

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 Consequently, the analysis reflected in the opinion may be outdated.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

An FSSA systems analyst sought outside employment with a private foundation to develop a component for an information management system that would be made available to the state at no cost if the system successfully met the grant objectives. SEC found there would be no violation of the Code of Ethics for the analyst to accept such employment since it would not be reasonable to expect the analyst to carry out both his regular duties and the research project without receiving additional compensation.

**93-I-5 Conflict of Interest, Moonlighting
(Decision May 20, 1993)**

FACT SITUATION

A systems analyst of Family and Social Services Administration wanted to be employed on a project funded by a private foundation to develop an additional component of a state information management system which would be made available to the state at no cost if the system successfully met the grant objectives. The systems analyst had developed the computer management and information system for the Division of Aging and In-Home Services. The system was used by area agencies on aging. The grant project would be funded by a private foundation and seek to develop an additional component to the information management system. A possible area of conflict was when the systems analyst worked with the area agencies on aging. He would sometimes be working as a state employee and other times as a person working on the grant-funded project.

The sixteen area agencies on aging in the state of Indiana were sub-grantees of FSSA. They received state and federal funds to conduct a number of different services such as home-delivered meals. All were nonprofit.

The project originated from the Center for Law and Health at Indiana University School of Law, Indianapolis. The principal investigator was a faculty member. The project was a demonstration developing and implementing two quality assurance strategies in health services and providing an opportunity to develop interventions. The systems analyst would be designing the system, doing analysis, and programming. He would also be prototyping the system for case managers. In two pilot areas of the state, he would assist in the installation of the system and in training. The project would be merged into the system that was in existence which was developed using state funds.

Information concerning the needs of the client would be put into the computer by the case manager, and the computer would recommend services. No one besides the case manager would use the module. The module would automate decisions done manually and on a subjective basis by the case manager. The system would develop a specific treatment goal for every client need and an evaluation of outcome, as well as tap into informal support systems and formal services. The system would be more cost effective.

The systems analyst estimated he would spend 180 to 190 hours on the project before the deadline in developing 60 decision trees and coding them and developing several other screens. All work would be outside of state time, on weekends and evenings. If the demonstration project was successful, the foundation would give the module to the state at no cost to the state. The state could not afford to have the systems analyst develop the module on state time, because the systems analyst was needed to provide technical support to area agencies on aging to maintain the current system.

QUESTION

Is a systems analyst for the Family and Social Services Administration permitted to have outside employment on a project funded by a private foundation to develop a component for an information management system which would be made available to the state at no cost if the system successfully meets the grant objectives?

OPINION

The Commission found it did not pose a conflict of interest or violate any ethics rules for a systems analyst in FSSA who developed the information management system used by area agencies on aging to have outside employment on a project funded by a private foundation to develop additional components to the system in view of the following circumstances. The project is a research project the state would not be prepared to undertake on its own. The project was being undertaken by a nonprofit entity which was going to make the results of the research available for use by the state at no cost. The systems analyst had the skills and background which made him uniquely qualified to provide assistance to the project. The extent of the project was such that it would not be reasonable to expect the systems analyst to carry out both his regular duties and the research project without additional compensation.

The relevant statute and rules are as follows:

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."

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."