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JDW (Jul) 14/15

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: 7/10/15

Employee Name: Kim Eastland

Agency: GOED

Position No: 134083 Title: Director of Finance

Brief explanation of your potential conflict of interest:

I recommended approval on the SD Industries Redi loan to the board on June 2nd. The partnering lender on this project is American Bank and Trust. On July 3rd, I accepted a position with American Bank and Trust.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

The contract between GOED and American Bank and Trust is a lender parity agreement.

Brief explanation of why you believe a waiver should be granted:

I was not in the midst of any employment negotiation in June 2015, which is the time the loan was recommended.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 7/14/15

Date of interview: 7/14/15

Date acted upon: 7/14/15

Waiver granted? Y N *Commissioner GOED*

If waiver is conditional, so note here (Y N), list conditions on separate sheet and attach to this document.

Appeal requested? Y N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

**STATE OF SOUTH DAKOTA
INVESTMENT COUNCIL**

**Grant of waiver to all officers and employees of the South Dakota
Investment Council and Division of Investment for small purchases.**

SDCL §§ 5-18A-17 thru 5-18A-17.6 prohibit certain state officers and employees who are involved in the recommendation, award, or enforcement of state contracts from receiving certain benefits on account of or related to those contracts. SDCL §§ 5-18A-17.2 and 17.6 authorize the South Dakota Investment Council to grant waivers and allow state officers and employees of the South Dakota Investment Council and Division of Investment to receive certain benefits, if the Investment Council, after due inquiry, determines that doing so would not be contrary to the public interest.

The Investment Council finds that many officers and employees of the South Dakota Investment Council and Division of Investment routinely make small purchases in the course of their employment for the State (e.g., supplies, telephone and internet service, lodging, gasoline, and work related meals).

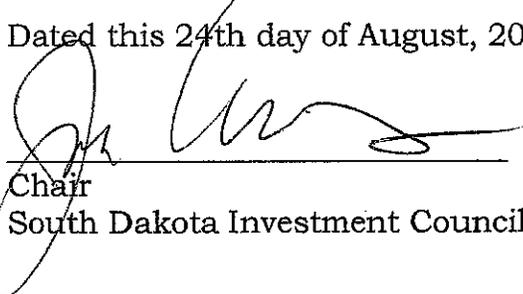
The Investment Council finds that granting a waiver for small purchases is not contrary to the public interest.

As such, the Investment Council finds that a blanket waiver for all officers and employees for small purchases is appropriate and is within its authority under SDCL 5-18A-17.2.

Therefore, a waiver is hereby granted to all officers and employees of the South Dakota Investment Council and Division of Investment for all purchases of \$200 or less.

Nothing in this waiver shall act to authorize or excuse purchases in violation of SDCL 3-16-8, or a series of purchases which in the aggregate exceed the amount set forth herein and which together are contrary to the public interest.

Dated this 24th day of August, 2015.



Chair
South Dakota Investment Council

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SEP 02 2015

BUREAU OF
HUMAN RESOURCES

**STATE OF SOUTH DAKOTA
INVESTMENT COUNCIL**

Grant of waiver to all officers and employees of the South Dakota Investment Council and Division of Investment who sit on certain for-profit boards.

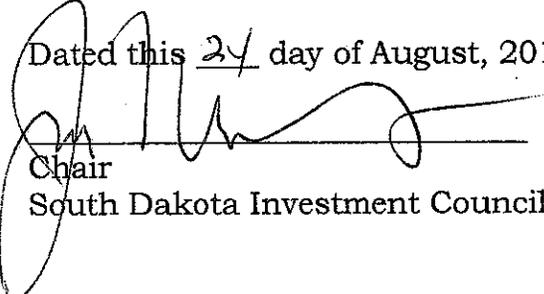
SDCL §§ 5-18A-17 thru 5-18A-17.6 prohibit certain state officers and employees who are involved in the recommendation, award, or enforcement of state contracts from receiving certain benefits on account of or related to those contracts. SDCL §§ 5-18A-17.2 and 17.6 authorize the South Dakota Investment Council to grant waivers and allow state officers and employees of the South Dakota Investment Council and Division of Investment to receive certain benefits, if the Investment Council, after due inquiry, determines that doing so would not be contrary to the public interest.

The Investment Council finds that as part of the investment strategy of certain state funds, equity interests are purchased in for-profit entities, such as corporations and limited partnerships, hereinafter referred to as "investment entities." Particularly, but not exclusively, with investments in limited partnerships, the State Investment Officer and employees under his direction who are involved in the purchase or enforcement of these investments, may become members of advisory or other boards. The individuals serving as board members are doing so in their governmental capacities and are representatives of the State. These individuals may receive certain benefits incidental to serving on such boards, (e.g., meals and lodging). All benefits are routinely reported to the State Investment Officer.

The Investment Council finds that it is in the public's interest to have officers and employees acting in their governmental capacities serving as board members on investment entities. Further, there is no risk that any incidental benefit provided to the officers and employees serving on such boards are or may be materially contrary to the public interest. As such, the Investment Council finds that a blanket waiver for all officers and employees serving on boards of investment entities is within its authority under SDCL 5-18A-17.2 and appropriate under the circumstances set forth herein.

Therefore, a waiver is hereby granted to all officers and employees of the South Dakota Investment Council and Division of Investment who, in their governmental capacities, sit on investment entities' boards, and for any incidental benefits received while serving on a board. Nothing in this waiver shall act to authorize or excuse investment purchases in violation of SDCL 3-16-8, or an officer or employee's receipt of monetary compensation for sitting on a board.

Dated this 24 day of August, 2015.



Chair
South Dakota Investment Council

CONFLICT OF INTEREST WAIVER INSTRUCTIONS AND FORM RECEIVED

SDCL 5-18A-17 to 5-18A-17.6

AUG 05 2015

INTRODUCTION

**BUREAU OF
HUMAN RESOURCES**

Generally, absent a waiver, current and certain former state officers and employees are prohibited from contracting with state agencies and from deriving benefits from contracts with outside entities when the state officer or employee had substantial involvement in recommending, awarding or administering the contract. These prohibitions also apply to persons who supervise state officers or employees who award and administer contracts. These laws however, will not affect all state officials and employees. These laws affect those state officers and employees who are involved with state contracts, which will be discussed later in this document.

The prohibition on conflicts of interest applies to persons currently serving as state officers and employees. A state officer is a person who is elected or appointed to serve a state agency. The prohibition on conflicts of interest in certain situations can also apply to persons who previously served as state officers and employees. The rules as they apply to former state officers and employees are described later in this document.

These instructions will assist the current and former executive branch state officer and employee with determining whether a prohibited conflict exists or might exist. These instructions will guide the current or former state officer and employee through the process established for requesting a waiver. These instructions will also guide the state officer acting on the waiver request.

The law applies to ALL state officers and employees. Employees of agencies and instrumentalities other than executive branch agencies under the control of the Governor should contact their supervisor for information about processes and procedures for waivers established for their agency.

SUMMARY OF THE LAW

Who the law applies to:

Generally speaking, the prohibitions apply to officers and employees who

- a. approve, award or administer a contract;
- b. recommend the approval or award of a contract; and
- c. supervise persons who approve, award or administer a contract.

“Administer a contract” means decision-making or substantive influence on decision-making concerning the manner, method or means of a contract’s performance or enforcement.

“Administer a contract” does not include performing mere clerical tasks such as posting payments or communicating decisions made by others.

The prohibitions in the law also follow a former state officer or employee for a period of one year after they leave state employment.

What the law does:

1. A state officer or employee who recommends the award of a contract, or who approves, awards or administers a contract, can't be interested in, or benefit from, a contract that is within the scope of his/her duties while in office. This means a state officer or employee can't be a party to a contract with state government while he or she is in office, nor can they derive a benefit, as discussed further, later in this document from contracts awarded to parties outside state government if the state officer recommends, approves, awards or administers the contract. This prohibition also applies to the supervisors or persons who approve, award or administer contracts.

2. A state officer or employee who recommends, approves, awards or administers a contract can't derive a benefit from a contract for a period of one year after they leave office. This prohibition also applies to the supervisors of persons who approve, award or administer contracts.

3. A state officer or employee who recommends, approves, awards or administers contracts can't enter into a contract with any state agency – except an employment contract – for a period of one year after they leave office. This prohibition also applies to the supervisors of persons who approve, award or administer a contract.

What does “derive a benefit” from a contract mean?

The state officer or employee and/or his or her spouse or any other person with whom the officer or employee lives and commingles, or combines assets cannot:

1. Have more than a five percent ownership or other interest in the contracting party;
2. Take a salary, commission or other compensation directly from the contract or from the contracting entity;
3. Acquire property under the contract; or
4. Serve on the board of a for-profit entity that derives income from the contract or acquires property under the contract.

How does the law affect former state officers and employees?

A state officer or employee who recommends, approves, awards or administers a contract can't derive a benefit from a contract for a period of one year after they leave their office or

position. This prohibition also applies to the supervisors of persons who approve, award or administer contracts.

A state officer or employee who recommends, approves, awards or administers contracts can't enter into a contract with any state agency – except an employment contract – for a period of one year after they leave their office or position. This prohibition also applies to the supervisors of persons who approve, award or administer a contract.

EXAMPLES OF TRANSACTIONS PROHIBITED ABSENT A WAIVER

1. A current state employee enters into a seasonal contract to mow Game Fish and Park properties. This is a prohibited direct contract with the state for which a waiver must be requested.

