



CITY OF PHILADELPHIA

BOARD OF ETHICS
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Philadelphia Board of Ethics General Counsel Opinion No. 2026-501

April 16, 2026

Re: Application of the ethics rules to former City employees performing work under a City contract

Dear City Employee:

Your City department (the “Department”) is considering a pilot program that would hire retired City employees as part-time contract workers (the “pilot program”). You have requested a non-public opinion to explain how the City’s ethics laws apply to this proposal. As the Department develops this pilot program, it is important that Department personnel, contracting agencies, and applicants are aware of applicable City and State ethics laws.

As explained below, former Department employees within the first two years after leaving City employment would be only prohibited from applying for or accepting a position as a contract worker through the pilot program if (a) they took official action in their City position related to the creation of the pilot program or (b) a specific official action in their City position formed a substantial basis for the job offer.

This opinion provides a general outline of how these rules would apply to former City employees but cannot address every post-employment issue that might arise with applicants to the pilot program. Regardless of whether they were previously employed by the Department, contract workers under the pilot program will be “City officers or employees” subject the City’s ethics laws.

In addition to the ethics laws discussed in this opinion, the Department should be mindful that City, State, and Federal employment, collective bargaining, procurement, or other laws may apply to the proposed contracting arrangement. Reemployment of retirees through a City contract may also affect eligibility for retirement benefits. Because I can only advise on the ethics laws, I encourage you to consult with the Law Department about other potential legal implications.

I. Jurisdiction

The Board of Ethics administers, enforces, and interprets all Philadelphia Home Rule Charter and Code provisions pertaining to ethical matters, including the City's Ethics Code (Philadelphia Code Chapter 20-600) and certain provisions of the Home Rule Charter. Home Rule Charter Section 4-1100 and Code Chapter 20-600 authorize the Board to render advisory opinions concerning a City officer's proposed future conduct. [Board Regulation No. 4](#) describes the procedures related to seeking an advisory opinion and for requesting reconsideration or appeal to the Board of an advisory opinion issued by me.

Home Rule Charter Section 4-1100 also gives the Board "concurrent authority" with the Law Department to advise City officials on the application of State law. My guidance on State law, however, does not provide protection from possible enforcement by the State Ethics Commission. For guidance on the State Ethics Act that would provide such protection, you should contact either the State Ethics Commission or the City's Law Department.

II. Background

Like many agencies across the City, the Department is facing a staffing shortage. For the Department, the critical issue is a shortage of specific certified, public-facing workers. To address this situation, City officials have proposed an arrangement under which contract agencies would hire recently retired City employees to augment the Department's staffing on a temporary, part-time basis. The Department would use these contract workers primarily for large-scale events or other extraordinary circumstances to supplement the Department's full-time staff. The staffing agencies would be selected using the City's standard request for proposal ("RFP") procedures. The City would not have direct contracts with individual retirees.

This contracting arrangement would start as a pilot program that may be continued if the pilot is successful. The Department plans to direct staffing agencies to focus recruitment on retirees who did not hold executive-level roles and had limited (if any) policy-making powers while with the City. Ideally, recruitment would target workers that have retired within the preceding two years, to ensure that they retain all required state certifications. The Department has had preliminary discussions with interested parties to address labor and other concerns.

III. Relevant Law and Discussion

The proposed contracting arrangement is not entirely novel to the City. Several City departments rely on contractors to fill certain roles, particularly those with specialized duties or in situations where a role does not need to be filled on a permanent basis. *See, e.g., Bd. Op. 2022-008* (contract work for Water Rate Board). The pilot program nevertheless raises two key questions: (1) do the ethics laws permit retired City workers to apply for or accept the proposed contract positions; and (2) would the proposed contract workers be subject to the City's ethics laws? The answer to each of these questions is detailed below.

A. Can retired City employees apply for or accept contract worker positions¹

It is the obligation of former City employees to comply with City and State post-employment rules. That said, I understand that the Department has an interest in ensuring that the pilot program is consistent with the applicable ethics laws. Accordingly, the guidance below outlines the applicable law in general terms so that the Department understands what types of circumstances might raise post-employment concerns for retirees interested in the pilot program.

