CEO 26-4 – January 28, 2026

POST-EMPLOYMENT AND POST-OFFICE LOBBYING RESTRICTIONS

SECRETARY OF THE FLORIDA DEPARTMENT OF CORRECTIONS

To: Name withheld at person's request (City of Tallahassee)

SUMMARY:

Guidance is given to the Secretary of the Florida Department of Corrections regarding how he can remain compliant with the Code of Ethics for Public Officers and Employees when accepting future employment. Referenced are CEO 25-4; CEO 24-6; CEO 19-5; CEO 17-8; CEO 16-6; CEO 12-20; CEO 12-5; CEO 09-11; CEO 09-6; CEO 09-5; CEO 08-17; CEO 07-16; CEO 07-15; CEO 07-6; CEO 05-4; CEO 01-6; 00-6; CEO 88-2; CEO 83-8.

QUESTION:

Are there any limitations on the Secretary of the Florida Department of Corrections accepting employment with an entity that has transacted business, is transacting business, or will transact business in the future with the Florida Department of Corrections?

This question is answered as follows.

You are writing on behalf of the Secretary of the Florida Department of Corrections (DOC) who wishes to ensure his compliance with the Code of Ethics for Public Officers and Employees when exploring future career opportunities. You note that the Secretary does not have specific future employment in mind; rather, he wishes for general guidance to ensure he is in alignment with the Code of Ethics once his term as the Secretary ends, particularly with regards to either working for an entity that has transacted business with DOC or working for an entity that is within the sphere of corrections.

The Code of Ethics does contain post-employment restrictions the Secretary should be aware of when exploring future opportunities. These post-employment restrictions fall, very broadly, into two categories: (1) bans on representation and lobbying; and (2) restrictions on employment with business entities contracting with one's agency.

Representation and Lobbying Bans

To prevent former public officers and employees from influence peddling –using their public position to create an opportunity for post-office or post-employment personal profit – the legislature enacted Section 112.313(9)(a)4., Florida Statutes, which prohibits agency employees from representing clients for compensation before their former agencies for a period of two years post-employment. CEO 24-6, CEO 00-6. Specifically, Section 112.313(9)(a)4. states:

> An agency employee . . . may not personally represent another person or entity for compensation before the agency with which he

> or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

For purposes of this prohibition, we have defined one's "agency" as "the lowest departmental unit within which a public officer's or employee's influence might reasonably be considered to extend." CEO 24-6. As the "head" of DOC, the Secretary's agency is the entirety of DOC. CEO 88-2; § 20.315(3), Fla. Stat. Thus, after vacating his employment, Section 112.313(9)(a)4. will prevent the Secretary from representing another person or entity for compensation before DOC for a period of two years.

This ban on the Secretary representing clients for compensation before DOC is broad. CEO 07-15, n.5 and CEO 05-4 (both opinions emphasizing the breadth of the definition of "representation."). To "represent" includes "actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client." § 112.312(22), Fla. Stat. Participation in negotiations, participation or even simply attendance in informational meetings, and the signing of agreements all also fall within the broad meaning of "representation" per this sub-section. CEO 09-5; CEO 07-6, Question 1.

However, Section 112.313(9)(a)4. does not forbid all communications between the employee and his or her former agency. CEO 25-4. We have made a distinction between communications meant to influence an agency's decision-making and "communications in implementing and fulfilling responsibilities under an existing agreement." CEO 00-6. "Actions necessary to carry out, as opposed to actions to obtain, a contract with one's former agency do not constitute 'representation' within the meaning of the prohibition." CEO 09-6. And "representation" does not include "rote, mechanical contact where there is no discretion on the part of the agency that can be influenced." CEO 25-4.

Ultimately, without additional information regarding the responsibilities the Secretary might have in a new position, it is difficult to provide more specific guidance. For further analysis as to whether certain actions might constitute "representation" for purposes of this subsection, we urge the Secretary to contact us with a more specific inquiry in the future.

In addition to the two-year representation for compensation ban found in Section 112.313(9)(a)4., the Secretary will also be subject to the six-year ban on lobbying for compensation outlined in Article II, Section 8(f)(3), Florida Constitution. This provision prohibits a person serving as a secretary of a department of the executive branch of state government from lobbying the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department, for a period of six years after vacating his or her public position. Art. II, § 8(f)(3)b.

To "lobby" means "to influence or attempt to influence an action or decision through oral, written, or electronic communication." § 112.3121(11)(a), Fla. Stat. With respect to lobbying a state government agency, lobbying is "limited to influencing decisions, other than administrative action, that are vested in or delegated to the state government body or agency, or an officer thereof." Id. And "lobbying for compensation" means "being employed or contracting for compensation, for the purpose of lobbying, and includes being principally employed for governmental affairs to lobby on behalf of a person or governmental entity." § 112.3121(12)(a), Fla. Stat.

However, "lobbying for compensation" explicitly excludes a public or private employee acting in the normal course of his or her duties, unless he or she is principally employed for

governmental affairs. § 112.312112(b)3, Fla. Stat. It also excludes advice or services to a governmental entity pursuant to a contractual obligation with the governmental entity. Id.

Because of the specificity of the definition of "lobbying for compensation," it is difficult to provide the Secretary with thorough guidance regarding the effect of this constitutional provision on his potential future employment without specific details about that employment. Ultimately, the Secretary will be prohibited from lobbying for compensation before the enumerated entities noted above for a six-year period after he vacates his position; however, whether the Secretary's expected duties amount to lobbying for compensation is very fact-specific. For that reason, we again urge the Secretary to request further guidance once he has obtained a more specific idea of the future work in which he hopes to engage.

Restrictions on Employment with Business Entities Contracting with DOC

In addition to the representation and lobbying bans detailed above, the Code of Ethics for Public Officers and Employees contains provisions that restrict certain executive and judicial branch employees from obtaining employment with business entities that contract with their former agencies if certain conditions outlined in Section 112.3185(3) or Section 112.3185(4) are met. These prohibitions are meant to prevent public officers and employees from having substantial input in an agency contract only to turn around and be rewarded with private employment in connection with the contract that they influenced. CEO 12-5.

Importantly, we note that "[n]either Section 112.3185(3) nor Section 112.3185(4) strictly prohibits a former State employee from going to work for an entity that has contracted with his or her agency." CEO 09-11; CEO 01-6. Rather, the subsections prohibit a former employee who had certain ties to an agency contract from performing any work that would be "in connection with" that contract. CEO 09-11; CEO 01-6.

Section 112.3185(3) prohibits executive branch employees from participating "personally and substantially" in the procurement of a contract between his or her business entity and his or her agency and then leaving his or her public employment for employment with the business entity in connection with that contract:

> An agency employee may not, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee.

§ 112.3185(3), Fla. Stat. This restriction lasts for the duration of the contract. CEO 17-8. See also CEO 19-5 (noting the unlimited duration of the ban); CEO 83-8 (limiting the list of activities to the procurement process).

While the Code of Ethics does not define what constitutes "personal and substantial" involvement in the procurement of a contract, we have held that "personally" means "directly, and includes the participation of a subordinate when actually directed . . . ." CEO 08-17. And for participation to be considered "substantial," the employee's involvement must have been of significance to the matter. CEO 12-5. "It requires more than official responsibility, knowledge, perfunctory involvement, or involvement in an administrative or peripheral issue." Id.

We have previously determined that signing a contract on an agency's behalf necessarily amounts to personal and substantial involvement in the procurement of a contract. CEO 01-6.

Thus, if the Secretary himself, in his role as the Secretary of DOC, has signed a contract between DOC and a business entity, he would be prevented by Section 112.3185(3) from accepting work in connection with that contract.

You have advised, though, that the Secretary does not sign all of DOC's contracts. You inform that the Secretary has delegated his signature authority for contracts of up to $5 million to the Director of Purchasing for DOC, and for contracts or agreements of over $5 million, the Secretary may designate the Chief of Staff to sign. Further, you note that, while the Secretary may provide input on initial contract requirements, the procurement of those contracts is specifically handled by other staff, though the Secretary is regularly updated on the progress of higher-profile strategic contracts through the chain of command.

We have held that an employee holding a supervisory or elevated position does not automatically indicate that he or she has personal and substantial participation in every contract entered into by that agency. For example, in CEO 19-5, we held that the general counsel of an agency at the time a contract was renewed did not have personal, substantial involvement in the procurement of that contract where he related that he did not participate, either directly or indirectly, in its solicitation, procurement, approval, or signing. Similarly, in CEO 12-20, based upon his representation, we determined the Assistant Secretary of Operations of an agency did not have personal and substantial involvement in the procurement of the relevant contract.

We hesitate here, without a specific factual inquiry, to opine as to whether the Secretary personally and substantially participated in the procurement of any particular contract within DOC. However, based on the facts you have provided, it appears some DOC contracts could have been procured without any personal involvement of the Secretary. Should the Secretary encounter an employment opportunity with an entity that contracts with DOC, we encourage him to reach out to the Commission with more specific facts so that we may conduct a more thorough analysis of whether the Secretary's role, or lack thereof, in the procurement of the contract at issue amounted to personal and substantial involvement that would limit the Secretary's working in connection with that contract.

There is also a ban on accepting work in connection with a contract that was within one's responsibility as a public employee:

> An agency employee may not, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee.

§ 112.3185(4), Fla. Stat.

This prohibition applies only to work in connection with a contract for *contractual services*. We have defined contractual services consistent with Section 287.012(8), Florida Statutes, to mean "[t]he rendering by a contractor of its time and effort rather than the furnishing of specific commodities." CEO 16-6 n.4. More specifically:

> The term [contractual services] applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs;

> research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services.