2. A Governor's Office of Economic Development (afterwards referred to as "GOED") finance employee reviews SD Works loan application and recommends approval. GOED Commissioner approves and the loan is made. The following persons are prohibited from having an interest in or benefiting from the loan: The recommending loan officer, persons on GOED staff who evaluate the borrower's performance (for example, maintaining the necessary debt coverage ratios), Deputy Commissioner (supervises GOED staff who evaluate the borrower's performance), GOED Commissioner (supervisor of GOED staff who evaluate borrower's performance and awarded the loan), the Governor and all their spouses and other persons with whom they live and commingle assets.

Examples of prohibited benefits: (i) a prohibited person may not work for the borrower while the officer or employee is in office or within one year thereafter; (ii) a prohibited person may not sit on the board of directors of a for-profit entity, such as a corporation or limited liability company that benefits from the loan.

3. The Bureau of Administration (afterwards referred to as "BOA") advertises for bids for a new equipment storage shed. A staff engineer at the Office of State Engineer (afterwards referred to as "OSE") reviews the bids, recommends an award and supervises construction. The BOA commissioner awards the contract. The following persons are prohibited from benefiting from the contract: the recommending staff engineer, the state engineer (supervises a person involved in administering the contract), the BOA commissioner (supervisor and awarded the contract), the Governor's Executive Committee member responsible for BOA (supervisor), the Governor (supervisor) and their spouses and other persons with whom they live and commingle assets.

Example of prohibited benefits: a prohibited person works for the construction company.

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4. The Department of Social Services (afterwards referred to as "DSS") forms a committee to review proposals and recommend the award of a contract. The committee is made up of persons from divisions of DSS other than the one that will enter into the contract. The committee makes a proposal and the contract is awarded. The following persons are prohibited from benefiting from the contract: committee members (recommended the award), the division

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director who awarded the contract, the division director's supervisor, the cabinet secretary, the GECO member responsible for DSS (supervisor), the Governor (supervisor) AND all their spouses and other persons with whom they live and commingle assets. NOTE that in this example the supervisors of the persons who sat on the committee making the recommendation are not covered because the law doesn't include supervisors of persons who merely make recommendations.

Example of prohibited benefits: a member of the committee making the recommendation owns more than five percent of the stock of the contracting entity; the spouse of the cabinet secretary is a commissioned sales person for the contracting entity.

5. On June 15, 2015, a Department of Transportation (afterwards referred to as "DOT") employee, acting within the scope of the employee's duties, recommends the award of a signage contract. The employee then retires. Six months after retirement, the employee decides he or she would like some seasonal work and takes a job with the signage contractor. Before taking the job, the former DOT employee must apply for a waiver because the DOT employee would be taking a salary from the contractor within one year after recommending the award of a contract to that contractor.

SMALL TRANSACTIONS

Effective July 1, 2015, the Governor granted a blanket waiver, for all transactions of \$200.00 or less. Therefore, it is not necessary to seek a waiver for otherwise covered transactions, as long as the amount is \$200.00 or less. Please be aware, however, that purchasing card and other small transactions are reviewed from time to time and a series or pattern of transactions that would otherwise be covered by the law may result in further inquiry and possible disciplinary action if found to be inappropriate.

CONTRACTS AWARDED PRIOR TO JULY 1, 2015

Persons who on and after July 1, 2015, derive a benefit from a state contract in which they played a role prior to July 1, 2015, should go through the waiver process. Similarly, the law applies to those who administrator contracts on and after July 1, 2015 even if the contract was awarded prior to July 1, 2015.

AGENCY-SPECIFIC CONFLICTS STATUTES

There may be more specific conflict of interest statutes relating to your agency. You are encouraged to ask your supervisor as to the existence of any such regulations. In the event the general law described in these instructions and the regulations specific to your agency are different, the more restrictive laws will be applied.

PENALTIES FOR NON-COMPLIANCE

If a waiver is necessary but isn't sought or granted, the contract that was involved may be voided and the state officer or employee may be subject to disciplinary action. If the contract

was the result of a quid pro quo, or a promise for something, such as a cash payment or promise of future employment, the current or former officer or employee may be removed from office and/or be subject to criminal prosecution. If the current or former state officer or employee failed to seek and obtain a waiver knowing one was likely required, the person could be removed from his or her office or position, and/or be subject to criminal prosecution.

WAIVERS

A waiver authorizing the state officer or employee to contract with state government or benefit from a contract may be granted if:

1. A waiver is requested in writing;
2. The relevant terms of the contract or transaction are provided in writing;
3. The officer reviewing the waiver has reviewed the essential terms of the contract or transaction;
4. The officer reviewing the waiver has reviewed the requesting party's role in the contract or transaction; and
5. The terms of the contract are fair, reasonable and not contrary to the public interest.

PROCESS TO OBTAIN A WAIVER

State officers and employees seeking a waiver must submit a request in writing. The form to be used to request a waiver titled "Request for Waiver" is provided with these instructions.

The Governor has given the authority to decide on waiver requests to cabinet secretaries and commissioners, subject to the right to appeal an adverse decision to the Office of the Governor. The written request for a waiver must be submitted to the cabinet secretary or commissioner with responsibility for your agency (or your former agency for former officers and employees). The secretary or commissioner will arrange a time to ask questions about the contract and why a waiver would not be contrary to the public interest. The secretary or commissioner will act on your request within five working days of receipt. If there is no action on your request within five working days, contact Bureau of Human Resources at (605) 773-3148 or Chris.Houlette@state.sd.us.

If the state officer or employee disagrees with the decision of the secretary or commissioner, the state officer or employee may submit a written appeal to the Office of the Governor by hand delivering or emailing the request form, the secretary's or commissioner's decision and a short statement of your reasons for disagreeing with the decision to Chris Houlette, Bureau of Human Resources, 500 East Capitol Avenue, Pierre, SD 57501-5070, Chris.Houlette@state.sd.us. The Governor will act on all appeals within five working days of receipt.

CAUTION: The failure to act on a request for a waiver does not mean the waiver will be allowed. The state officer or employee must be diligent to request and follow through on waiver requests as necessary.

The request for waiver form will be filed with the Bureau of Human Resources and is a public record. Once a year, the Bureau of Human Resources (afterwards referred to as "BHR") will put together all of the waivers granted in the previous year and provide them to the Legislature's Government Operations and Audit Committee.

State officers and employees are encouraged to contact BHR at (605) 773-3148 or Chris.Houlette@state.sd.us with questions about the applicability of the law and the process for requesting a waiver.

USEFUL LINKS

The law governing unlawful self-dealing, conflicts of interest and waivers will be found in South Dakota Codified Law (afterwards referred to as "SDCL") Section 5-18A-17 to SDCL 5-18A-17.6. Beginning July 1, 2015, they will be available to view on the South Dakota Legislative Research Council website at http://legis.sd.gov/Statutes/Codified_Laws/default.aspx.

INSTRUCTIONS FOR STATE OFFICERS AND EMPLOYEES SEEKING WAIVER

If the potential for a conflict exists, you should immediately prepare and submit the Request for Waiver form.

Briefly describe your relationship to the contract in question and why you believe it may be covered by the law, including how you, your spouse or anyone with whom you live and commingle, or combine assets (for example, a girlfriend or boyfriend, roommate or adult child) might benefit from the contract.

Also briefly describe why you believe a waiver would not be contrary to the public interest. For example, was the contract part of a competitive bidding process? Were others involved in the decision-making process? Are the terms consistent with other, similar contracts?

THE FORM IS A PUBLIC DOCUMENT THAT WILL BE OPEN TO PUBLIC INSPECTION.

Your supervisor will ask follow-up questions as necessary to help determine if there was any quid pro quo, or a promise for something for the contract, if the officer or employee is a covered person and/or might derive a benefit, and if a waiver would be contrary to the public interest. Some of these questions might include important details about the contract, including compensation received by the state officer or employee or his or her spouse.

INSTRUCTIONS FOR OFFICIAL ACTING ON REQUEST

Upon receipt of a written request for a waiver, you must promptly review it and if you deem it necessary, schedule an interview with the employee. Interviews are encouraged for anything other than the most basic waiver requests.

In the interest of fairness to officers and employees requesting waivers and persons with whom they may be dealing, and as directed by the Governor, all requests for waivers must be acted on by you within five (5) business days of receipt of the written request form. If you deem the form incomplete, you must address any questions during the interview; you may not use an incomplete request form as a reason to extend the review time.

You may delegate the responsibility to act on waiver requests in your absence to a deputy secretary or commissioner. Employees have been instructed to contact BHR if action is not taken within five working days.

Anything other than the most basic request for a waiver will require probing questions from you concerning the requesting party's relationship to the contract (for example, why did you recommend approval; what was the process for determining the award of the contract); the requesting party's relationship to the outside contracting party (for example, what is your relationship with the principals of the company; have you or any family members worked for this company in the past; do you or any of your family members plan to work for them in the future; are the terms of this contract consistent with other, similar contracts with other parties); whether the contract terms are reasonable and in the public interest (for example, price, the contractor's experience, the process used to award the contract); and any other questions you believe will help establish the true facts and circumstances surrounding the award of the contract and the request for waiver.

Facts and circumstances that should raise red flags, lead to further questions and possibly result in the denial of a waiver include the lack of any meaningful competitive process before the award of the contract, price or other terms that seem unusual, and a job or employment terms offered to someone leaving state government by the contractor that are not generally consistent with the person's prior experience and pay.

Any notes you take during the interview and as a part of your deliberative process should be on a separate sheet of paper and maintained in your files; they should not be attached to the Request for Waiver form.

Your decision on the request should be noted on the form and signed. If the officer or employee appeals to the Office of the Governor, you will be contacted for an explanation of your reason for denying the request.

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: 07.29.2015

Employee Name (Circle – Current/Former): Dawn Wirth

Agency (Circle – Current/Former): SD Department of Education

Position No: 120222 Title: Education Program Specialist I

(Attach additional pages or relevant documents if necessary).

1. Brief explanation of your potential conflict of interest:

The office of special education programs is providing grants to elementary schools who wish to take part in a pilot project to increase reading ability in students with special education needs in grades K – three. The grant is with the school district, not a person, but Ms. Wirth worked in the office of special education with these grants to districts until July when she became the director of special education for the Vermillion School District.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

As division director I approve all grants and contracts. Ms. Wirth was the program specialist who worked with the special education reading initiative and was in charge of finding schools that wanted to pilot the initiative. This process was started before Ms. Wirth became an employee of the Vermillion School District, however, as the special education director her name is on the grant as the contact person because it is her responsibility to complete the paperwork required of the grant. Every school that applied for a grant to be a pilot initiative received a grant so no one was denied.

3. Brief explanation of why you believe a waiver should be granted:

The waiver should be granted because Ms. Wirth receives no direct benefit from the grant. The school district K- three teachers who participate in the grant and the students receive the benefits. The grant process was started long before Ms. Wirth applied to be special education director at Vermillion. All schools that applied received the grant.

APPROVED - 7-29-15
Melody Schopp
8

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 7-29-15

Date of interview: NA

Date acted upon: Waiver granted? Y N 7-29-15

If waiver is conditional, so note here (Y/N),
list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

Melody Selye

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

RECEIVED

SEP 24 2015

Date: September 17, 2015
Employee Name: Dan Lusk
Agency: Department of Human Services
Position No: 123952

**BUREAU OF
HUMAN RESOURCES**

Title: Director, Division of Developmental Disabilities

Brief explanation of your potential conflict of interest:

I am the Director of the Division of Developmental Disabilities (DDD). DDD contracts with 19 Community Support Providers, including Black Hills Special Services Cooperative (BHSSC), to deliver Medicaid Home and Community Based waiver services. BHSSC also provides a multitude of other services and supports including contracts with multiple state agencies. BHSSC provides direct supports to people with intellectual and developmental disabilities in two Medicaid waiver programs, the CHOICES comprehensive waiver and the Family Support 360 waiver, and Community Training Services. I administer, approve and sign these contracts along with DHS Secretary Gloria Pearson and Director of Budget and Finance Nick Cotton.

My wife works for and receives a salary from BHSSC. BHSSC has multiple contracts with the State of South Dakota, including the Department of Human Services (DHS). Several contracts administered by DHS fund a portion of her salary. These contracts are administered by the Division of Rehabilitation Services for benefits specialist services and the ASPIRE project. She works in a Division of BHSSC exclusive of the Division that administers services and supports for people with intellectual and developmental disabilities and receives funding through the Medicaid waivers and Community Training Services program.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

As mentioned above, I am the Director of the Division of Developmental Disabilities (DDD). DDD contracts with 19 Community Support Providers in South Dakota including Black Hills Special Services Cooperative to provide Medicaid Home and Community Based waiver services and Community Training Services for people with intellectual and developmental disabilities. I administer, approve and sign these contracts. These contracts are not affiliated with or associated with the work Brooke does through her employment with BHSSC.

As for the contracts administered by the Division of Rehabilitation Services, I do not approve, award, administer nor recommend or influence the approval or award of said contracts. I am not in the chain of supervision above a person who approves or awards these contracts, or exercise decision-making or influence any decisions regarding these contracts. This authority and these decisions fall within the authority and chain of supervision of DHS Cabinet Secretary Gloria Pearson, Director of the Division of Rehabilitation Services, Eric Weiss, and Director of Budget and Finance Nick Cotton.

Brief explanation of why you believe a waiver should be granted:

The Medicaid waiver programs administered by the Division of Developmental Disabilities (DDD) have been in existence for approximately 30 years to allow states to use Medicaid funding to support people in home and community based settings in lieu of institutions. In order to provide Medicaid services, BHSSC had to first comply with federal regulations of the Centers for Medicare and Medicaid services and enroll as a qualified provider with the Department of Social Services' (DSS) demonstrating compliance with DSS/DHS regulations as a qualified provider of Medicaid services. BHSSC has been a qualified Medicaid provider since 1980. Community Support Providers must meet the same standards to provide Community Training Services as well. Because BHSSC has met

these standards as an enrolled Medicaid provider, they are able to support people with intellectual and developmental disabilities that choose BHSSC as their provider from among the 19 Medicaid qualified and enrolled Community Support Providers. The DDD does not have influence as to which provider an eligible waiver or community training services participant chooses. Each person the Community Support Provider supports also goes through an eligibility determination ultimately approved by the DSS for Medicaid waiver eligibility. The administrative authority for the Medicaid waiver programs remains with the DSS, the state Medicaid agency, and the DHS/DDD has been delegated the operating authority for these waivers by DSS. Therefore, with the provider enrollment and eligibility determination processes that have been in place for many years, the relationship between DSS and DHS in administration and operation of the Medicaid waiver programs also provides another level of administrative oversight to alleviate any potential of a conflict of interest.

The terms and conditions of the contract to provide CHOICES and Family Support waiver services as well as Community Training Services are exactly the same for all 19 Community Support Providers. These terms and conditions have not substantively changed in nearly 20 years. The federally approved funding formula for services establishes individualized rates based upon a person's individualized support needs through an algorithm for all of the people supported, nearly 2,600 people, on the CHOICES program. Family Support and Community Training Services funding is also allocated based upon the individualized needs of the people supported on these programs.

I believe this waiver request comports with 5-18A-17.2(3) The transaction and the terms of the contract are fair, reasonable, and not contrary to the public interest because the Community Support Providers must first demonstrate compliance with federal and state standards to become enrolled as a qualified Medicaid provider; contract terms are exactly the same for all 19 Community Support Providers and are public documents; the individualized rates are established through a statistically sound methodology established in 1996 and approved by the Centers for Medicare and Medicaid services; Medicaid waiver participants are able to select the Community Support Provider of their choice for their supports; there are multiple levels of oversight and signature authority on each of these contracts including the DHS Cabinet Secretary and DHS Director of Budget and Finance; and these same contracts have been administered and awarded by at least eight (8) Directors prior to my tenure as the Director. My wife has held her current position with BHSSC for the past 11 years, a time in which three (3) of my predecessors authorized & administered these same Medicaid waiver and Community Training Services contracts with BHSSC.

approved / *Diana Pearson* 9/21/15

FOR AGENCY/BHR USE ONLY:
Date received by official acting on request: 9/21/15
Date of interview: 9/21/15
Date acted upon: 9/21/15
Waiver granted? <input checked="" type="radio"/> Y <input type="radio"/> N
If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.
Appeal requested? Y <input checked="" type="radio"/> N <input type="radio"/>
Appeal received in Governor's Office:
Date appeal acted upon:
Waiver granted on appeal? Y/N
Received by BHR:

REQUEST FOR WAIVER
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RECEIVED

NOV 03 2015

BUREAU OF
HUMAN RESOURCES

Date: September 14, 2015

Employee Name (Circle – Current/Former): Current: Dr. Gregory Cooch

Agency (Circle – Current/Former): Current: Black Hills State University

Position No: _____ Title: Professor Emeritu

(Attach additional pages or relevant documents if necessary).

1. Brief explanation of your potential conflict of interest:

Dr. Gregory Cooch was a full time professor at Black Hills State University (BHSU). He has recently retired from being a full time professor at BHSU. As of July 1, 2015, Dr. Gregory Cooch is still employed with BHSU to conduct Post-School Outcome survey requested by Department of Education, Special Education Programs. Dr. Gregory Cooch coordinates and collects data on the survey. Because of Dr. Cooch's expertise in special education, we would like to contract with him personally, not through the university since he is retired from being a special education professor. We don't know if this is a conflict of interest, but thought we should complete the form just in case.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

I work with Dr. Gregory Cooch regarding Indicator 14: Post-School Outcome data since 2007. I have known him through Governor Special Education Advisory Panel which he termed out in June of 2015. I am the dispute resolution coordinator for the Office of Special Education so I will appoint and evaluate his work as a mediator/Individualize Education Program facilitator. I will also continue oversee work on Indicator 14: Post-School Outcome data.

3. Brief explanation of why you believe a waiver should be granted:

Office of Special Education is required to provide mediators as part of the dispute resolution process between parents and school districts. There are specific requirements such as a background knowledge of special education process. Dr. Gregory Cooch has those requirements. Special Education Programs would like contract with him directly instead of through BHSU since he is retired and only does the Indicator 14: Post-School Outcome data through the university.

Mediation and IEP Facilitation is on an as needed basis. The federal Office of Special Education Programs requires a variety of contractors, who have specific knowledge and skills, but must be a neutral party. They cannot have a connection with parents or districts in which they may be serving as a special

education mediator or IEP facilitator. Since as needed basis and within a short amount of time to complete it, it is helpful to have a retired individual be a mediator or Individualize Education Program Facilitator.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 9/24/15

Date of interview: 9/24/15 - 11/2/15 - Program person and Board of Regents
DOE
consultation.

Date acted upon: Waiver granted? Y/N

If waiver is conditional, so note here (Y/N),
list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: January 11, 2016

Employee Name: Gaye Mattke

Agency: Department of Human Services; Division of Service to the Blind and Visually Impaired

Position No: 121803

Title: Division Director

Brief explanation of your potential conflict of interest:

My husband is entering into a contractual agreement with the Division of Rehabilitation Services (DRS). DRS is a Division in the Department of Human Services (DHS) and due to my position as a Director of another division in the DHS (Service to the Blind and Visually Impaired), I'm concerned there may be a perceived conflict of interest.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

I do not have a role in the award, administration or supervision of the contract that my spouse intends to enter into. I do not supervise those involved with the contract nor is my division's budget being utilized for the contract. Due to the close working relationship between the Division of Service to the Blind and Visually Impaired and the Division of Rehabilitation Services the perception may be that I am directly involved with the awarding or supervision of the contract.

Brief explanation of why you believe a waiver should be granted: I do not believe that a conflict of interest exists; I am requesting a waiver to ensure there is not a misinterpretation of my role with the contract between the Division of Rehabilitation Services and my husband, Grady Kickul.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 1-12-16

Date of interview: 1-12-16

Date acted upon: 1-13-16

Waiver granted? YN 

If waiver is conditional, so note here (YIN), list conditions on separate sheet and attach to this document.

Appeal requested? YIN

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? YIN

Received by BHR:

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JAN 20 2016

**BUREAU OF
HUMAN RESOURCES**

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: 3/23/16
Employee Name: LUCAS LENTSCH, Lucas Lentich
Agency: South Dakota Department of Agriculture
Position No: 030004 Title: Secretary of Agriculture

Brief explanation of your potential conflict of interest:

Effective March 23, 2016, I have resigned my executive appointment as Secretary of Agriculture. I will be assuming the position as CEO of the Midwest Dairy Association, effective April 11, 2016.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

As Secretary of Agriculture, I approve as to form the annual Dairy Research and Promotion agreement between American Dairy Association of South Dakota and Midwest Dairy Association.

Brief explanation of why you believe a waiver should be granted:

This annual agreement serves as a pass through of check-off funds at a state level to be remitted at a regional level. No general funds or other state funds are involved in this agreement.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 03-23-2016

Date of interview: 03-23-2016

Date acted upon: 03-23-2016

Waiver granted? Y N

If waiver is conditional, so note here (Y/N) list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

Nathan Sonderson,
Director of Policy &
Operations

Nathan B. S.

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MAR 23 2016

BUREAU OF
HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: March 11, 2016

Employee Name (Circle – Current/**Former**): Deni Amundson

Agency (Circle – Current/**Former**): SD Dept. of Education, Division of Career & Technical Education

Position No: 401798 Title: Build Dakota Scholarship Program Manager

(Attach additional pages or relevant documents if necessary).

1. Brief explanation of your potential conflict of interest:

Deni Amundson is a former employee of the South Dakota Department of Education, Division of Career and Technical Education. She was involved in the administration of the Build Dakota Scholarship Program while an employee of the Department. The state employee position has been eliminated.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

After an independent review of three proposals submitted through the RFP process for the Build Dakota Scholarship position, Amundson's proposal (submitted on personal time with personal resources) received the highest score based on cost and experience. The contract involves management and monitoring of the Build Dakota scholarship program as more fully laid out in contract # 2016C-361.

3. Brief explanation of why you believe a waiver should be granted:

The terms of the contract are fair, reasonable, and in the public interest. The contract was part of a competitive bidding process, and independent individuals outside the Division of Career & Technical Education were involved in the review and scoring of proposals. Ms. Amundson's negotiated cost, experience and skill sets were the best fit for the contracted services of the proposals received. The work of the program manager requires great flexibility, irregular and often long work hours, and will continue to do so as the program transitions to its fullest capacity including hundreds of applicants, hundreds of Build Dakota Scholars pursuing their education, and hundreds of Build Dakota Scholars who are completing their employment commitments. It will be more cost effective to perform this work through the contract, in line with the budget approved by the Build Dakota Scholarship Administration board. The negotiated rate of the contract mirrors the total cost of a full-time employee (i.e., compensation, travel, supplies), while addressing the need for flexibility in meeting the deliverables of the contract.

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MAR 28 2016

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Notes on RFP Process

Amundson formulated and submitted her proposal on personal time. Four reviewers, half of which were outside the Division of Career and Technical Education, independently reviewed three proposals submitted through the RFP. The Amundson proposal received the highest score. Amundson had no role in the evaluation and selection process.

/s/ Tiffany Sanderson, Director of Division of Career and Technical Education

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 3/22/16

Signature and date of official, if request approved:

Melody Schopp 3-22-16
Melody Schopp (Date)

Date of interview: 3/22/16

Date acted upon: Waiver granted? Y/N

If waiver is conditional, so note here (Y/N),

list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: Jan. 11, 2016
Employee Name: David R. Hausmann (Retired)
Agency: SDDOT / Road Design
Position No: 110992 Title: Utility Coordinator

Brief explanation of your potential conflict of interest:

(See attachment)

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

(See attachment)

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Brief explanation of why you believe a waiver should be granted:

(See attachment)

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FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 1/20/16

Date of interview: 1/21/16

Date acted upon: 1/25/16

Waiver granted? Y/N YES

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

Action taken by Darin Bergquist verified by Chris Houlette

Request for Waiver to SDCL 5-18A-17 to 5-18A – 17.6 (Form attachment)

Brief explanation of your potential conflict of interest:

Contract # 311248 (SHRP2-R15B – Identifying and Managing Utility Conflicts) with Utility Mapping Services (UMS) was approved on 10/5/2015. I retired from SDDOT on 1/8/2016 and started employment with UMS on 1/11/2016. UMS would like to assign me a portion of the duties outlined in that contract. Those duties more specifically described as helping with the "Utility Conflict Identification/Management Training" and writing the "SDDOT Utilities Procedures Manual".

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment).

I was a member of the research project team that reviewed and recommended UMS to be awarded contract # 311248.

Brief explanation of why you believe a waiver should be granted.

I believe it would be in the public's best interest to have a waiver granted allowing me to join the UMS team in fulfilling the tasks and requirements noted in the above contract based on the following reasons:

- 1. I worked in the SDDOT utilities office for 23+ years.*
- 2. I developed and helped implement the SDDOT's current utility coordination process 11+ years ago.*
- 3. In those 11+ years, I have utilized the current SDDOT utility coordination process and would fully understand and be able to communicate any UMS review comments or recommendations (problems, solutions, improvement ideas, etc.) to SDDOT staff.*
- 4. Those recommended to take the training would feel more comfortable with a past SDDOT employee helping with the instructional duties.*
- 5. The SDDOT currently does not have a "Utilities Procedures Manual" and with 23+ years' experience in the utilities office; I would have the knowledge of what would be required to complete each procedural task, in detail, while recognizing relative State/Federal Statutes, Administrative Rules and Regulations.*

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: Jan. 21, 2016

Employee Name: David R. Hausmann (Retired)

Agency: DOT - Office of Road Design

Position No: 110992 Title: Utility Coordinator

Brief explanation of your potential conflict of interest:

(See attachment)

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

(See attachment)

Brief explanation of why you believe a waiver should be granted:

See attachment)

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BUREAU OF
HUMAN RESOURCES

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 1/21/16

Date of interview: 1/21/16

Date acted upon: 1/25/16

Waiver granted? Y/N YES

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

Action taken by Darin Bergquist verified by Chris Houlette

Request for Waiver to SDCL 5-18A-17 to 5-18A – 17.6 (Form attachment)

Brief explanation of your potential conflict of interest:

A contract to study the Interstate 29 interchange @ 41st Street is currently in the final approval process and will be awarded to the consulting firm of HDR in Sioux Falls, SD. As a requirement of that contract, the consultant was to investigate, survey and map the existing utilities within the study corridor utilizing a Subsurface Utility Engineering (SUE) sub-consultant adhering to the ASCE 38-02 "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" standards. HDR was directed, thru the RFP, to choose the SUE consultant from the SDDOT's – SUE consultant retainer list. Utility Mapping Services (UMS) is on that retainer list as an approved SUE consultant. UMS was chosen by HDR to perform the RFP/contract requirement as noted above.

I retired from SDDOT on 1/8/2016 and started employment with UMS on 1/11/2016. UMS would like to assign me the Project Manager duties of overseeing the work as described in the above RFP/contract.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment).

I was not involved or was a member of the team that reviewed and awarded this contract. It is my understanding that the review and selection of the consultant was performed after my retirement from SDDOT.

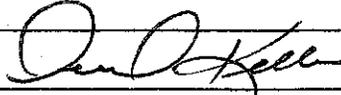
Brief explanation of why you believe a waiver should be granted.

I believe it would be in the public's best interest to have a waiver granted allowing me to oversee the noted SUE described duties addressed in the HDR contract as I am familiar with what the SDDOT would require from the SUE consultant to complete the duties described in the contract; my close proximity to the project would allow me to easily oversee and manage that part of the contract for the HDR study team allowing them to stay focused on the project study and I would also be able to coordinate the SUE efforts with the involved existing utility companies based on 23+ years of working knowledge with them.

