
IN THE MATTER OF	:	STATE ETHICS COMMISSION
RICHARD MASER,	:	
MEMBER, BOARD OF TRUSTEES,	:	
NEW JERSEY INSTITUTE OF	:	Commission Case No. 03-20
TECHNOLOGY	:	
	:	DECISION

BACKGROUND

The New Jersey Institute of Technology (NJIT) requests an exception under the provisions of Executive Order No. 14 (Corzine 2006) (EO 14) on behalf of Richard Maser (Maser), a member of the NJIT Board of Trustees. Maser is the founder, one-third owner and Executive Chairman of Maser Consulting P.A. (Maser Consulting), an engineering consulting firm. On February 6, 2020, Maser was appointed to the NJIT Board of Trustees.

EO 14 prohibits a member of a State college or university governing board from being employed by or deriving or receiving any compensation from a firm, association, or partnership that does business with the institution that the board member governs. The term “doing business with” is defined to mean “providing or receiving any goods or services or otherwise engaging in a transaction involving the exchange of anything of value.” Pursuant to paragraph 5 of EO 14, however, the State Ethics Commission is authorized to grant exceptions from this prohibition if “in the judgment of the Executive Director, the entity that is doing business with the institution is doing so pursuant to a contract awarded in accordance with the competitive bidding laws applicable to that institution or the public interest requires an exception to be made.”

APPLICATION

Project I – Solar Energy RFP: Professional Services Consulting Agreement (Consulting Agreement) and Second Amendment to the Consulting Agreement (Second Amendment). On September 4, 2018, Maser Consulting and NJIT entered an agreement for Maser Consulting to develop a Request for Proposals regarding the installation of solar panels on the roof of NJIT’s Wellness and Events Center (Solar Energy RFP). Pursuant to the terms of the Consulting Agreement, NJIT may request that Maser Consulting work on other matters, programs and/or projects. The original Scope of Services included structural inspection and roof survey, structural analysis, conceptual site/panel layout, authoring the RFP, attending meetings and revising plans as needed. On March 14, 2019, NJIT issued RFPs to solar energy companies based on Maser Consulting’s work product under the Consulting Agreement. On April 10, 2019, NJIT cancelled the Solar Energy RFP due to uncertainty in the market for Solar Renewable Energy Certificates.

Due to clarifications in the Solar Renewable Energy Certificates market, NJIT seeks to resume work with Maser Consulting pursuant to the Consulting Agreement, but the project requires updated services. These additional services were memorialized in a December 20, 2019 Memorandum of Engagement. The December 20, 2019 Memorandum of Engagement will form

the basis for the proposed Second Amendment to the Consulting Agreement and the resubmitted Solar Energy RFP will be released by NJIT to bidders.

Project II – Mueller Property Survey Services: First Amendment to the Consulting Agreement (First Amendment). On February 20, 2019, NJIT requested proposals for engineering and environmental survey services related to the demolition and restoration of property recently purchased by NJIT (Mueller Property). In response, Maser Consulting submitted a proposal on March 1, 2019. On August 21, 2019, NJIT and Maser Consulting executed the First Amendment to the September 4, 2018 Consulting Agreement for Maser Consulting to provide engineering and environmental survey services related to the Mueller Property. Per the First Amendment, Maser is in the process of preparing a feasibility study, concept plan, assessment of hazardous materials, and Preliminary and Final Major Site Plan regarding a proposed redevelopment of the Mueller Property.

According to NJIT, the exception to allow NJIT to proceed with both Maser projects is warranted because Maser Consulting was selected for its specialized expertise to provide engineer professional services and the selection was made prior to Maser's appointment to NJIT's Board of Trustees. NJIT submits that it will incur a significant loss of time and funds if it must begin the selection process for engineering services again for either project.

Maser has not been personally involved with either project or the proposals submitted by Maser Consulting for the work. Prior to Maser's anticipated installment on NJIT's Board of Trustees, he reviewed a list of vendors and learned that Maser Consulting was a vendor to NJIT. To avoid an actual or appearance of a conflict of interest, on January 16, 2020, Maser executed a recusal memorandum recusing from any official trustee duties involving Maser Consulting.

The original agreements on Project I and Project II were entered into in September of 2018 and August of 2019, respectively, prior to Maser joining the Board in February of 2020. Maser has not been personally involved on behalf of Maser Consulting or NJIT in either project or the proposals submitted by Maser Consulting for the work. An EO 14 exception, therefore, serves the public interest because granting the exception will allow NJIT to continue doing business with Maser Consulting, a company it previously determined to be most suited to provide these services to the University. Granting the exception will also prevent NJIT from incurring significant delay and increased cost associated with selecting new vendors for either project.

DECISION

The Commission grants an EO 14 exception to Richard Maser permitting him to serve as a Member of the NJIT Board of Trustees while NJIT continues to do business with Maser Consulting pursuant to the 2018 Consulting Agreement, the First Amendment and the anticipated Second Amendment, pursuant to the following conditions:

1. Any future amendments to the 2018 Consulting Agreement must be submitted to the Commission for review and approval, and
2. Maser is required to revise his written recusal from all NJIT matters involving Maser Consulting to include a recusal from all Maser Consulting matters involving NJIT. The

updated recusal must be filed with the State Ethics Commission and remain in effect throughout Maser's appointment as an NJIT Trustee.

DECISION RENDERED BY THE
STATE ETHICS COMMISSION ON
THE 28th DAY OF JULY 2020