

[Waiver 1992-9]
W-92-37

October 15, 1992

David G. Sobers, Manager
Environmental Services
Woodward-Clyde Consultants
[Address withheld]

Re: Maryland-National Capital Park and Planning Commission RFP
No. 9312A602

Dear Mr. Sobers:

Thank you for your letter of September 1, 1992, in which you seek clarification of the waiver issued to you by the Ethics Commission on April 2, 1992. The Ethics Commission granted you a waiver to seek and accept employment with certain firms which currently contract with Montgomery County and over which you, as a public employee in the Montgomery County Department of Environmental Protection (DEP), had contract administration responsibility. This waiver was conditioned on you not accepting for a period of 12 months any assignment involving a contract with the "Montgomery County Government" without first obtaining the consent of the Ethics Commission.

You have indicated that you have accepted employment with Woodward-Clyde Consultants (Woodward-Clyde), a firm which provides engineering, geological and environmental services. Woodward-Clyde is planning to respond to a Request for Proposals (No. 9312A602) (RFP) issued by the Maryland-National Capital Park and Planning Commission (M-NCPPC). Woodward-Clyde would like to assign you to this project.

The Ethics Commission notes that M-NCPPC is not subject to the Montgomery County Public Ethics Law. See, Section 19A-4(a), Montgomery County Code (1984), and Maryland Code Annotated, Article 40A, Section 6-101 *et seq.* Accordingly, if Woodward-Clyde receives a contract award under the RFP and assigns you to the project, you would not be involved in a contract with the Montgomery County Government for County ethics law purposes.¹ The Ethics Commission also notes that, while the RFP will require the contractor to obtain information from DEP, the contractor will not be involved in a contractual relationship with DEP.

Accordingly, the Ethics Commission believes that your services may be included in the Woodward-Clyde proposal and, if awarded, you may also work for Woodward-Clyde on the contract with M-NCPPC.

¹ The Commission notes that you have already consulted with counsel for M-NCPPC who, according to your letter, does not see that there would be a conflict of interest if you were to be assigned a role by Woodward-Clyde in a contract awarded under the RFP.

If you have any questions regarding this matter, please contact the Commission.