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 041V and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: n/a

Date acted upon: 2/23/16

Waiver granted? Y N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by Darin Bergquist verified by Chris Heulett

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

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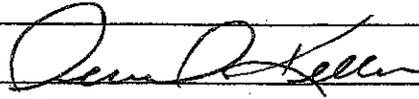
APR 14 2016

BUREAU OF
HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 040Q and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: n/a

Date acted upon: 2/23/16

Waiver granted Y/N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by Darin Bergquist verified by Chris Hanlette

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

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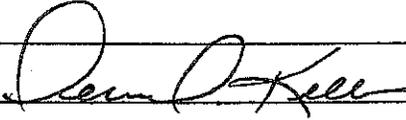
APR 14 2016

BUREAU OF HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 0423 and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: n/a

Date acted upon: 2/23/16

Waiver granted? Y/N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by Darin Bergquist verified by Chris Houlette

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

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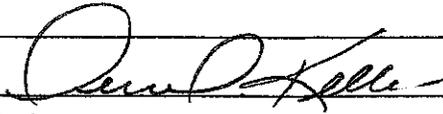
APR 14 2016

BUREAU OF HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 041A and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: 2/23/16 n/a

Date acted upon: Y N

Waiver granted? Y N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by
Darin Bergquist verified

Appeal requested? Y/N

by Chris Hawlette

Appeal received in Governor's Office:

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Date appeal acted upon:

APR 14 2016

Waiver granted on appeal? Y/N

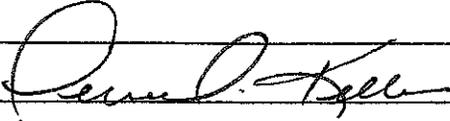
Received by BHR:

BUREAU OF
HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)

Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 040U and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: n/a

Date acted upon: 2/23/16

Waiver granted? Y/N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by Darin Bergquist verified by Chris Houlette

Appeal requested? Y/N

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Appeal received in Governor's Office:

Date appeal acted upon:

APR 14 2016

Waiver granted on appeal? Y/N

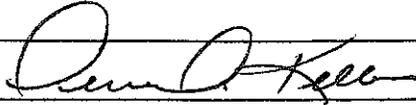
Received by BHR:

BUREAU OF
HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: February 11, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for SDDOT project PCN 042G and that I be allowed to participate in behalf of HDR (consultant) to perform environmental classifications and clearances for NEPA and inclusive components. I had no involvement with the development and scoping of these projects, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete work on this project. The Office of Contract Administration has managed this process completely for this project. Discussions with Mike Behm and Bill Nevin on 10/1/2015 yielded no conflict with SDDOT culvert repairs.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 2/12/16

Date of interview: n/a

Date acted upon: 2/23/16

Waiver granted? Y N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Action taken by
Darin Bergquist
verified by Chris
Howlette

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

RECEIVED

APR 14 2016

BUREAU OF
HUMAN RESOURCES

CONFLICT OF INTEREST WAIVER INSTRUCTIONS AND FORM

SDCL 5-18A-17 to 5-18A-17.6

INTRODUCTION

Generally, absent a waiver, current and certain former state officers and employees are prohibited from contracting with state agencies and from deriving benefits from contracts with outside entities when the state officer or employee had substantial involvement in recommending, awarding or administering the contract. These prohibitions also apply to persons who supervise state officers or employees who award and administer contracts. These laws however, will not affect all state officials and employees. These laws affect those state officers and employees who are involved with state contracts, which will be discussed later in this document.

The prohibition on conflicts of interest applies to persons currently serving as state officers and employees. A state officer is a person who is elected or appointed to serve a state agency. The prohibition on conflicts of interest in certain situations can also apply to persons who previously served as state officers and employees. The rules as they apply to former state officers and employees are described later in this document.

These instructions will assist the current and former executive branch state officer and employee with determining whether a prohibited conflict exists or might exist. These instructions will guide the current or former state officer and employee through the process established for requesting a waiver. These instructions will also guide the state officer acting on the waiver request.

The law applies to ALL state officers and employees. Employees of agencies and instrumentalities other than executive branch agencies under the control of the Governor should contact their supervisor for information about processes and procedures for waivers established for their agency.

SUMMARY OF THE LAW

Who the law applies to:

Generally speaking, the prohibitions apply to officers and employees who

- a. approve, award or administer a contract;
- b. recommend the approval or award of a contract; and
- c. supervise persons who approve, award or administer a contract.

“Administer a contract” means decision-making or substantive influence on decision-making concerning the manner, method or means of a contract’s performance or enforcement. “Administer a contract” does not include performing mere clerical tasks such as posting payments or communicating decisions made by others.

The prohibitions in the law also follow a former state officer or employee for a period of one year after they leave state employment.

What the law does:

1. A state officer or employee who recommends the award of a contract, or who approves, awards or administers a contract, can’t be interested in, or benefit from, a contract that is within the scope of his/her duties while in office. This means a state officer or employee can’t be a party to a contract with state government while he or she is in office, nor can they derive a benefit, as discussed further, later in this document from contracts awarded to parties outside state government if the state officer recommends, approves, awards or administers the contract. This prohibition also applies to the supervisors or persons who approve, award or administer contracts.

2. A state officer or employee who recommends, approves, awards or administers a contract can’t derive a benefit from a contract for a period of one year after they leave office. This prohibition also applies to the supervisors of persons who approve, award or administer contracts.

3. A state officer or employee who recommends, approves, awards of administers contracts can’t enter into a contract with any state agency – except an employment contract – for a period of one year after they leave office. This prohibition also applies to the supervisors of persons who approve, award or administer a contract.

What does “derive a benefit” from a contract mean?

The state officer or employee and/or his or her spouse or any other person with whom the officer or employee lives and commingles, or combines assets cannot:

1. Have more than a five percent ownership or other interest in the contracting party;
2. Take a salary, commission or other compensation directly from the contract or from the contracting entity;
3. Acquire property under the contract; or
4. Serve on the board of a for-profit entity that derives income from the contract or acquires property under the contract.

How does the law affect former state officers and employees?

A state officer or employee who recommends, approves, awards or administers a contract can't derive a benefit from a contract for a period of one year after they leave their office or position. This prohibition also applies to the supervisors of persons who approve, award or administer contracts.

A state officer or employee who recommends, approves, awards or administers contracts can't enter into a contract with any state agency – except an employment contract – for a period of one year after they leave their office or position. This prohibition also applies to the supervisors of persons who approve, award or administer a contract.

EXAMPLES OF TRANSACTIONS PROHIBITED ABSENT A WAIVER

1. A current state employee enters into a seasonal contract to mow Game Fish and Park properties. This is a prohibited direct contract with the state for which a waiver must be requested.

2. A Governor's Office of Economic Development (afterwards referred to as "GOED") finance employee reviews SD Works loan application and recommends approval. GOED Commissioner approves and the loan is made. The following persons are prohibited from having an interest in or benefiting from the loan: The recommending loan officer, persons on GOED staff who evaluate the borrower's performance (for example, maintaining the necessary debt coverage ratios), Deputy Commissioner (supervises GOED staff who evaluate the borrower's performance), GOED Commissioner (supervisor of GOED staff who evaluate borrower's performance and awarded the loan), the Governor and all their spouses and other persons with whom they live and commingle assets.

Examples of prohibited benefits: (i) a prohibited person may not work for the borrower while the officer or employee is in office or within one year thereafter; (ii) a prohibited person may not sit on the board of directors of a for-profit entity, such as a corporation or limited liability company that benefits from the loan.

3. The Bureau of Administration (afterwards referred to as "BOA") advertises for bids for a new equipment storage shed. A staff engineer at the Office of State Engineer (afterwards referred to as "OSE") reviews the bids, recommends an award and supervises construction. The BOA commissioner awards the contract. The following persons are prohibited from benefiting from the contract: the recommending staff engineer, the state engineer (supervises a person involved in administering the contract), the BOA commissioner (supervisor and awarded the contract), the Governor's Executive Committee member responsible for BOA (supervisor), the Governor (supervisor) and their spouses and other persons with whom they live and commingle assets.

Example of prohibited benefits: a prohibited person works for the construction company.

4. The Department of Social Services (afterwards referred to as "DSS") forms a committee to review proposals and recommend the award of a contract. The committee is made up of persons from divisions of DSS other than the one that will enter into the contract. The committee makes a proposal and the contract is awarded. The following persons are prohibited from benefiting from the contract: committee members (recommended the award), the division director who awarded the contract, the division director's supervisor, the cabinet secretary, the GECO member responsible for DSS (supervisor), the Governor (supervisor) AND all their spouses and other persons with whom they live and commingle assets. NOTE that in this example the supervisors of the persons who sat on the committee making the recommendation are not covered because the law doesn't include supervisors of persons who merely make recommendations.

Example of prohibited benefits: a member of the committee making the recommendation owns more than five percent of the stock of the contracting entity; the spouse of the cabinet secretary is a commissioned sales person for the contracting entity.

5. On June 15, 2015, a Department of Transportation (afterwards referred to as "DOT") employee, acting within the scope of the employee's duties, recommends the award of a signage contract. The employee then retires. Six months after retirement, the employee decides he or she would like some seasonal work and takes a job with the signage contractor. Before taking the job, the former DOT employee must apply for a waiver because the DOT employee would be taking a salary from the contractor within one year after recommending the award of a contract to that contractor.

SMALL TRANSACTIONS

Effective July 1, 2015, the Governor granted a blanket waiver, for all transactions of \$200.00 or less. Therefore, it is not necessary to seek a waiver for otherwise covered transactions, as long as the amount is \$200.00 or less. Please be aware, however, that purchasing card and other small transactions are reviewed from time to time and a series or pattern of transactions that would otherwise be covered by the law may result in further inquiry and possible disciplinary action if found to be inappropriate.

CONTRACTS AWARDED PRIOR TO JULY 1, 2015

Persons who on and after July 1, 2015, derive a benefit from a state contract in which they played a role prior to July 1, 2015, should go through the waiver process. Similarly, the law applies to those who administrator contracts on and after July 1, 2015 even if the contract was awarded prior to July 1, 2015.

AGENCY-SPECIFIC CONFLICTS STATUTES

There may be more specific conflict of interest statutes relating to your agency. You are encouraged to ask your supervisor as to the existence of any such regulations. In the event the general law described in these instructions and the regulations specific to your agency are different, the more restrictive laws will be applied.

PENALTIES FOR NON-COMPLIANCE

If a waiver is necessary but isn't sought or granted, the contract that was involved may be voided and the state officer or employee may be subject to disciplinary action. If the contract was the result of a quid pro quo, or a promise for something, such as a cash payment or promise of future employment, the current or former officer or employee may be removed from office and/or be subject to criminal prosecution. If the current or former state officer or employee failed to seek and obtain a waiver knowing one was likely required, the person could be removed from his or her office or position, and/or be subject to criminal prosecution.

WAIVERS

A waiver authorizing the state officer or employee to contract with state government or benefit from a contract may be granted if:

1. A waiver is requested in writing;
2. The relevant terms of the contract or transaction are provided in writing;
3. The officer reviewing the waiver has reviewed the essential terms of the contract or transaction;
4. The officer reviewing the waiver has reviewed the requesting party's role in the contract or transaction; and
5. The terms of the contract are fair, reasonable and not contrary to the public interest.

