

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 Consequently, the analysis reflected in the opinion may be outdated.

Outside employment

A conflict of interest was found to exist for a BMV systems analyst, who headed a project installing computer printers for his state agency, to develop and market software to county governments to help them process the new reports.

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FACT SITUATION

The Bureau of Motor Vehicles (BMV) purchased new vehicle-registration printers, which required the agency to send new vehicle-registration reports to counties, replacing the old registration carbon copies. The counties used the information from the report to help distribute excise taxes to taxing units. The BMV could also provide the same reports via computer technology. The question was whether a BMV Systems Analyst could develop and sell computer software to county government that would help the counties process the information from the BMV computer reports.

The BMV Systems Analyst headed the project to install the new printers described above. The Systems Analyst had no role in creating either the printer project or the decision to make the reports available via computer media. In his former job as Director of Registration and Excise Tax, the Systems Analyst interacted directly with county officials. Such interaction included attending a meeting of the County Auditor's Association where he discussed the availability of computer media for the reports. His current position requires no direct contact with county officials, although he might be asked to help respond to a county's request for a computer report. The Systems Analyst could be recused from such situations. However, his former position has not been filled and he has been asked to deal with a few matters from his old job that involve counties.

The BMV Commissioner and Deputy Commissioner explored the possible printing systems and selected one that printed a one-ply document, taking away the county's ability to sort registration copies by taxing unit. The county would no longer receive a copy, only a report. To change a taxing unit to another one requires that the county adjust the report and it seemed wise to do so by computer technology.

In developing the software, the Systems Analyst would not use information unavailable to the general public who might want to develop similar software. All information the Systems Analyst would use is public information but his knowledge and experience would be an advantage. A person from the general public could get information from the computer record describing fields and sorting options.

Although the BMV had the resources to offer the same product and service, they would not assume a role vested with the county auditor's offices of designating tax dollars to county taxing units. Due to past conflicts between the counties and BMV, the decision to have BMV produce the software program would be made at the highest levels, the Commissioner and Deputy Commissioner. These past conflicts involved an ongoing dispute between counties and the BMV regarding alleged mistakes made by BMV with township information on the vehicle registration. If the decision were made, the Systems Analyst's MVIS Division of BMV would execute such a decision but not the Systems Analyst specifically.

If the BMV Commissioners advised the Systems Analyst that his proposed business would not present a conflict of interest, the Systems Analyst would have difficulties supporting the software while working for the state. He would probably have to contract with a help desk to handle the

inevitable software questions that would arise after a county purchased and attempted to implement and operate the software. Because of his BMV job, the Systems Analyst would not be able to support the software during the day.

In terms of marketing, the Systems Analyst might first approach his home county (where he knows the county auditor) and offer the software at no charge. He might also speak at meetings of groups like the Association of Indiana Counties and the County Auditor's Association. He would present himself as the BMV Systems Analyst Project Manager who had worked with the relevant data and files and knows how to solve the counties' problems. The Systems Analyst acknowledged that it would be an advantage to present himself as someone who is familiar with the system.

QUESTION

Is the BMV Systems Analyst who heads a project installing new printers in BMV permitted to develop and market software to county governments that would help them process the BMV reports on excise tax distributions for their taxing units?

OPINION

The Commission found that it is incompatible with state duties and presents a likelihood of conflict of interest for a BMV Systems Analyst who heads a project installing new printers in BMV to develop and market software to county governments that would help them process the BMV reports on excise tax distributions for their taxing units.