

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-9(a), Conflicts of interest

40 IAC 2-1-8, Moonlighting

SEC found there was no conflict of interest in an INDOT project manager, who served as a grant administrator and technical advisor to specific transit agencies, establishing a firm specializing in consulting services, subject to certain conditions.

**92-I-2 Conflict of Interest, Moonlighting
(Decision February 20 and April 16, 1992)**

FACT SITUATION

The Project Manager for the transit programs in Indiana which include Section 18 programs for rural communities and public mass transportation funds for urban transit agencies in the state wanted to establish a firm specializing in consulting services. The Project Manager acted as a grants administrator to make sure the funds were allocated properly, to make sure fund recipients complied with federal and state requirements, and to serve as a technical advisor in matters such as realigning transit routes.

The company the Project Manager proposed to incorporate was a consulting firm specializing in consulting services to the business sector. These services might entail the development and implementation of market research, computer applications, and various studies for interested clients. The firm could provide demographic data analysis to private businesses attempting to determine potential markets for products and services. It would use existing census information to compile data on income, age, growth trends, and so forth. The firm also would develop computer applications for businesses attempting to automate various components of their operation.

QUESTION

Is a project manager in the Division of Public Transportation, Indiana Department of Transportation, with duties as a grant administrator and technical advisor to specific transit agencies permitted to establish a firm specializing in consulting services?

OPINION

The Commission found the proposal did not create a conflict of interest. Specifically, a project manager in the Division of Public Transportation, Indiana Department of Transportation, is permitted to have outside employment doing consulting work provided:

- 1) No transportation or transit related work activity is performed at any time while the project manager is employed by the Indiana Department of Transportation (INDOT);
- 2) Subcontracting with existing consulting firms which do or have done transportation/transit consulting for INDOT will be expressly prohibited while the project manager is employed by INDOT;
- 3) No work be undertaken during state office hours; and
- 4) No state equipment or property including telephone lines be used in the solicitation or completion of projects.

The relevant rules are as follows:

40 IAC 2-1-8 on moonlighting provides, " A state employee shall not engage in outside employment or other outside activity not compatible with agency rules or the full and proper discharge of public duties and responsibilities. This outside employment or other outside activity must not impair independence of judgment as to official responsibilities, pose a likelihood of conflict of interest, or require or create an incentive for the employee to disclose confidential information acquired as a result of official duties."

IC 4-2-6-9(a) on conflicts of interest provides, " A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest."