

INDIANA
STATE ETHICS COMMISSION

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42 IAC 1-5-14 Post-employment Restrictions IC 4-2-6-11

A former state employee who previously worked for the Indiana Economic Development Corporation (IEDC) sought the State Ethics Commission's (Commission) determination as to whether his potential post-state role with Meta would violate the Code of Ethics' (Code) post-employment restrictions. The Commission finds that under the specific set of facts presented by the Requestor and the IEDC's Ethics Officer, the post-employment rule does not prohibit the Requestor from working for Meta within 365 days of state employment. Furthermore, as the Requestor would not work for Meta on any particular matters on which he substantially participated while with the IEDC, the particular matter restriction does not prohibit his scope of employment with Meta.

February 19, 2025
2026-FAO-001

The Indiana State Ethics Commission (Commission) issues the following Formal Advisory Opinion (FAO) concerning the State Code of Ethics (Code) pursuant to IC 4-2-6-4(b)(1). The following opinion is based exclusively on sworn testimony and documents presented by the Requestor, former Senior Vice President of Business Development with the IEDC, whose post-employment opportunity serves as the basis for this request and testimony by the Ethics Officer for the IEDC.

BACKGROUND

The Requestor requests the Commission's FAO regarding his potential post-employment opportunity with Meta Platforms, Inc. (Meta). The Requestor's opportunity with Meta is for a remote, global site-selection role focused on private-sector real estate analysis, land feasibility, and securing letters of intent and agreements with private property owners, utilities, brokers, and other stakeholders. The role will not include executive branch lobbying and is derived from the Requestor's general expertise and understanding of real estate land feasibility and stakeholder engagement (not knowledge of Indiana's processes). The Requestor's work for Meta would include screens in place to avoid any conflicts of interest with his former IEDC employment.

The Requestor was a state employee for approximately eight years with the IEDC and resigned in good-standing effective July 4, 2025. During the Requestor's tenure with the IEDC, his primary functions were serving as a business unit manager, process architect, and high-level project manager in assigned instances. The Requestor had contracting authority over some matters such as professional licenses and subscriptions for software/tools for the IEDC's Business Development Team (BD), membership/sponsorship with the Indiana Economic Development Association and other industry associations, and 1099 contractor roles for full-time BD project manager support functions.

The Requestor was involved with negotiations with Meta, including serving as a project

manager for multiple separate incentive awards and one land transaction. The Requestor's role in each instance, as assigned by his supervisor, was two-fold:

- (1) To act as a senior business development project manager to oversee the logistical site search, coordinate stakeholder engagement, act as a liaison between various state and local entities and Meta, and provide the legal framework, alternative eligible options, and rules of the road for the incentives; and
- (2) Provide support to, and collaborate with IEDC business units (such as Land Development, Legal, Finance, and Policy) managing the land transaction negotiation to ensure alignment with project scope, timeliness, infrastructure needs, etc.

Projects at the IEDC run through a process established by Indiana statute, internal IEDC policies, and administrative requirements. There are many layers of involvement and review as projects work their way through the IEDC. The approval and execution of contracts – including final terms and conditions – occurred at higher levels than the Requestor's project manager position when involved with Meta. The Requestor never approved or signed any of Meta's contracts with the IEDC.

The Requestor provides that he was not involved in the administration of any contract with Meta while with the IEDC. The Requestor acknowledges that he has likely engaged, to a limited extent, in the negotiation of certain terms of contracts with Meta but writes that he was not in a position to make a discretionary decision affecting the outcome of negotiations with Meta.

The Requestor explains that he was a high-level project manager assigned to participate in multiple transactions involving Meta and was responsible for ensuring the IEDC's BD project management processes worked correctly and were aligned with the broader project discussions across the agency. The Requestor maintains he did not own the processes, nor could he materially change their speed, direction, or outcome.

The Requestor submitted an attachment detailing that the IEDC maintained a rigorous internal firewall separating the ministerial project management phase and duties, which fell within the Requestor's purview regarding his involvement with Meta, from other discretionary and binding decision-making.