1. State Ethics Act – One-year Post-Employment Restriction

Section 1103(g) of the State Ethics Act (“the Act”) prohibits a former public employee from being paid to represent someone before their “former governmental body.” The Act defines public employee as “any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a non-ministerial nature with regard to: (1) contracting or procurement; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.” [65 Pa. C.S. § 1102](#). This includes many, but not all individuals employed by the City.

The State Ethics Commission has issued regulations further interpreting the term “public employee.” Those regulations state that those in positions held by the targeted retirees are “generally not considered public employees.” [51 Pa. Code §11.1](#) (*public employee* (v)(A)). It is the understanding of my office that this provision means that most of the targeted non-supervisory employees of the Department are not “public employees” for purposes of the State Ethics Act. Thus, so long as the contract workers did not have any supervisory, policy-making, or contracting responsibilities, they would not be subject to the post-employment provisions of the State Ethics Act. To the extent that retired workers who held supervisory, policy-making, or contracting responsibilities or who held a position *not* listed in the State’s regulations as “generally not considered public employees” apply for work with the staffing agencies within the first year after their City service ends, those employees should seek further guidance from our office or directly from the State Ethics Commission to determine whether they are subject to the additional restrictions of the State Ethics Act.

¹ The pilot program is described as City workers who have already retired. Your request did not contemplate current Department employees applying for contract roles. It is important to note, however, that current City employees cannot apply for any position that will be paid through or involve work under a City contract. [Charter § 10-102](#); [Bd. Op. 2019-003](#). Current Department workers would, therefore, be barred from applying for contract roles. Once they have fully separated from the City, they can apply subject to the post-employment restrictions outlined below.

Please also keep in mind that our advice on the State Ethics Act does not provide protection from possible enforcement by the State Ethics Commission. For definitive guidance on this question, please contact either the Law Department or the State Ethics Commission. If you would like to do so, I can provide you with the appropriate contact information.

2. Philadelphia Code Section 20-607(3) – Two Year Post-Employment Restriction

Philadelphia Code [Section 20-607\(3\)](#) and [Board Regulation No. 5](#), Paragraph 5.25 prohibit a City officer or employee from becoming financially interested in any official action taken “during [their] term of office or employment and until two (2) years have elapsed” after leaving City service. Official action includes “any non-ministerial act or omission by a City officer or employee: [i]n the course of discharging their duties as a City officer or employee; or [u]sing their City position or title, or City resources available by virtue of their City position (whether or not authorized).” Reg. 5, ¶ 5.8.

At a minimum, for two years after leaving City service, former City employees may not be paid with any funds from, or provide any services through, a contract that they helped award while working for the City. See [Bd. Op. 2016-002](#) at 8-9. This rule has also been applied to prohibit a former City official from holding a paid role with a nonprofit they helped form while in their City role. See [G.C. Op. 2021-503](#) at 4.

In addition, the Board has found that a City employee “may not accept an offer of employment if it is connected to prior official action taken by that employee.” [Bd. Op. 2021-001](#) at 3. The Board explained that “connected” meant that “the specific official action cannot be a substantial basis for the offer of employment.” *Id.* The Board noted, however, that “the mere existence of a prior official action is not sufficient to preclude a subsequent offer of employment.”² *Id.*

As you have described it, the pilot program will focus on hiring former Department workers who had limited, if any, authority to take official action that could result in a contract, legislation, or policy changes. That said, official action is not limited to the final action (such as signing a contract or approving a personnel action). See Reg. 5, ¶ 5.1(i) (defining final action). Rather, official action includes “any discussion, review, deliberation, consideration, analysis, or recommendation” whether or not it results in a final action. Reg. 5, ¶ 5.9.

² Board Opinion 2021-001 involved a current City employee, but I do not believe this aspect of its holding would be any different if applied to a former City employee.

While it may be unlikely that former Department workers in the applicant pool could have taken specific official action to affect their financial interest in employment through the pilot program, each applicant must be considered individually. For example, if an applicant for the pilot program took specific official action during their time at the Department to create the pilot program, they may not financially benefit from the resulting contract for the first two years after they leave City service.

