

DATE

Scott Wilson
President Pro-Tempore
Baton Rouge Metropolitan Council
P.O. Box 1471
Baton Rouge, Louisiana 70821

Re: **Louisiana Board of Ethics**
Docket No. 2020-696

Dear Councilman Wilson,

The Louisiana Board of Ethics, at its meeting on November 6, 2020, considered your request for an advisory opinion as to whether the Code of Governmental Ethics (“Code”) would prohibit Kevin Newman from contracting with the Baton Rouge Police Department.

FACTS PROVIDED

The City of Baton Rouge/East Baton Rouge Parish Metropolitan Council (“Metro Council”) is considering an item to authorize the Mayor-President, on behalf of the Baton Rouge Police Department (“BRPD”), to enter into a contract with a Project Grant Manager for the Community Based Crime Reduction Grant (“Grant”). The Grant is funded through the United States Department of Justice, Bureau of Justice Assistance for the FY 2019 Innovations in Community Based Crime Reduction Program. The purpose of the Grant is to empower community leaders with detailed information about crime, drivers of crime, and risk and protective factors in the city. Once the information has been disseminated, community leaders will collaborate with government officials and law enforcement to devise a plan to address identified needs. The Grant is supervised by the BRPD Project Administrator in coordination with the Chief of Police Advisory Council.

The Program Grant Manager will work with the partners to develop and accomplish program goals and objectives; advise and ensure funds are expended in accordance with all municipal, state and federal guidelines outlined in the Dept. of Justice financial guide in addition to all special conditions and guidelines; responsible for the overall governance structure of the partnership and will attempt to resolve any barriers to project success by working with the Community Police Partners; work with the fiscal officer to prepare any budgetary expenditure and will obtain approval for the expenditure from BRPD Project Director; attend meetings with representatives of funding sources and partnering entities to accomplish goals of the grant; prepares all periodic reports to comply with grant

requirements; maintains and files all grant related document per BRPD Homeland Security Grants retention policy; and monitors and oversees community based grant funded programs. The Program Grant Manager does not perform any law enforcement duties.

Community Network Alliance, LLC is being considered as the Program Grant Manager. Kevin Newman is the owner of Community Network Alliance LLC. Mr. Newman was previously employed by BRPD as Commander of the Uniform Patrol Division until his retirement in March 2020. As a Commander, Mr. Newman's duties did not include administering grants or processes such as the services that would be required under the Grant.

Following his retirement, Mr. Newman has volunteered as a reserve officer with BRPD. Reserve officers are not compensated for their reserve hours; however, they may be paid for any part-time hours worked on extra duty assignments. Mr. Newman has stated that he will not work any compensated hours as a reserve officer. Reserve officers are not limited to a particular division of BRPD.

LAW

La. R.S. 42:1113A: No public servant shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant. La. R.S. 42:1102(18) and (19) defines "public servant" to include anyone, whether compensated or not, who is engaged in the performance of a governmental function or is under the supervision or authority of an elected official or another employee of the governmental entity.

La. R.S. 42:1123(35) provides the following exception to the Code:

Any volunteer fireman or uncompensated law enforcement officer or legal entity in which he has an interest from bidding on or entering into a contract, subcontract, or other transaction under the supervision and jurisdiction of his agency; provided that the volunteer fireman or uncompensated law enforcement officer shall receive no compensation or thing of economic value for his service as a volunteer fireman or uncompensated law enforcement officer, that the volunteer fireman or uncompensated law enforcement officer shall not be an agency head, and that the volunteer fireman or uncompensated law enforcement officer shall not participate on behalf of his agency in any capacity regarding such contract, subcontract, or other transaction.

La. R.S. 42:1121A(1): No former agency head shall, for a period of two years following the termination of his public service as the head of such agency, assist another person, in a transaction, or in an appearance in connection with a transaction, involving that agency or render any service on a contractual basis to or for such agency.

CONCLUSION

The Board concluded, and instructed me to inform you, that, in the event Kevin Newman remains a volunteer reserve officer, Community Network Alliance, LLC and Kevin Newman would not be prohibited by the Code from entering into the Grant contract with BRPD, provided that Mr. Newman receives no compensation for his duties as a reserve officer, is not serving as an agency head, and will not participate in his public duties on the Grant program, as required by the exception in Section 1123(35).

The Board further concluded, and instructed me to inform you, that in the event Mr. Newman resigns as a reserve officer, Section 1121A(1) would not prohibit Mr. Newman from entering into the Grant contract with BRPD, since the contract is not with his former agency and he would not be rendering services to his former agency, the BRPD Uniform Patrol Division.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (800)842-6630 or (225)219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

David M. Bordelon
For the Board

DISCLAIMER
This is a draft opinion and it is NOT an opinion of the Louisiana Board of Ethics. No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.