The Requestor provides he did have responsibility for matters such as performing due diligence and assessing potential risk factors, populating the Deal Score with limited qualitative factors based on justifiable grounds, and communicating the recommended available incentive options based on statute and policy parameters; however, he describes his role in these tasks as ministerial – in some instances a matter of simple arithmetic and in others the application of objective, non-discretionary statutory and policy rules.

The Requestor testified to the Commission that during his time with the IEDC, he served as the primary project manager for certain transactions (two separate incentive agreements and a land transaction) involving Meta. The Requestor further testified that his role in these transactions was limited to the duties of a project manager and did not fall within the duties and authority of a Senior Vice President. As project manager on IEDC transactions involving Meta, the

Requestor acted as a liaison for the IEDC, and his role was governed by statutory and formulated constraints that left little room for subjective judgment. The Requestor acknowledged that he made discretionary decisions during contract negotiations with Meta but maintains that they did not affect the outcome of the negotiations. The Requestor also testified that a Meta project in which he was involved as project manager would have moved forward even without his involvement.

He also explained that project management itself inherently has discretionary choices, such as whether to set up an instructional site visit, how you ensure the relevant stakeholders and partners appropriately read in, and whether to call or discuss something in person, among others.

The Requestor explained that the IEDC's incentives are based on new revenue that the state would project, and most of the statutes are very prescriptive. In addition to state law, IEDC has policies that place further restrictions such that the project manager's job was to essentially enter the company's project inputs (capital investment, forecasted jobs, and forecasted wages) into an IEDC model to generate an output, which is what the project manager would present to IEDC leadership. At that point, IEDC leadership would have the discretion to make a decision. The Requestor also testified that the results of his negotiations with Meta did not affect the final contract that IEDC entered into with Meta.

The Requestor explained that his IEDC project manager roles involving Meta were outside of his primary role and authority of SVP. Had he been involved in a project with Meta in his SVP role, he would be in a position to make a discretionary decision affecting the outcome of a negotiation. The Requestor explained that although his work with the IEDC included many roles, his participation in contracts with Meta was strictly as a project manager, and not as SVP. As SVP, the Requestor was in a position to lead project managers and internally review and approve that projects met statutory requirements before advancing the matter to the executive leadership team for their ultimate review and approval. The Requestor explained that for several complex projects at the IEDC, he would act as project manager and not SVP due to his experience and senior position as he did for the Meta project.

IEDC Ethics Officer testified to the Commission that the IEDC does not use typical state titles, and that above the Requestor's previous SVP title are EVPs, a layer of executive VPs, C-Suite officers, and then the Secretary of Commerce.

The Requestor testified that the incentive amounts he included in an incentive agreement involving Meta were calculated using data-driven formulas dictated by state law and IEDC leadership policy. The Requestor stated he did not have the authority as project manager to deviate from those predetermined parameters or offer special treatment. Additionally, the Requestor provided that state statute and IEDC policy establish clear internal firewalls between his work and that of those who had actual decision-making authority. The Requestor added that after IEDC projects went through internal screens and reviews, final authority rested entirely with the IEDC executive leadership team, the Secretary of Commerce, and the IEDC board of directors. The Requestor stated his job and his team's job was to facilitate projects and provide leadership with the data needed to make informed decisions. He stated that as a project manager

he was not in a position to communicate anything that was not already pre-approved.

The Commission asked the Requestor about three previous public statements. First, when the Commission asked how he would square his position before the Commission with a previous public statement made by the IEDC that the Requestor “is an important part of [their] team acting as [their] lead negotiator on deals that help attract, retain and expand companies,” the Requestor maintained that in his project manager role he ultimately was not in a position to approve final terms or recommend specific terms to the board or leadership team. He added that as project manager he did negotiate on projects with Meta, but the specific terms were dictated by statutory restrictions, formulas, and IEDC policy.

