
**IN THE MATTER OF
PANTELIS MONOGIOUDIS,
PROFESSOR,
NEW JERSEY INSTITUTE OF
TECHNOLOGY**

STATE ETHICS COMMISSION

Commission Case No. 23-20

DECISION

BACKGROUND

New Jersey Institute of Technology (NJIT) professor Pantelis Monogioudis (Monogioudis) seeks Commission approval under section 19 of the Conflicts of Interest Law (Conflicts Law) for an exception permitting him to enter into a contract with NJIT through Aegean AI (AAI), a New Jersey Corporation recently formed and 100% owned by Monogioudis, to allow NJIT to utilize the Back to Work application (App) he developed at New York University to provide technological assistance to NJIT in its effort to safely allow in-person classes during the COVID-19 pandemic.

NJIT, like other institutes of higher education, is faced with significant health and safety challenges related to the COVID-19 pandemic, and its desire to conduct instruction in a safe and effective manner. NJIT seeks to accomplish this goal by limiting the number of students present in any classroom by allowing a small number of students to attend each class in-person while the other students attend the class remotely. In doing so, NJIT also seeks to fairly allocate opportunities for in-person attendance among the students and to ensure that all seats which can be safely occupied in-person are filled. According to NJIT, the App developed by Monogioudis, which was designed prior to the pandemic, provides a unique technology-based vehicle which will allow NJIT to:

1. Establish limited, socially distanced, safe seating arrangements in each classroom;
2. Invite registered students for each class to specific classes based on safe seating availability;
3. Reassign an assigned seat to a different student if a student is unable or unwilling to attend a class in person when assigned to do so; and
4. Assist with contact tracing if a student in a class subsequently tests positive for COVID-19.

NJIT believes that the use of the App is critical to its mission of providing limited but safe in-person learning during the pandemic. The NJIT Board of Trustees passed a resolution on July 23, 2020 which, subject to this Commission's approval, granted approval for NJIT to contract with AAI to utilize the App to address the public safety exigency created by the pandemic. In addition, NJIT represents that it is not aware of any comparable alternative to the App to assist with allowing in-person learning while adequately addressing social distancing concerns, and that there is not enough time for a comparable system to be located or developed before commencement of the fall semester at NJIT.

Section 19(a) of the Conflict Law prohibits a State employee from entering into a contract valued at \$25.00 or more with any State agency except as provided in section 19(b). The restrictions set forth in section 19 of the Conflicts Law extend to any company which is more than 1% owned by a State employee.

Section 19(b) of the Conflicts Law authorizes the Commission to permit State employees to enter into contracts that are not awarded pursuant to public notice and competitive bidding as long as they meet one of the exceptions identified in *N.J.S.A. 52:34-10* or “such other similar provisions contained in the public bidding laws or regulations applicable to other State agencies, [which] may be made, negotiated or awarded without public advertising for bids.” The authorized exceptions set forth in *N.J.S.A. 52:34-10* include contracts awarded to address public exigencies as well as sole source contracts. NJIT utilizes contracting procedures set forth in its enabling legislation, set forth at *N.J.S.A. 18A-64E-12 et seq.* Pursuant to *N.J.S.A. 18A-64E-18(k)(3)*, NJIT expressly adopted the exceptions contained in *N.J.S.A. 52:34-10*, which include the exceptions for public exigencies and sole source contracts.

APPLICATION

Under these unique circumstances, NJIT has presented a compelling rationale for the Commission to allow AAI to contract with NJIT so that NJIT can implement its plan for a limited but safe in-person class attendance in the upcoming school year. There is a clear public exigency for establishing safe controls which will allow for some level of in-person class attendance, and NJIT believes the App is likely a sole source for its plan to achieve this goal.

Concerns arising by allowing Professor Monogioudis to contract with NJIT through AAI are mitigated by Monogioudis’s agreement that the contract will be limited to the payment of costs but no profits to AAI. In addition, Monogioudis will execute a recusal ensuring that he will have no official involvement in his capacity as a NJIT professor in the contract between NJIT and AAI, and he will avoid any interaction with NJIT in his capacity as owner of AAI. To this end Monogioudis appointed AAI’s Director of Engineering to handle interactions with NJIT. Finally, this exception will be limited to one year to ensure that it does not extend beyond the public exigency upon which the exception is granted.

DECISION

The Commission grants Monogioudis approval to enter into a contract with NJIT through AAI, pursuant to *N.J.S.A. 52:13D-19(b)*, allowing NJIT to utilize the App, subject to the following restrictions:

1. Payments by NJIT to AAI are limited to costs to AAI associated with the company providing access to and utilization of the App by NJIT, and shall not include any profits;
2. Monogioudis will recuse from any official involvement with the AAI contract in his capacity as a NJIT professor;
3. Monogioudis will not engage in any communications with NJIT on behalf of AAI; and

4. The term of this exception is limited to one year, after which NJIT must seek additional approval from the Commission if it seeks to continue using the App pursuant to a public exigency or any other permissible exception.

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