

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

JO-ANNA HERKES,

Petitioner.

PETITION NO. 2023-08

INFORMAL ADVISORY OPINION

Initial Review: June 14, 2023

INFORMAL ADVISORY OPINION

By Petition dated April 20, 2023, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner Jo-Anna Herkes (hereinafter referred to as "Petitioner") who is a prospective member of the County of Hawai'i Salary Commission (hereinafter "Salary Commission"), requested an Informal Advisory Opinion from the Board. Petitioner sought guidance as to whether Petitioner could participate as a member of Salary Commission, without a conflict of interest arising in violation of Hawai'i County Code Section 2-84 (Conflicts of Interests) in relation to contracts held by her full-time employer, SSFM International.

At its duly noticed meeting on June 14, 2023, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner attended the meeting, provided testimony, and further expounded on the potential conflicts of interest. Petitioner identified she is employed in the role of business development with SSFM International, an engineering firm in Hilo. Petitioner was aware that SSFM International has contracts with several County departments, including Department of Public Works, Mass Transit Agency, Planning Department, Parks and Recreation, and

Department of Water Supply. Petitioner was not clear whether or not there would be conflict of interest in her serving on the Salary Commission.

The Board, having deliberated and considered and giving appropriate weight to the testimony and evidence submitted by the Petitioner, and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.

A. The Petition

2. Petitioner is a prospective commissioner member of the Salary Commission, which establishes the salaries of all County elected officials and appointed directors and deputy directors of departments.
3. Petitioner is employed in the role of business development with SSFM International, an engineering firm in Hilo.
4. SSFM International has contracts with the County, including engineering contracts with the Department of Public Works, Mass Transit Agency, Planning Department, Parks and Recreation, and Department of Water Supply.

B. Board's Ruling

5. Based on the evidence and testimony presented, the Board finds that there could potentially be a conflict of interest for the Petitioner to participate in the salary review process of the Salary Commission, in regard to County Departments in which SSFM International holds present or prospective contacts.
6. Based on the evidence and testimony presented, the Board finds that the potential conflict of interest could be resolved, provided that Petitioner recuses herself from salary

discussions regarding the Department heads or employees that previously, presently, or potentially have future contracts with SSFM International.

7. Board Chair Rachel Short moved, as amended, that the Board find that there is a potential conflict with Petitioner Jo-Anna Herkes serving on the Salary Commission regarding the salaries of employees or officers of Department presently or potential contracts that are being negotiated between the County and SSFM International and in order resolve that potential conflict, Petitioner Jo-Anna Herkes would be required to recuse herself from salary discussions regarding the Department heads or employees that previously, presently, or potentially into a contract with SSFM International and the County.
8. Board Member Christopher Ho seconded the motion. The motion passed 5-0.

CONCLUSION OF LAW

Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the *Rules and Practice and Procedure of the Board of Ethics*, the Board finds and concludes that Petitioner can participate as a member of the Salary Commission in the salary review process provided the above provisions are adhered to.

ORDER

Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed, and a copy shall be sent to the Petitioner.

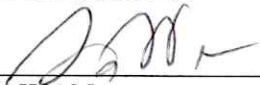
Dated: Hilo, Hawai'i, October 19, 2023.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 

RACHEL SHORT
Chair

APPROVED AS TO FORM
AND LEGALITY:



SYLVIA WAN
Deputy Corporation Counsel

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