PROCESS TO OBTAIN A WAIVER

State officers and employees seeking a waiver must submit a request in writing. The form to be used to request a waiver titled "Request for Waiver" is provided with these instructions.

The Governor has given the authority to decide on waiver requests to cabinet secretaries and commissioners, subject to the right to appeal an adverse decision to the Office of the Governor. The written request for a waiver must be submitted to the cabinet secretary or commissioner with responsibility for your agency (or your former agency for former officers and employees). The secretary or commissioner will arrange a time to ask questions about the

contract and why a waiver would not be contrary to the public interest. The secretary or commissioner will act on your request within five working days of receipt. If there is no action on your request within five working days, contact Bureau of Human Resources at (605) 773-3148 or Chris.Houlette@state.sd.us.

If the state officer or employee disagrees with the decision of the secretary or commissioner, the state officer or employee may submit a written appeal to the Office of the Governor by hand delivering or emailing the request form, the secretary's or commissioner's decision and a short statement of your reasons for disagreeing with the decision to Chris Houlette, Bureau of Human Resources, 500 East Capitol Avenue, Pierre, SD 57501-5070, Chris.Houlette@state.sd.us. The Governor will act on all appeals within five working days of receipt.

CAUTION: The failure to act on a request for a waiver does not mean the waiver will be allowed. The state officer or employee must be diligent to request and follow through on waiver requests as necessary.

The request for waiver form will be filed with the Bureau of Human Resources and is a public record. Once a year, the Bureau of Human Resources (afterwards referred to as "BHR") will put together all of the waivers granted in the previous year and provide them to the Legislature's Government Operations and Audit Committee.

State officers and employees are encouraged to contact BHR at (605) 773-3148 or Chris.Houlette@state.sd.us with questions about the applicability of the law and the process for requesting a waiver.

USEFUL LINKS

The law governing unlawful self-dealing, conflicts of interest and waivers will be found in South Dakota Codified Law (afterwards referred to as "SDCL") Section 5-18A-17 to SDCL 5-18A-17.6. Beginning July 1, 2015, they will be available to view on the South Dakota Legislative Research Council website at http://legis.sd.gov/Statutes/Codified_Laws/default.aspx.

INSTRUCTIONS FOR STATE OFFICERS AND EMPLOYEES SEEKING WAIVER

If the potential for a conflict exists, you should immediately prepare and submit the Request for Waiver form.

Briefly describe your relationship to the contract in question and why you believe it may be covered by the law, including how you, your spouse or anyone with whom you live and commingle, or combine assets (for example, a girlfriend or boyfriend, roommate or adult child) might benefit from the contract.

Also briefly describe why you believe a waiver would not be contrary to the public interest. For example, was the contract part of a competitive bidding process? Were others involved in the decision-making process? Are the terms consistent with other, similar contracts?

THE FORM IS A PUBLIC DOCUMENT THAT WILL BE OPEN TO PUBLIC INSPECTION.

Your supervisor will ask follow-up questions as necessary to help determine if there was any quid pro quo, or a promise for something for the contract, if the officer or employee is a covered person and/or might derive a benefit, and if a waiver would be contrary to the public interest. Some of these questions might include important details about the contract, including compensation received by the state officer or employee or his or her spouse.

INSTRUCTIONS FOR OFFICIAL ACTING ON REQUEST

Upon receipt of a written request for a waiver, you must promptly review it and if you deem it necessary, schedule an interview with the employee. Interviews are encouraged for anything other than the most basic waiver requests.

In the interest of fairness to officers and employees requesting waivers and persons with whom they may be dealing, and as directed by the Governor, all requests for waivers must be acted on by you within five (5) business days of receipt of the written request form. If you deem the form incomplete, you must address any questions during the interview; you may not use an incomplete request form as a reason to extend the review time.

You may delegate the responsibility to act on waiver requests in your absence to a deputy secretary or commissioner.

Employees have been instructed to contact BHR if action is not taken within five working days.

Anything other than the most basic request for a waiver will require probing questions from you concerning the requesting party's relationship to the contract (for example, why did you recommend approval; what was the process for determining the award of the contract); the requesting party's relationship to the outside contracting party (for example, what is your relationship with the principals of the company; have you or any family members worked for this company in the past; do you or any of your family members plan to work for them in the future; are the terms of this contract consistent with other, similar contracts with other parties); whether the contract terms are reasonable and in the public interest (for example, price, the contractor's experience, the process used to award the contract); and any other questions you believe will help establish the true facts and circumstances surrounding the award of the contract and the request for waiver.

Facts and circumstances that should raise red flags, lead to further questions and possibly result in the denial of a waiver include the lack of any meaningful competitive process before the

award of the contract, price or other terms that seem unusual, and a job or employment terms offered to someone leaving state government by the contractor that are not generally consistent with the person's prior experience and pay.

Any notes you take during the interview and as a part of your deliberative process should be on a separate sheet of paper and maintained in your files; they should not be attached to the Request for Waiver form.

Your decision on the request should be noted on the form and signed. If the officer or employee appeals to the Office of the Governor, you will be contacted for an explanation of your reason for denying the request.

CONFLICT OF INTEREST WAIVER INSTRUCTIONS AND FORM

RECEIVED

SDCL 5-18A-17 to 5-18A-17.6

JUN 20 2016

INTRODUCTION

BUREAU OF
HUMAN RESOURCES

Generally, absent a waiver, current and certain former state officers and employees are prohibited from contracting with state agencies and from deriving benefits from contracts with outside entities when the state officer or employee had substantial involvement in recommending, awarding or administering the contract. These prohibitions also apply to persons who supervise state officers or employees who award and administer contracts. These laws however, will not affect all state officials and employees. These laws affect those state officers and employees who are involved with state contracts, which will be discussed later in this document.

The prohibition on conflicts of interest applies to persons currently serving as state officers and employees. A state officer is a person who is elected or appointed to serve a state agency. The prohibition on conflicts of interest in certain situations can also apply to persons who previously served as state officers and employees. The rules as they apply to former state officers and employees are described later in this document.

These instructions will assist the current and former executive branch state officer and employee with determining whether a prohibited conflict exists or might exist. These instructions will guide the current or former state officer and employee through the process established for requesting a waiver. These instructions will also guide the state officer acting on the waiver request.

The law applies to ALL state officers and employees. Employees of agencies and instrumentalities other than executive branch agencies under the control of the Governor should contact their supervisor for information about processes and procedures for waivers established for their agency.

SUMMARY OF THE LAW

Who the law applies to:

Generally speaking, the prohibitions apply to officers and employees who

- a. approve, award or administer a contract;
- b. recommend the approval or award of a contract; and
- c. supervise persons who approve, award or administer a contract.

“Administer a contract” means decision-making or substantive influence on decision-making concerning the manner, method or means of a contract’s performance or enforcement.

“Administer a contract” does not include performing mere clerical tasks such as posting payments or communicating decisions made by others.

The prohibitions in the law also follow a former state officer or employee for a period of one year after they leave state employment.

What the law does:

1. A state officer or employee who recommends the award of a contract, or who approves, awards or administers a contract, can't be interested in, or benefit from, a contract that is within the scope of his/her duties while in office. This means a state officer or employee can't be a party to a contract with state government while he or she is in office, nor can they derive a benefit, as discussed further, later in this document from contracts awarded to parties outside state government if the state officer recommends, approves, awards or administers the contract. This prohibition also applies to the supervisors or persons who approve, award or administer contracts.

2. A state officer or employee who recommends, approves, awards or administers a contract can't derive a benefit from a contract for a period of one year after they leave office. This prohibition also applies to the supervisors of persons who approve, award or administer contracts.

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What does “derive a benefit” from a contract mean?

The state officer or employee and/or his or her spouse or any other person with whom the officer or employee lives and commingles, or combines assets cannot:

1. Have more than a five percent ownership or other interest in the contracting party;
2. Take a salary, commission or other compensation directly from the contract or from the contracting entity;
3. Acquire property under the contract; or
4. Serve on the board of a for-profit entity that derives income from the contract or acquires property under the contract.

How does the law affect former state officers and employees?

A state officer or employee who recommends, approves, awards or administers a contract can't derive a benefit from a contract for a period of one year after they leave their office or

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EXAMPLES OF TRANSACTIONS PROHIBITED ABSENT A WAIVER

1. A current state employee enters into a seasonal contract to mow Game Fish and Park properties. This is a prohibited direct contract with the state for which a waiver must be requested.

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3. The Bureau of Administration (afterwards referred to as "BOA") advertises for bids for a new equipment storage shed. A staff engineer at the Office of State Engineer (afterwards referred to as "OSE") reviews the bids, recommends an award and supervises construction. The BOA commissioner awards the contract. The following persons are prohibited from benefiting from the contract: the recommending staff engineer, the state engineer (supervises a person involved in administering the contract), the BOA commissioner (supervisor and awarded the contract), the Governor's Executive Committee member responsible for BOA (supervisor), the Governor (supervisor) and their spouses and other persons with whom they live and commingle assets.

Example of prohibited benefits: a prohibited person works for the construction company.

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4. The Department of Social Services (afterwards referred to as "DSS") forms a committee to review proposals and recommend the award of a contract. The committee is made up of persons from divisions of DSS other than the one that will enter into the contract. The committee makes a proposal and the contract is awarded. The following persons are prohibited from benefiting from the contract: committee members (recommended the award), the division

3

director who awarded the contract, the division director's supervisor, the cabinet secretary, the GECO member responsible for DSS (supervisor), the Governor (supervisor) AND all their spouses and other persons with whom they live and commingle assets. NOTE that in this example the supervisors of the persons who sat on the committee making the recommendation are not covered because the law doesn't include supervisors of persons who merely make recommendations.

