

42 IAC 1-5-5 Outside employment (IC 4-2-6-5.5)

42 IAC 1-5-6 Conflicts of interest; decisions and voting (IC 4-2-6-9)

A DOI employee was prohibited from contracting services through his personal risk management and insurance consulting firm to a subsidiary of Community Hospital Foundation due to an appearance of impropriety.

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ISSUE

A state employee who is currently employed with the Indiana Department of Insurance (IDOI) has submitted an "Insurance Evaluation Bid Proposal," in response to a Request for Proposal (RFP) from Visionary Enterprises, Inc. (VEI), which is a for-profit subsidiary of Community Hospitals Foundation, Inc. In addition to his employment with the state, the state employee has a personal business which appears to be a risk management and insurance consulting firm. The state employee desires to offer his services to VEI under the auspices of his personal consulting firm. VEI's published RFP, dated June 16, 2006, states that it is seeking bids for phase one of a project which "will be limited to the evaluation of the ambulatory surgery operations located in the state of Michigan," which would "include all insurance policies in place for each of the four (4) LLCs as well as any corporate policies in place with regard to operations in the state of Michigan." Prior to submitting his inquiry to the State Ethics Commission (hereinafter the "Commission") the state employee presented his proposed moonlighting arrangement to his agency ethics officer for review. In an e-mail dated July 12, 2006, the ethics officer stated her inability to approve of the state employee's proposed moonlighting.

RELEVANT LAW

42 IAC 1-5-5 Moonlighting; IC 4-2-6-5.5 Conflict of Interest; advisory opinion by inspector general (as amended by Public Law 89-2006, approved March 17, 2006); and IC 4-2-6-9 Conflict of economic interests.

ANALYSIS

The state employee's proposed outside employment arrangement presents ethical considerations under the foregoing ethics rule and statutes. The Commission finds that the state employee's proposal would be contrary to the state's moonlighting rule and conflict of interest statutes. Specifically, the state employee's employment with VEI would involve compensation of substantial value and would appear to be inherently incompatible with his responsibilities with the IDOI. The state employee testified that he estimates the project would entail one hundred billable hours and perhaps more. The state employee also testified that he holds the second highest position at IDOI. The state employee's level of authority within IDOI, especially with regard to that agency's official role in regulating various insurance matters throughout the state, could present an inherent conflict of interest if he were to engage in the proposed work for VEI, despite his representation that the work would be limited to the organization's activities in Michigan. There is also an apparent conflict with the fact that VEI is at least partially physically located in Indiana and is covered by Indiana's Patient Compensation Fund that is administered by the IDOI. Overall, the Commission finds that the proposed outside employment relationship would result in an appearance of impropriety, given the state employee's level of responsibility within IDOI, and would otherwise be contrary to the ethical goals by which those subject to the jurisdiction of the Commission are guided.

CONCLUSION

Based on the foregoing analysis and in consideration of the IDOI ethics officer's disapproval of the state employee's proposed moonlighting, the Commission finds that the state employee's proposed moonlighting with VEI would be a violation of state ethics law. Therefore, the Commission hereby disapproves of the state employee's proposed moonlighting arrangement with VEI.