

CITY OF OAKLAND

Public Ethics Commission

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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Milad Dalju, Deputy Director
Whitney Barazoto, Executive Director
DATE: February 8, 2016
RE: Case No. 11-01; Marina Security Services, Inc., and Sam Tadesse

I. INTRODUCTION

In 2011, the Public Ethics Commission (Commission) initiated a proactive investigation into an allegation that Sam Tadesse, the managing partner of Marina Security Services, Inc. (Marina Security), violated the Contractor Contribution Ban by making a contribution to Desley Brooks' campaign for City Council while Marina Security was negotiating a contract with the City that required City Council approval.

Commission staff has concluded its investigation into the allegation and presents the following analysis and recommendation to the Commission.

II. SUMMARY OF THE LAW

A person who contracts or proposes to contract with the City for the rendition of services that requires approval of City Council is prohibited from making a contribution to a candidate for Mayor, City Council, City Attorney, or City Auditor (City office), or any officeholder of such office (City officeholder), or any committee controlled by a City officeholder or candidate for City office, at any time between commencement of negotiations and 180 days after the completion or termination of negotiations for such contract. (Oakland Campaign Reform Act (OCRA) section 3.12.140.) This provision is known as the "Contractor Contribution Ban."

Transactions that require City Council approval include, but are not limited to, contracts for the procurement of services that are professional or consulting services exceeding \$15,000. (OCRA section 3.12.140(E).)

The "commencement of negotiations" occurs when "a contractor or contractor's agent formally submits a bid, proposal, qualification or contract amendment to any elected or appointed city officer or employee or when any elected or appointed city officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent." (OCRA section 3.12.140(G).)

The “completion of negotiations” occurs when the City executes the contract or amendment. (OCRA section 3.12.140(K).) The “termination of negotiations” occurs when the contract or amendment is not awarded to the contractor or when a City officer or employee accepts the contractor’s withdrawal from negotiations. (OCRA section 3.12.140(L).)

A person is defined as any individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, or any other organization or group of persons acting in concert. (OCRA section 3.12.040.) An individual and any corporation in which the individual owns a controlling interest (more than 50%) are considered a single person for purposes of the Contractor Contribution Limit. (OCRA section 3.12.080(C).)

III. SUMMARY OF THE FACTS

Marina Security is, and was at all relevant times, an incorporated security firm. Mr. Tadesse is, and has been at all relevant times, the managing partner of Marina Security. However, Mr. Tadesse did not own, at any relevant time, a controlling interest in Marina Security.

On March 11, 2010, the City issued a Request for Proposal (RFP) for a security contract for all City facilities. On or about April 2, 2010, City staff received a formal proposal from Marina Security, and nine other firms, in response to the RFP. City staff conducted a selection process and compliance review of the ten proposals and did not select Marina Security to recommend to the City Council. On April 5, 2011, the City Council awarded the contract to Cypress Private Security Services, Inc.

On or about October 1, 2010, Mr. Tadesse made a \$500 contribution to *Friends of Desley Brooks*. *Friends of Desley Brooks* was at all relevant times the candidate-controlled committee of Desley Brooks. Desley Brooks was the successful incumbent candidate for City Council, District 6, in the November 2, 2010, election.

IV. ANALYSIS

Marina Security was prohibited from making a contribution to any City officeholder or candidate for City office, or any committee controlled by a City officeholder or candidate for City office, between April 2, 2010, the day Marina Security submitted their formal proposal to the City, and October 2, 2011, 180 days after the City Council awarded the contract to another firm.

However, because Mr. Tadesse did not own a controlling interest in Marina Security, the Contractor Contribution Ban did not apply to his personal contributions. Because the Contractor Contribution Ban did not apply to Mr. Tadesse’s personal contributions, his personal contribution to *Friends of Desley Brooks* was not in violation of the Contractor Contribution Ban.

V. CONCLUSION AND RECOMMENDATION

Because the investigation found that the alleged misconduct was not a violation of the Contractor Contribution Ban, Commission staff recommends that the Commission close this matter.