Example of prohibited benefits: a member of the committee making the recommendation owns more than five percent of the stock of the contracting entity; the spouse of the cabinet secretary is a commissioned sales person for the contracting entity.

5. On June 15, 2015, a Department of Transportation (afterwards referred to as "DOT") employee, acting within the scope of the employee's duties, recommends the award of a signage contract. The employee then retires. Six months after retirement, the employee decides he or she would like some seasonal work and takes a job with the signage contractor. Before taking the job, the former DOT employee must apply for a waiver because the DOT employee would be taking a salary from the contractor within one year after recommending the award of a contract to that contractor.

SMALL TRANSACTIONS

Effective July 1, 2015, the Governor granted a blanket waiver, for all transactions of \$200.00 or less. Therefore, it is not necessary to seek a waiver for otherwise covered transactions, as long as the amount is \$200.00 or less. Please be aware, however, that purchasing card and other small transactions are reviewed from time to time and a series or pattern of transactions that would otherwise be covered by the law may result in further inquiry and possible disciplinary action if found to be inappropriate.

CONTRACTS AWARDED PRIOR TO JULY 1, 2015

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WAIVERS

A waiver authorizing the state officer or employee to contract with state government or benefit from a contract may be granted if:

1. A waiver is requested in writing;
2. The relevant terms of the contract or transaction are provided in writing;
3. The officer reviewing the waiver has reviewed the essential terms of the contract or transaction;
4. The officer reviewing the waiver has reviewed the requesting party's role in the contract or transaction; and
5. The terms of the contract are fair, reasonable and not contrary to the public interest.

PROCESS TO OBTAIN A WAIVER

State officers and employees seeking a waiver must submit a request in writing. The form to be used to request a waiver titled "Request for Waiver" is provided with these instructions.

The Governor has given the authority to decide on waiver requests to cabinet secretaries and commissioners, subject to the right to appeal an adverse decision to the Office of the Governor. The written request for a waiver must be submitted to the cabinet secretary or commissioner with responsibility for your agency (or your former agency for former officers and employees). The secretary or commissioner will arrange a time to ask questions about the contract and why a waiver would not be contrary to the public interest. The secretary or commissioner will act on your request within five working days of receipt. If there is no action on your request within five working days, contact Bureau of Human Resources at (605) 773-3148 or Chris.Houlette@state.sd.us.

If the state officer or employee disagrees with the decision of the secretary or commissioner, the state officer or employee may submit a written appeal to the Office of the Governor by hand delivering or emailing the request form, the secretary's or commissioner's decision and a short statement of your reasons for disagreeing with the decision to Chris Houlette, Bureau of Human Resources, 500 East Capitol Avenue, Pierre, SD 57501-5070, Chris.Houlette@state.sd.us. The Governor will act on all appeals within five working days of receipt.

CAUTION: The failure to act on a request for a waiver does not mean the waiver will be allowed. The state officer or employee must be diligent to request and follow through on waiver requests as necessary.

The request for waiver form will be filed with the Bureau of Human Resources and is a public record. Once a year, the Bureau of Human Resources (afterwards referred to as "BHR") will put together all of the waivers granted in the previous year and provide them to the Legislature's Government Operations and Audit Committee.

State officers and employees are encouraged to contact BHR at (605) 773-3148 or Chris.Houlette@state.sd.us with questions about the applicability of the law and the process for requesting a waiver.

USEFUL LINKS

The law governing unlawful self-dealing, conflicts of interest and waivers will be found in South Dakota Codified Law (afterwards referred to as "SDCL") Section 5-18A-17 to SDCL 5-18A-17.6. Beginning July 1, 2015, they will be available to view on the South Dakota Legislative Research Council website at http://legis.sd.gov/Statutes/Codified_Laws/default.aspx.

INSTRUCTIONS FOR STATE OFFICERS AND EMPLOYEES SEEKING WAIVER

If the potential for a conflict exists, you should immediately prepare and submit the Request for Waiver form.

Briefly describe your relationship to the contract in question and why you believe it may be covered by the law, including how you, your spouse or anyone with whom you live and commingle, or combine assets (for example, a girlfriend or boyfriend, roommate or adult child) might benefit from the contract.

Also briefly describe why you believe a waiver would not be contrary to the public interest. For example, was the contract part of a competitive bidding process? Were others involved in the decision-making process? Are the terms consistent with other, similar contracts?

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Your supervisor will ask follow-up questions as necessary to help determine if there was any quid pro quo, or a promise for something for the contract, if the officer or employee is a covered person and/or might derive a benefit, and if a waiver would be contrary to the public interest. Some of these questions might include important details about the contract, including compensation received by the state officer or employee or his or her spouse.

INSTRUCTIONS FOR OFFICIAL ACTING ON REQUEST

Upon receipt of a written request for a waiver, you must promptly review it and if you deem it necessary, schedule an interview with the employee. Interviews are encouraged for anything other than the most basic waiver requests.

In the interest of fairness to officers and employees requesting waivers and persons with whom they may be dealing, and as directed by the Governor, all requests for waivers must be acted on by you within five (5) business days of receipt of the written request form. If you deem the form incomplete, you must address any questions during the interview; you may not use an incomplete request form as a reason to extend the review time.

You may delegate the responsibility to act on waiver requests in your absence to a deputy secretary or commissioner. Employees have been instructed to contact BHR if action is not taken within five working days.

Anything other than the most basic request for a waiver will require probing questions from you concerning the requesting party's relationship to the contract (for example, why did you recommend approval; what was the process for determining the award of the contract); the requesting party's relationship to the outside contracting party (for example, what is your relationship with the principals of the company; have you or any family members worked for this company in the past; do you or any of your family members plan to work for them in the future; are the terms of this contract consistent with other, similar contracts with other parties); whether the contract terms are reasonable and in the public interest (for example, price, the contractor's experience, the process used to award the contract); and any other questions you believe will help establish the true facts and circumstances surrounding the award of the contract and the request for waiver.

Facts and circumstances that should raise red flags, lead to further questions and possibly result in the denial of a waiver include the lack of any meaningful competitive process before the award of the contract, price or other terms that seem unusual, and a job or employment terms offered to someone leaving state government by the contractor that are not generally consistent with the person's prior experience and pay.

Any notes you take during the interview and as a part of your deliberative process should be on a separate sheet of paper and maintained in your files; they should not be attached to the Request for Waiver form.

Your decision on the request should be noted on the form and signed. If the officer or employee appeals to the Office of the Governor, you will be contacted for an explanation of your reason for denying the request.

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: 6/13/2016

Employee Name (Current): Emily Ward

Agency (Current): Department of Labor and Regulation

Position No: 139388 Title: Director of Administrative Services

(Attach additional pages or relevant documents if necessary).

1. Brief explanation of your potential conflict of interest: My husband, Michael Ward, is a lead computer software developer for the company Smart Software Solutions. He is a stockholder of the company. He was also recently assigned as the lead programmer for maintenance of software they developed for the Board of Cosmetology.

The Board of Cosmetology is administered by the Department of Labor and Regulation. As the finance director of this department, I supervise the processing and payment of all invoices in the department including this Board's.

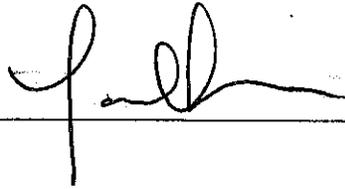
2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment): I was not involved with the award and do not supervise the contract. The original programming contract was awarded to Smart Software prior to my employment with DLR (4/24/15 start date). I supervise the staff responsible for entering and processing the invoices received from the vendor.

3. Brief explanation of why you believe a waiver should be granted: I am not directly in charge of this contract or the work which is done for it. Vouchers approving payment for services are approved by the Board director, then by our accountant who approves all vouchers for the department. Also, it is beneficial for the Board to retain the computer programmers who originally developed the software as they are familiar with the system.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request:

Signature and date of official, if request approved:



6/16/16

(Date)

Date of interview: 6/15/16

Date acted upon: Waiver granted? Y N

If waiver is conditional, so note here (Y/N),

list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

RECEIVED

JUN 27 2016

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

BUREAU OF
HUMAN RESOURCES

Date: May 13, 2016

Employee Name: Terrence G. Keller



Agency: SD Department of Transportation

Position No: 119048 (retired) 25654 (HDR)

Title: Environmental Supervisor (Retired 6/8/2015)
Senior Environmental Scientist (HDR)

Brief explanation of your potential conflict of interest:

In 2014 I served on a review committee to evaluate and rate consulting firm qualifications and experience to perform environmental work for SDDOT transportation projects and provided recommendations to the Contract Administration Office regarding their inclusion on a retainer list. The retainer process included public notice and an RFP inviting firms to submit proposals for consideration by SDDOT. The retainer list pre-qualified firms to enter into work orders to perform work for SDDOT without further advertising or individual RFPs.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

My role, until June 8, 2015, included developing scopes of service and reviewing proposals for outsourcing environmental tasks such as wetland delineations, environmental clearances, archaeological surveys and NEPA compliance with federal and state laws and regulations. I recommended firms to my Office Manager or Division Director to complete these tasks.