Id.

Thus, the Secretary may work for a business entity that contracts with DOC in connection with a contract for goods, such as bandages or food, without violating Section 112.3185(4), regardless of whether that contract was determined to be within his responsibility. However, if he wishes to work for a business entity contracting with DOC for contractual services, such as security or health services, and the underlying contract falls within the Secretary's responsibility, Section 112.3185(4) will prevent the Secretary from engaging in that work.

We have previously held that a contract is "within a public employee's responsibility" when the employee monitors or manages a contract. CEO 18-18. It also includes when the public employee's subordinate has monitored or managed the contract, and when the public employee has "ultimate authority" over a contract. CEO 25-4.

Here, the Secretary, as the head of DOC, is the apex of the "chain of supervision," and has the ultimate authority over all of DOC's contracts. CEO 07-16; CEO 19-5. "All particular matters under consideration in an agency are under the official responsibility of the agency head, and each is under that of any intermediate supervisor having responsibility for an employee who actually participates in the matter within the scope of his or her duties." CEO 01-6 (quoting 5 CFR § 2637.202(b)(2)). Thus, all of DOC's contracts are within the Secretary's responsibility, and Section 112.3185(4) will prohibit his acceptance of private work in connection with any contract for contractual services for a period of two years after the Secretary vacates his position. CEO 19-5 (finding relevant contracts fell within the Assistant Secretary of Operations' responsibility because he was "within the ultimate chain of supervision" above the contract monitors and he was informed of serious issues that might occur relating to those contracts).

We hesitate to classify any agency contract as outside of the responsibility of that agency's head. However, specific facts might support the negation of the strict application of Section 112.3185(4) through the use of Section 112.316. CEO 16-6.

Section 112.316 states:

> CONSTRUCTION.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency, or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

We have used Section 112.316 in the past to "temper the literal language in Sections 112.3185(3) and 112.3185(4)" when the specific factual circumstances presented have warranted it. For example, in CEO 12-20, we found that a former Department of Children and Families (DCF) Assistant Secretary could accept a position as chief executive officer for a company that contracted with DCF, even though the Assistant Secretary had been responsible for subordinates who managed contracts with numerous entities, where he had no personal day-to-day involvement in the contract management and his oversight was limited to a ten-week period that had ended almost

one year prior to his departure from DCF. And in CEO 19-5, we used Section 112.316 to negate the literal application of Section 112.3185(4) where the requestor, who served as the Assistant Secretary of Operations for DCF, was in the chain of command but not directly responsible for the subordinates who monitored the relevant contracts and had not routinely reviewed corrective action plans regarding those contracts.

We encourage the Secretary to reach out to the Commission once he becomes aware of more details of his proposed future employment so that we may engage in additional, and more specific, analysis, including an analysis as to whether the unique factual circumstances might warrant the application of Section 112.316.

Additional Provision

Finally, though nothing in the facts you have provided indicates an issue pursuant to this provision, we think it important to advise the Secretary that Section 112.313(8), Florida Statutes, will prohibit him from disclosing information obtained by him in his official capacity that is not yet available to the general public even after his term as Secretary ends. Thus, the Secretary may not use information gained by him by virtue of his position as Secretary to benefit himself or his future employer unless that information is also available to the general public.

Conclusion

In conclusion, the Secretary is subject to a number provisions within the Code of Ethics for Public Officers and Employees that might guide his possible future employment in the private sector. After leaving his position, he cannot represent a business entity for compensation before DOC for two years. § 112.313(9)(a)(4), Fla. Stat. He cannot, for a period of six years, lobby certain enumerated entities, including DOC, for compensation; however, the determination of whether his proposed employment would involve lobbying for compensation is very fact-specific. Art. II, § 8(f)(3)b, Fla. Const. He cannot engage in private work in connection with a contract that he had personal and substantial involvement in procuring through, for example, his signature; however, whether he had personal and substantial involvement in a contract's procurement will depend on the facts of that particular contract. § 112.3185(3), Fla. Stat. Finally, the Secretary will not, for a period of two years after leaving his position, be able to accept work in connection with a contract for contractual services if that contract was within his responsibilities as the Secretary of DOC or within the responsibilities of his subordinates within his chain of command, which encompasses every DOC contract for contractual services. § 112.3185(4), Fla. Stat. However, as noted above, the details of the Secretary's proposed future employment, as well as the specific facts surrounding the contracts involved, will be essential for a true determination of whether any of the statutory provisions apply, and we encourage the Secretary to reach out to the Commission for further analysis in the future.

Your question is answered accordingly.

ORDERED by the State of Florida Commission on Ethics meeting in public session on January 23, 2026, and **RENDERED** this 28th day of January 2026.

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Jon M. Philipson, *Chair*