

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 Consequently, the analysis reflected in the opinion may be outdated.

Conflict of interest, Post-Employment Restriction

A DFC regional manager interviewed with a service provider who had a contract with one of the counties over which he had administrative oversight and supervisory responsibilities. SEC found no financial conflict of interest arose in the manager negotiating for employment with the provider while he was still with the State as long as he did not involve himself in any matter involving that provider before he left state employment.

96-I-10 Conflict of Interest, Post-Employment Restriction

(Decision September 19, 1996)

Fact Situation

A regional Manager of the Division of Family and Children (DFC) had general administrative oversight and supervisory responsibility for fifteen counties, including one particular county. This county had a contract with a certain service provider. The Regional Manager had interviewed with the service provider for the position of executive director of the agency. The question was whether he was permitted to negotiate for employment with the service provider while still employed in state government and to become the executive director of the service provider upon leaving state government.

The contract the county DFC office had with the service provider was to provide home-based intensive caseworker services for drug-addicted mothers. He did not participate in any of the conversations or decisions that the county office had with the executive director of the service provider when the contractual relationship was formed. That executive director had left. The regional manager had not participated with respect to other contracts except for items that were budgeted from Title IV-B funds, and none of these funds went to this service provider. Their contract was funded by the county instead.

All county DFC offices had multiple contracts for services such as foster care, parental training, and homemaker services. The regional manager rarely was involved with the negotiation or performance of those contracts unless the contractor had not been paid or a similar problem arose. He had never been involved with this service provider's contracts or the services of the provider for the county DFC office.

The provider's services extended to all of northern Indiana, an area much larger than the territory the regional manager supervised in his state job. Contracts for services were negotiated on an annual basis. If a contract came up for renewal within the next twelve months after the regional manager became executive director of the service provider, he could represent the service provider in those negotiations because he had not been personally and substantially involved in the same particular matter in his work for the state.

Question

Is the Regional Manager of the Division of Family and Children permitted to negotiate for employment with a service provider while still employed in state government and to become the executive director of the service provider upon leaving state government?

Opinion

The Commission found that negotiations for employment with the service provider had not created a financial conflict of interest as long as the regional manager did not involve himself in any matter involving that service provider before he left employment with the state and that future representation of the provider in a particular matter involving the county Division of Family and Children would not violate the post-employment restriction.