Second, the Commission brought up a public statement the Requestor had made before the State Budget Committee in 2023. Describing the IEDC’s process for calculating incentives, including cost-benefit analyses, job commitments, and investment returns, the Requestor had stated “we do not have an internal target that – I would say, competitive reasons – we don’t disclose publicly. We look to have a blended target of all projects that reach that, which gives us the ability to have some discretion to be a little bit more aggressive on some of those more competitive projects that may warrant a slightly more aggressive deal.”

When asked by the Commission whether he had discretion on a competitive \$800 million Meta deal that he worked on, the Requestor stated he did not. He believes in that quote he was referring to the IEDC’s executive leadership team, the Secretary of Commerce, and the board of directors on projects depending on their level of competitiveness or how aggressive the IEDC leadership team wants to be.

Third, the Commission asked the Requestor to square his position with his previous statement from a March 24, 2024, interview with siteselection.com regarding the site selected for a Meta project. In that interview, the Requestor stated he “[gives] a lot of credit to the River Ridge Commerce Center and Jeffersonville for holding onto that site for the right user. When you look at the location, community and workforce, they had a compelling case. It had speed to market and no site barriers. The attractiveness of our utility infrastructure was a key player. Duke Energy was an important partner in enabling this investment.”

The Requestor recalled a former communications team and marketing personnel working with him on that interview, which he remarked sounds like what the IEDC would say in a press release, “which is pretty much that there were a lot of folks involved.” The Requestor maintains he was representing the agency in his interview, and at the end of the day, his comments did not put him in a position to have the discretionary authority to dictate the outcome of a negotiation.

The Requestor was the project manager for a package negotiated between the IEDC and Meta. For this package the Requestor took input from the city of Jeffersonville and River Ridge Development Authority, then presented it all as one submission to Meta. The Requestor explained that in a number of cases, the local submission gets packaged alongside the state of Indiana submission as one singular submission. The Requestor testified that submitting one package instead of several is a competitive advantage, and that when putting together the

package he absolutely would not change any of the substance of another party's portion of the package.

The Requestor provided that waiting to work for Meta until July 4, 2026, when his 365-day cooling off period ends, would provide undue economic harm to him and his young family. Since resigning in good standing from the IEDC, the Requestor has been unemployed, except for a brief stint of employment from September to November with Keramida. He also testified that he would not work for Meta on any particular matters in which he substantially participated while with the IEDC. He explained that regarding his prospective role, Meta has an established team that handles Indiana projects and is aware that the Requestor would not want to be involved with Indiana projects. The Requestor does not plan to interact with the IEDC in his new role, aside from keeping his own personal professional relationships intact. The Requestor added that should his prospective role change and potentially implicate the Code of Ethics, his first course of action would be to request an ethics review. The Requestor also stated that he would be willing to commit to not working on any projects in his new role in which he would interact with the IEDC for the remainder of the cooling off period, though he believed that situation would be highly unlikely.

The Requestor seeks a FAO from the Commission regarding whether the Code's Post-Employment restrictions would prohibit him from accepting employment with Meta within 365 days of leaving state employment.

ISSUES

Do the Code's post-employment restrictions prohibit the Requestor from accepting employment with Meta?

RELEVANT LAW

IC 4-2-6-11 One year restriction on certain employment or representation; advisory opinion; exceptions; waivers; disclosure statements; restrictions on inspector general seeking state office

Sec. 11. (a) As used in this section, "particular matter" means any of the following:

- (1) An application.
- (2) A business transaction.
- (3) A claim.
- (4) A contract.
- (5) A determination.
- (6) An enforcement proceeding.
- (7) An investigation.
- (8) A judicial proceeding.
- (9) A lawsuit.
- (10) A license.
- (11) An economic development project.
- (12) A public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(b) A former state officer, employee, or special state appointee may not accept employment or receive compensation:

(1) as a lobbyist;

(2) from an employer if the former state officer, employee, or special state appointee was:

(A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and

(B) in a position to make a discretionary decision affecting the:

(i) outcome of the negotiation; or

(ii) nature of the administration; or

(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer; before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

(1) employment; or

(2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of the individual's duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the commission certifying that:

(1) employment of;

(2) consultation by;

(3) representation by; or

(4) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

(f) Subsection (b) does not apply to the following:

(1) A special state appointee who serves only as a member of an advisory body.