Brief explanation of why you believe a waiver should be granted:

I request a waiver be granted for the 26th Street and Southwestern intersection project co-sponsored by the City of Sioux Falls and SDDOT and that I be allowed to participate in behalf of HDR (consultant) to perform quality control of environmental documents for NEPA and inclusive components. I had no involvement with the development and scoping of this project, nor any participation in the evaluation of firms from the retainer list, nor in providing any recommendations or otherwise influencing the selection of HDR to complete this work. Other SDDOT offices have managed this process completely for this project.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request:

Date of interview: n/a

Date acted upon: 6/23/16

Waiver granted? Y N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

Action taken by
Darin Bergquist
verified by
Chris Houlette

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JUN 27 2016

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

BUREAU OF
HUMAN RESOURCES

Date: June 10, 2016

Employee Name: David R. Hausmann (Retired)

Agency: Dept. of Transportation

Position No: 110992 Title: Utility Coordinator

Brief explanation of your potential conflict of interest:

See attachment

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

See attachment

Brief explanation of why you believe a waiver should be granted:

See attachment

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request:

Date of interview: N/A

Date acted upon: 6/22/16

Waiver granted? Y N

If waiver is conditional, so note here (Y/N), list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR:

*Action taken by
Darin Bergquist
verified by
Chris Houlette*

Request for Waiver to SDCL 5-18A-17 to 5-18A – 17.6 (Form attachment)

Brief explanation of your potential conflict of interest:

Work order UT-0115 with Utility Mapping Services (UMS) was approved on 4/6/2015 and Amendment 1 to work order UT-0115 was approved on 6/6/2016. I retired from SDDOT on 1/8/2016 and started employment with UMS on 1/11/2016. UMS would like to assign me the duties of performing the work as described in the amended work order UT-0115.

Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment).

I was not involved in the awarding, administering or approval of the original work order with UMS while I was employed at SDDOT. The original work order was approved by Levi Briggs (Utility Coordinator). Amendment 1 to work order UT-0115 was approved after my retirement from SDDOT.

Brief explanation of why you believe a waiver should be granted.

I believe it would be in the public's best interest to have a waiver granted allowing me to complete the noted work, as addressed in the above work order, as I am familiar with the SDDOT highway project utility surveying, utility conflict identification / management needs and the SDDOT utility coordination process.



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JUL 11 2016

**BUREAU OF
HUMAN RESOURCES**

800 Governors Drive
Pierre, SD 57501-2294

T 605.773.3134
F 605.773.6139
www.doe.sd.gov

July 11, 2016

Chris Houlette
Bureau of Human Resources
500 East Capitol Avenue
Pierre, SD 57501

RE: Former employee waiver – Melissa Flor

Dear Chris:

Enclosed is a Request for Waiver for filing. As stated in the waiver, the former employee fully disclosed all potential conflicts, and a waiver request was prepared and dated in January 2016. However, for some reason the waiver was not filed at that time. I am filing it now.

Sincerely,

A handwritten signature in black ink, appearing to read "Bobbi J. Rank", is written over the word "Sincerely,". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Bobbi J. Rank
South Dakota Department of Education

Enc.

JUL 11 2016

BUREAU OF HUMAN RESOURCES

REQUEST FOR WAIVER
SDCL 5-18A-17 to 5-18A-17.6
THIS IS A PUBLIC DOCUMENT

Date: 1-26-16

Employee Name (Circle – Current **(Former)**): Melissa Flor

Agency (Circle – Current **(Former)**): South Dakota Department of Education

Position No: 12-0953 Title: Program Specialist II

(Attach additional pages or relevant documents if necessary).

NOTE: **This request for waiver addresses multiple contracts.**

Melissa Flor is a former employee of the Department of Education, Office of Special Education Programs, who left the Department in early January 2016 for a position with Black Hills Special Services Cooperative (BHSSC). Flor was administrator of several contracts in the special education area with BHSSC prior to her start date with the cooperative. The Department also has other contracts with BHSSC/Technology and Innovation in Education (TIE) with which Flor had no involvement.

The Department does not have any contract directly with Flor. Rather, all Department contracts addressed in this request for waiver are with BHSSC, Flor’s new employer, or TIE, which is part of BHSSC. In the interest of full disclosure, a request for waiver regarding multiple contracts between the Department and BHSSC/TIE is being submitted pursuant to SDCL §§ 5-18A-17.2 and 5-18A-17.3.

Flor immediately disclosed to her supervisors the potential for employment with BHSSC as soon as it was communicated to her by BHSSC. The Department has no reason to believe that Flor engaged in any improper solicitation of future employment or reward referenced in SDCL §§ 3-16-7 or 3-16-8 in regard to any contract with BHSSC or TIE.

CONTRACT 2015C-358 (contract with BHSSC for the Youth with Disabilities Leadership grant)

1. Brief explanation of your potential conflict(s) of interest:

Flor administered this grant while an employee at the Department and will carry out the activities of the grant in her new position as Transition Services Liaison Project specialist with BHSSC. Flor will not be responsible for the billing of services provided by BHSSC.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

Flor was the previous Department point of contact for the grant and approved requests for payment. Those duties have been transferred, and final approval for all billing on the grant will be submitted to Special Education Director Linda Turner and Division of Educational Services and Support Director Ann Larsen.

3. Brief explanation of why you believe a waiver should be granted:

Flor will be one of several BHSSC employees responsible for completing the activities of the grant. She will not be responsible for invoices for payment. The Department will closely monitor the completion, invoicing, and payment for all activities within the grant. This contract is fair, reasonable, and in the public interest, as its purpose is to provide mentorship and leadership skill services to students with disabilities in South Dakota.

CONTRACT 2016C-009 (contract with BHSSC to provide technical assistance for the Special Education State Performance Plan)

1. Brief explanation of your potential conflict(s) of interest:

Flor administered portions of this contract while with the Department and is now employed by BHSSC.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

Flor developed an RFP two years ago for the State Performance Plan (SPP) Technical Assistance contract and was part of the selection committee that evaluated the RFPs. One of three contracts for technical assistance was awarded to BHSSC. Flor wrote the contract request and was the Department's point of contact.

3. Brief explanation of why you believe a waiver should be granted:

Special Education Director Linda Turner and Division of Educational Services and Support Director Ann Larsen had final approval on all contracts, not Flor. The contract was awarded to BHSSC/TIE based upon the ability to provide the services needed. Additionally, this is the second year of this contract, which went through the RFP process. This contract is fair, reasonable, and in the public interest due to its purpose of implementing the Special Education State Performance Plan ("SPP"). Implementation of the SPP allows the state to evaluate compliance with the requirements and purposes of the Individuals with Disabilities Act ("IDEA") and improve results for students in need of IDEA services.

CONTRACT 2015C-428 (contract with BHSSC/TIE for creation and implementation of special education teacher effectiveness training)

1. Brief explanation of your potential conflict(s) of interest:

Flor administered portions of this contract while with the Department and is now employed by BHSSC.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

Flor submitted the contract requests for this training, one of which was awarded to BHSSC/TIE, and was listed as the Department point of contact.

3. Brief explanation of why you believe a waiver should be granted:

Special Education Director Linda Turner and Division of Educational Services and Support Director Ann Larsen had final approval on all contracts, not Flor. The contract was awarded to BHSSC/TIE based upon

the ability to provide the service needed and is fair, reasonable, and in the public interest to provide training and skill-building to improve the quality of special education teachers.

CONTRACT 2015C-289 (contract with BHSSC to provide assistive technology for instruction of students with disabilities in need of interventions)

1. Brief explanation of your potential conflict(s) of interest:

Flor administered portions of this contract while with the Department and is now employed by BHSSC.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

Flor was the point of contact for this contract and administered the grant since December 2014. Flor also approved requests for payments and had program approval in DOE processes.

3. Brief explanation of why you believe a waiver should be granted:

Special Education Director Linda Turner and Division of Educational Services and Support Director Ann Larsen had final approval of this contract, not Flor. The contract was awarded to BHSSC/TIE based upon the ability to provide the service needed. In addition, this contract has already been in place for a year. Flor's limited role in the contract's administration should not prevent the benefit from being passed on to South Dakota teachers and special education students. The contract is fair, reasonable, and in the public interest, as it provides technology to improve and increase the capacity for instruction of students with disabilities in need of interventions.

CONTRACT 2015A-545(DOE) / 4195-607-006-16 (Human Services) (contract with BHSSC for the Transition Services Liaison Project grant)

1. Brief explanation of your potential conflict(s) of interest:

Flor worked directly with BHSSC on the Transition Services Liaison Project (TSLP), which is funded jointly by the Department of Education and Department of Human Services. BHSSC was one of several recipients of contracts on this grant.

2. Brief explanation of your role in the award, administration or supervision of a contract with an outside party or your current or anticipated business transaction with a state agency (other than a contract of employment):

While at the Department, Flor assisted with the implementation of IDEA rules and regulations and keeping the project up-to-date with other Department initiatives and activities.

3. Brief explanation of why you believe a waiver should be granted:

This contract was in place prior to Flor's employment with the Department and was awarded to BHSSC based on the ability to provide the services needed. Flor will not be involved with the administration or budgeting of the TSLP contracts in her role at the BHSSC. The contract is fair, reasonable, and in the public interest, as it assists students with disabilities, and their families, during their transition from high school to the adult world by focusing on improvement of academic and functional achievements. The

project's goals include the continuation and development of employment initiatives, and training opportunities for youth, families, and special education teachers.

OTHER CONTRACTS

There are a number of other contracts between the Department and BHSSC/TIE which Flor did not administer and with which she will not be involved within the next year in her employment with BHSSC. No waiver for these contracts is necessary under SDCL 5-18A-17.2 or 5-18A-17.3.

FOR AGENCY/BHR USE ONLY:

Date received by official acting on request: 7/8/16

Signature and date of official, if request approved: Melody Schopp 7/8/16

Date of interview:

Melody Schopp

(Date)

Date acted upon: Waiver granted? Y/N

If waiver is conditional, so note here (Y/N),
list conditions on separate sheet and attach to this document.

Appeal requested? Y/N

Appeal received in Governor's Office:

Date appeal acted upon:

Waiver granted on appeal? Y/N

Received by BHR: