regulating the cannabis industry were reorganized as the Department.

Metrc Inc. Board of Directors

Recently, Metrc Inc. offered you a position on the Metrc Board, which you state could be compensated in cash and/or equity. You have not provided information about compensation; it is our understanding that such details are under negotiation. Metrc Inc. is the parent company to Metrc LLC, a wholly-owned subsidiary, and other legal entities. The Metrc Board position involves traditional corporate governance responsibilities, including participation in board meetings, oversight of company strategy, and providing internal strategic guidance to company leadership on long-term business planning. Any strategic guidance you might provide would relate to Metrc Inc.'s broader business operations and regulatory environment nationwide and you represent that your guidance would not be directed toward the Metrc contract with the Department or matters involving the State. The Metrc Board does not approve any renewals, extensions, or revisions of the Metrc contract with the Department.

You further represent that your employment at Metrc Inc. would not include duties related to lobbying or attempting to influence administrative, regulatory, or legislative action before the Department or any other State agency. You indicated that you would not represent Metrc Inc. before, or communicate with, any State agency or official; communicate with any State agency or official regarding the Metrc contract, including any amendments, extensions, renewals, disputes, or any future procurement or contract involving the State; or participate in or direct any strategy related to communications with the State regarding the Metrc contract.

ANALYSIS

Before addressing the Act's applicable provisions, it is important to note that the Act does not prohibit former state employees from being employed by anyone. Rather, the Act imposes restrictions on certain activities for which former state employees may be compensated. Public officials who leave state service are subject to two types of post-governmental employment provisions under the Act: the "one-year ban" and the "permanent ban." These provisions are commonly referred to as the "revolving door" prohibitions.

One-Year Ban

Under the Act, the one-year ban prohibits state employees, for one year after leaving a state employer, from representing any other person by making a formal or informal appearance before, or making an oral or written communication with, for compensation, their former agency in an attempt to influence administrative or legislative actions, or to influence discretionary actions involving the issuance, amendment, award, or revocation of a permit, license, grant, contract, or transaction involving the sale or purchase of property or goods. (Section 87406(d)(1), Regulation 18746.1(a)(4).)

The one-year ban applies to any employee of a state administrative agency who holds a position that is designated or should be designated in the agency's conflict-of-interest code. (Section 87406(d)(1); Regulation 18746.1(a)(4).) While in effect, the one-year ban applies when you are compensated for your appearances or communications before the Department on behalf of any person as an agent, attorney, or representative. (Regulation 18746.1(b)(3) and (4).) The

one-year ban is not limited to appearances or communications with the Department. Under Regulation 18746.1(b)(6)(C)(ii), you also cannot appear or communicate with a state agency whose “budget, personnel, and other operations are subject to the direction and control” of the Department.

An appearance or communication is for the “purpose of influencing” if it is made for the “principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing the action or proceeding.” (Regulation 18746.2(a).) An appearance or communication includes, but is not limited to, conversing by telephone or in person, corresponding in writing or by electronic transmission, attending a meeting, and delivering or sending any communication. (*Id.*)

So long as not prohibited under the permanent ban, appearances or communications, made as part of “[s]ervices performed to administer, implement, or fulfill the requirements of an existing permit, license, grant, contract, or sale agreement are excluded from the [one-year prohibition]... provided the services do not involve the issuance, amendment, awarding, or revocation of any of these actions or proceedings.” (Regulation 18746.1(c).) We have also advised that a former agency official may, without violating the one-year ban, draft proposals on a client’s behalf to be submitted to the agency so long as the former employee is not identified in connection with the client’s efforts to influence an administrative action. (*Cook* Advice Letter, No. A-95-321.) Similarly, a former agency official may use their expertise to advise clients on the procedural requirements, plans, or policies of the official’s former agency so long as the employee is not identified with the employer’s efforts to influence the agency. (*Perry* Advice Letter, No. A-94-004.)

An appearance or communication is prohibited only if the former official is compensated or promised compensation. (Section 87406; Regulation 18746.1(b)(3).) “Compensation” includes “remuneration or payment of any kind.” (*Souza* Advice Letter, No. A-06-114.) “Payment” means a “payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.” (Section 82044.)³

As the Director, your position is, or should be, designated in the Department’s Conflict of Interest Code, and your post-employment actions as a board member for a private company are restricted under the one-year ban for 12 months from the date you permanently left the Department on December 31, 2025. Therefore, you would be prohibited from appearing before or communicating with the Department for compensation on Metrc Inc.’s behalf on legislative and administrative actions, and any proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property, until December 31, 2026. The one-year ban only applies to appearances or communications before the Department for which you receive compensation.

³ Note that a payment made for necessary travel, meals, and accommodations received directly in connection with voluntary services is not considered compensation. (Regulation 18746.1(b)(3).)

Permanent Ban

The “permanent ban” prohibits a former state employee from “switching sides” and participating, for compensation, in any specific proceeding involving the State or assisting others in the proceeding if the proceeding is one in which the former state employee participated while employed by the state. (See Sections 87401-87402; Regulation 18741.1.)

The permanent ban is a lifetime ban and applies to any formal or informal appearance or any oral or written communication, or aiding, advising, counseling, consulting, or assisting in representing any other person, other than the State, in an appearance or communication, made with the intent to influence any judicial, quasi-judicial, or other proceeding in which you participated while you served as a state administrative official. (Sections 87401-87402.)

“Judicial, quasi-judicial, or other proceeding” means “any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency...” (Section 87400(c).) Additionally, an official is considered to have “participated” in a proceeding if the official took part in the proceeding “personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation, or use of confidential information...” (Section 87400(d).) Generally, the adoption, amendment, or repeal of regulations are not considered “judicial, quasi-judicial, or other proceedings,” because they involve the formulation of rules of general application to be applied prospectively and not the rights or claims of specific parties. (*Sweeney* Advice Letter, No. A-98-022; see also Section 87400(c).)

“The permanent ban does not apply to a ‘new’ proceeding even in cases where the new proceeding is related to or grows out of a prior proceeding in which the official had participated. A ‘new’ proceeding not subject to the permanent ban typically involves different parties, a different subject matter, or different factual issues from those considered in previous proceedings.” (*Rist* Advice Letter, No. A-04-187; also see *Donovan* Advice Letter, No. I-03-119.) New contracts with the employee’s former agency in which the former employee did not participate are considered new proceedings. (*Leslie* Advice Letter, No. I-89-649.)

In the *del Valle* Advice Letter, No. A-12-086, we advised that a former employee who worked on the performance phase of a contract cannot, as part of their work for the contractor or any other non-state entity, aid, advise, counsel, consult with or in any way assist the contractor or communicate with their former state agency’s staff or representatives for the purpose of influencing: (i) the amendment or revocation of the existing contract; (ii) the issuance or awarding of a substantially similar contract; or (iii) agency decisions that, although still within the contract’s terms, are likely to result in more than a *de minimis* change in the level of services or goods provided by the contractor from that originally contemplated by the agency.

As the former Director of the Department, you are subject to the permanent ban. Accordingly, you are prohibited from making an appearance or communication, or from assisting any other person in making an appearance or communication, before any state administrative

agency, for compensation, in a proceeding if you previously participated in the proceeding as a state official.

You have identified the Metrc contract as a proceeding subject to the permanent ban. You approved the award of the Metrc contract and oversaw its performance while employed by the state, making your participation in the Metrc contract “personal and substantial.” As such, the permanent ban bars you from any formal or informal appearance or any oral or written communication, or aiding, advising, counseling, consulting, or assisting in representing any other person, other than the State, for compensation in an appearance or communication, made with the intent to influence in regard to the Metrc contract.

Additionally, the permanent ban prohibits you from advising or assisting any entity for compensation, including Metrc LLC, Metrc Inc., or Metrc Inc.’s subsidiaries, or communicating with the Department, regarding the amendment of the existing Metrc contract, the award of a similar contract, or Department decisions that will result in more than a *de minimis* change to the services Metrc LLC provides the Department.⁴ The Metrc contract is set to expire June 30, 2028. Although the existing contract provides the Department with an option to extend the term by two years, it is not automatic. If the Department wishes to extend the term for an additional two years (or more), it must take action to amend the term. The renewal or extension of the Metrc contract would be considered the same proceeding because it would be for substantially similar services – for the CCTT system. Other than the Metrc contract, you have not advised us in detail of your participation in specific proceedings while in state service, nor of the potential relationship between any such proceedings and matters on which you would be employed by Metrc Inc. If you need assistance in evaluating private-sector services relating to a specific proceeding in which you have previously participated, you should seek further advice and provide us with the relevant facts.

If you have other questions on this matter, please contact me at JGin@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Joanna Gin

By: Joanna Gin
Senior Counsel, Legal Division

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⁴ The permanent ban does not apply if you do not receive payment for serving on the Metrc Board.