(2) A former state officer, employee, or special state appointee who has:

(A) not negotiated or administered any contracts with that employer in the two (2) years before the beginning of employment or consulting negotiations with that employer; and

(B) any contract that:

- (i) the former state officer, employee, or special state appointee may have negotiated or administered before the two (2) years preceding the beginning of employment or consulting negotiations; and
- (ii) is no longer active.

(g) An employee's or a special state appointee's state officer or appointing authority may waive application of subsection (b) or (c) in individual cases when consistent with the public interest. A waiver must satisfy all of the following:

- (1) The waiver must be signed by an employee's or a special state appointee's:
 - (A) state officer or appointing authority authorizing the waiver; and
 - (B) agency ethics officer attesting to form.
- (2) The waiver must include the following information:
 - (A) Whether the employee's prior job duties involved substantial decision making authority over policies, rules, or contracts.
 - (B) The nature of the duties to be performed by the employee for the prospective employer.
 - (C) Whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee.
 - (D) Whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest.
 - (E) The extent of economic hardship to the employee if the request for a waiver is denied.
- (3) The waiver must be filed with and presented to the commission by the state officer or appointing authority authorizing the waiver.
- (4) The waiver must be limited to an employee or a special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of subsection (b) or (c).

The commission may conduct an administrative review of a waiver and approve a waiver only if the commission is satisfied that the information provided under subdivision (2) is specifically and satisfactorily articulated. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

(h) Subsection (b) applies, subject to waiver under subsection (g), to a former state officer, employee, or special state appointee who:

- (1) made decisions as an administrative law judge; or
- (2) presided over information gathering or order drafting proceedings; that directly applied to the employer or to a parent or subsidiary of the employer in a material manner.

(i) A former state officer, employee, or special state appointee who forms a sole proprietorship or a professional practice and engages in a business relationship with an entity that would otherwise violate this section must file a disclosure statement with the commission not later than one hundred eighty (180) days after separation from state service. The disclosure must:

- (1) be signed by the former state officer, employee, or special state appointee;
- (2) certify that the former state officer, employee, or special state appointee is not an employee of the entity; and

- (3) state in detail the treatment of taxes, insurance, and any other benefits between the entity and the former state officer, employee, or state appointee.
- (j) The inspector general may not seek a state elected office before the elapse of at least three hundred sixty-five (365) days after leaving the inspector general position.

ANALYSIS

The Requestor's request for a FAO invokes consideration of the Code's post-employment rule (IC 4-2-6-11).

IC 4-2-6-11 consists of two separate limitations: a "cooling off" period and a "particular matter" restriction. The first prohibition, commonly referred to as the "cooling off" or "revolving door" period, prevents the Requestor from accepting employment from an employer for 365 days from the date that he leaves state employment.

First, the Requestor is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him in his official capacity as a state employee. Nothing in the information provided and testimony indicate that Meta has offered this position to the Requestor to influence him in his IEDC capacity; therefore, this part of the rule would not prohibit the Requestor's immediate employment with Meta.

Second, the Requestor is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration. The Requestor indicates that his position would not involve any executive branch lobbying. So long as he does not engage in executive branch lobbying, the Requestor's post-employment opportunity with Meta would not violate this provision of the post-employment rule.

Third, the Requestor is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract.

Although the Commission has acknowledged that whether a state employee is in a position to make a discretionary decision for purposes of this rule may depend on the state employee's job title or duties ([13-I-37](#)), it has repeatedly rejected the idea that only the final decision-maker(s) are in a position to make discretionary decisions for purposes of this rule. Although the Code does not define the term "negotiations," in [14-I-16](#), the Commission found that when the contracting process with a consulting firm would not have moved forward but for an INDOT Deputy Commissioner's actions, his involvement constituted contract negotiations.