In contrast, the general experience attributable to candidates based on their prior Department employment is not a “specific action” that can form a substantial basis for an offer of employment. *See* Bd. Op. 2021-001. Thus, so long as the contracting agencies do not select an applicant who has been separated from the City for less than two years based on any *specific* action(s) taken during their City service, the applicant’s employment by a contracting agency would not violate Section 20-607(3).

It is the obligation of each former City employee to ensure that a contract role (or any other post-City employment) will not violate Section 20-607(3). As a practical matter, because the Department plans to fill the contract positions through contracting agencies, it may be prudent for the Department to require contracting agencies to screen applicants for potential issues under the two-year rule.

3. Code Section 20-603 – Permanent Post-Employment Restriction

Philadelphia Code [Section 20-603](#) prohibits a former City officer or employee from assisting “another person, with or without compensation, in any transaction involving the City in which [the officer or employee] at any time participated during their City service or employment.” This rule prohibits a former officer or employee from assisting any third party with any transactions in which they were personally involved while working for the City. As defined in the City Code, a transaction involving the City is anything that (a) may be subject to City action, (b) involves the City as a party, or (c) involves a direct proprietary interest of the City such as contracts, leases, judgments, and legislation. Code § 20-601(27).

Participation includes any non-ministerial actions as part of the employee’s City duties. For example, an employee has participated in a transaction where they “made a recommendation, did some research, participated in a meeting, analyzed some data, drafted a document or the like.” [G.C. Op. 2012-516](#) at 4; [G.C. Op. 2021-503](#) at 5. This rule applies to specific transactions, such as an individual case or investigation, that a former City employee may have worked on during their City service. It does not apply to restrict a former City employee’s work in an entire subject matter area.

As you described the pilot program, applicants selected by contracting agencies will be providing on-demand services for special events. They will not be working in other roles within the Department or handling ongoing matters. So long as this is true, contract workers would not be assisting anyone with matters in which they were involved during their City tenure.³ Ultimately, it is the responsibility of the former City employee to ensure that their post-City employment complies with Section 20-603.

B. Applicability of City ethics laws to contract workers

Philadelphia Code Chapter 20-600 is the City’s Ethics Code. Among other rules, the Ethics Code includes restrictions on conflicts of interest, gifts to City officers and employees, confidentiality, and post-employment, as well as a mandatory ethics training requirement. With a few exceptions, these Code-based provisions apply only to City officers and employees. The term “officer and employee” is defined at Code [Section 20-601\(18\)](#) as:

Any person who is elected or appointed to a position in any branch of the government of the City and/or County of Philadelphia or to any elected or appointed position which serves the City and/or County of Philadelphia including, but not limited to, members of agencies, authorities, boards and commissions however elected or appointed; persons serving full-time or intermittently; persons serving with or without compensation.

Accordingly, if the contract workers fit within this definition, they would be subject to the City’s Ethics Code regardless of whether they are former City employees. The same analysis applies to determine whether an individual is an “officer or employee” for purposes of Home Rule Charter Sections 10-102 (interest in City contracts), 10-105 (gratuities), and 10-107 (political activity). See [Bd. Op. 2022-002](#) at 4; [G.C. Op. 2023-503](#) at 3.

Prior advisory opinions have established that whether an individual providing services to the City under a City contract is a City “officer or employee” depends on the nature and scope of the individual’s City role. In [Board Opinion 2022-002](#), the Board found that non-employees who “serve [the City] in a defined role in a capacity that is governed by well-established laws, policies, and practices” and provide essential services to the City were within the definition of “officers or employees.” [Bd. Op. 2022-002](#) at 3-4.

³ I note that the Board has not specifically addressed whether Section 20-603 applies to a former City employee who is retained to assist the City itself, rather than a person or entity who is not part of the City. The Board could find that Section 20-603 would not apply in such a circumstance and that a former City employee would be permitted to assist the City with a transaction in which they had participated during their City employment. Because of the facts of your particular request, however, I need not consider that question at present. If the Department seeks to expand the pilot program to include contract workers that would be working on ongoing matters, either the Department or individual applicants should seek further guidance from us.

In [Board Opinion 2022-008](#), the Board applied a similar analysis to evaluate contractors for the Philadelphia Water, Sewer and Storm Water Rate Board. It examined three contract positions – a hearing officer, a public advocate and a technical expert/consultant – each of which are positions authorized by regulation. The Board determined that of these three positions, only the hearing officer serves as an appointed City “officer” under the Code because the hearing officer not only serves in a defined role governed by well-established policies and practices but also exercises significant powers of government on behalf of the City. [Bd. Op. 2022-008](#) at 5.

In contrast, [General Counsel Opinion 2023-503](#) concluded that a contract worker that provided administrative support to a City office was not an “officer[] or employee[.]” G.C. Op. 2023-503 at 2-3. While the position was a “defined role,” the position did not require the exercise of significant powers of government. *Id.*

The proposed pilot program will provide on-demand, public-facing services for special events and other supplemental staffing needs. Contract workers will be working at the direction and supervision of Department personnel. They will be provided with the same specialized equipment and attire as Department employees. Contract workers will be required to have the same certifications as any other Department employee performing with similar certifications and responsibilities. One of the goals of the pilot program is to leverage recent retirees who still carry certifications provided by the Department.

Furthermore, the contract workers will engage in inherently public-facing work that carries well-established legal requirements for conduct and accountability. While contract workers may not be making law or policy, they will be called on to exercise some of the most significant powers of government as they provide vital services to the City.

The contract workers will be in clearly defined roles governed by well-established policies, practices and laws. They will provide essential services directly to and on behalf of the City. Therefore, contract workers in the pilot program are “officers or employees” and will therefore be subject to the rules of the Code and Charter, including the rules on political activity as applied to other “officers and employees” of the Department.

To ensure that contract workers are aware of the restrictions and obligations under City ethics laws, it is important that the Department⁴ provide contract workers with copies of or access to⁵ the Ethics Manual for City Officers and Employees as required by Code Section 20-606(1)(b)(.2) and that they attend initial and refresher ethics training as provided in Board Regulation No. 7.

⁴ As a practical matter, the Department may wish to include contractual provisions requiring that contracting agencies or contract workers comply with the City’s ethics laws. Please note that the Board cannot enforce such contractual provisions. I would also note that regardless of contract language, it is the Department’s responsibility to provide ethics manuals as required by the Code.

⁵ The Ethics Manual for City Officers and Employees is available at <https://ethics.pub/EOManual>. Use this form (<https://ethics.pub/manualcards>) to request printed QR cards that link to the manual.

IV. Conclusions

Based on the facts provided, retired Department employees would not be prohibited from applying for or accepting contract worker positions unless they:

- took official action in their City position related to the creation of the pilot program; or
- a specific official action in their City position formed a substantial basis for the job offer.

All contract workers will be “City officers or employees” subject the ethics rules in the Charter and Code, regardless of whether they were previously employed by the City.

Because this opinion is issued to the Department (rather than to applicants or their representatives), it is not legally protective advice for individuals seeking employment through the pilot program. Individual applicants who need guidance should contact my office. As always, we encourage City employees nearing retirement or other departure from City service to review the post-employment and job search restrictions.⁶

In addition to the ethics laws covered in this opinion, City, State, and Federal employment, collective bargaining, procurement, or other laws may apply but are outside of my authority. I encourage you to consult with the Law Department about other potential legal implications.

Thank you for your concern about compliance with the City’s Ethics Code and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided. Requestors of advisory opinions are entitled to act in reasonable reliance on opinions issued to them and not be subject to penalties under the laws within the Board’s jurisdiction unless they have omitted or misstated material facts in their requests. Code § 20-606(1)(d)(ii); Board Reg. 4 ¶ 4.12.

Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, a version of the Opinion that has been redacted to conceal facts that are reasonably likely to identify you is being made public. Please let me know if you have any questions.

BY THE PHILADELPHIA BOARD OF ETHICS

/s/ Jordana L. Greenwald
Jordana L. Greenwald
General Counsel

cc: Ellen Mattleman Kaplan, Esq., Acting Chair
J. Shane Creamer, Jr., Esq., Executive Director

⁶ This explainer (https://ethics.pub/Post-Employment_Handout) provides a good starting point for learning about the post-employment rules.