The Requestor argues three mechanics of the project management process effectively demonstrate that his role was advisory and arithmetic, not of judgment:

- 1) Formulaic constraints eliminated subjective choice
 - a. Under the IEDC's Triarchy Framework (Deal Score, CBA, and MIRR) for incentives, the Requestor was a technical facilitator and subject matter expert ensuring the model's accuracy. He applied a statutory mathematical formula resulting in incentive amounts generated by data driven inputs rather than discretion, and he lacked authority to deviate from calculated output bands, to offer discretionary premiums, or to bind the state to a subjective bargain.
- 2) No independent decision-making authority
 - a. The final stop and decision-making in the review and approval chain was above the Requestor's paygrade. He served as a procedural and interlocution gatekeeper for the IEDC with Meta while certifying files were complete for independent review. All recommended substantive options and terms were not only the rote output of mathematical equations and statutory/policy frameworks but were also subject to a *de novo* (veto, modifications, timing) by four superior groups of decision-makers who, unlike the Requestor, were empowered to exercise discretion: (i) two non-recused BD leadership members; (ii) the Executive Leadership Team; (iii) the IEDC's Board of Directors, and (iv) the Secretary of Commerce.
- 3) Prescriptive Statutory and Policy Guidelines
 - a. The Gross Retail and Use Tax Exemption on Data Center Equipment benefit was not a negotiated concession. Once Meta demonstrated they met the objective quantitative thresholds and timing set by law, the Requestor's role was to process the application received from Meta in accordance with IEDC policy and to verify statutory eligibility under an objective set of statutory criteria. Regarding the land transaction involving the IEDC and Meta, the Requestor's role was that of supporting the Land Development, Policy, and Legal teams' responsibilities of negotiating terms of a purchase and sale agreement, which fell outside the responsibilities of the Requestor's business development role. The Requestor had no discretionary authority to negotiate deal points that were not approved or not at the direction of the ELT. Rather, it was his job to negotiate incentive award amounts and frameworks that complied with state statute or the established IEDC policies.

The Commission finds that the Requestor was not in a position to make a discretionary decision affecting the outcome of the negotiation of a contract with Meta.

The Requestor's IEDC project manager work (outside his regular SVP role) communicating with Meta and associated parties, providing information to IEDC leadership and parties associated with the deal based on system outputs designed based on significant statutory and policy restraints, and lack of decision-making authority, did not put him in a position to make a discretionary decision affecting the outcome of the negotiation of a contract with Meta. Although he administered contracts with Meta, he was not in a position as project manager to make a discretionary decision affecting the outcome of the negotiation of a contract with Meta.

Accordingly, the cooling off period does not prohibit the Requestor from immediately accepting the employment opportunity with Meta.

The Commission notes that this decision is narrowly tailored to the Requestor's particular set of facts as presented by him and the IEDC's Ethics Officer and does not blanketly apply to all other project managers within the IEDC or the state. The Commission also noted in making its decision that the Requestor would not be interacting with the IEDC in his proposed role and noted the fact that there are approximately only 4 months left of his cooling off period.

Fourth, the Requestor is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary. As the Requestor provides that he has not made a regulatory or licensing decision that applied to Meta or to its parent/subsidiary, the Requestor's post-employment opportunity with Meta would not violate this provision of the post-employment rule.

Finally, the Requestor is subject to the post-employment rule's "particular matter" prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11) an economic development project, or 12) a public works project. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

Based on the information provided, the Requestor worked on economic development projects with Meta and his participation was personal and substantial such that he would be prohibited from working on them after leaving state government. As the Requestor would not work for Meta on any particular matters on which he substantially participated while with the IEDC, the particular matter restriction does not prohibit his scope of employment with Meta.

CONCLUSION

The Commission finds that, in the specific set of facts presented by the Requestor and the IEDC's Ethics Officer, the post-employment rule does not prohibit the Requestor from working for Meta within 365 days of leaving state employment.

Respectfully Submitted,

Will Deane

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