



FAIR POLITICAL PRACTICES COMMISSION

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May 26, 2011

Robin Gray
Waterwheel Drive, Apt. #8
Sacramento, California 95833

Re: Your Request for Advice
Our File No. A-11-089

Dear Ms. Gray:

This letter is in response to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ Please note that our advice is based solely on the provisions of the Act. We therefore offer no opinion on the application, if any, of other conflict-of-interest laws such as common law conflict of interest or Government Code Section 1090. We urge you to consult with the Department's management or counsel to determine if your proposed work is restricted by the agency's statement of incompatible activities or other laws.

QUESTION

As an Associate Government Program Analyst/Ombudsman employed by the California Department of Mental Health (the "Department"), may you work as a part-time independent contractor writing proposals for a private company for grants from state or county government agencies?

CONCLUSION

Nothing in the Act prevents you from accepting outside employment. However, you may not make, participating in the making or use your official position to influence a governmental decision that will have a reasonably foreseeable material financial effect on your outside employer.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

You are employed by the Department as an Associate Government Program Analyst/Ombudsman. In this capacity, you assist mental health consumers with identifying mental health resource at the county level. You link mental health consumers to services and problem-solve on issues related to quality and access to services. In addition, you respond to inquiries of consumers, providers or representatives from county mental health plans. You also brief management on issues faced by the consumers and the public mental health system. In this capacity, you also write policies and procedures for staff to follow when interfacing with consumers. In our telephone conversation of May 23rd, you stated that your work at the Department involves writing requests for offers from vendors relating to programs at the start of a program. You do not write proposals for information technology bids. You also stated that your position is not listed in the Department's conflict-of-interest code, and that you do not participate in making or influencing governmental decisions.

You would like to work part-time as an independent contractor for a private company to write proposals for funding from both state and local government agencies. You state that your work for the company would be limited to writing proposals for programs regarding information technology, and that the company is contracting with you because of your technical writing abilities.

ANALYSIS

The Act's conflict-of-interest provisions ensure that public officials will "perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them." (Section 81001(b).) Section 87100 prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest.


Because you will have a financial interest in the private business entity if you accept their offer of employment, you may not make, participate in the making or use your official position to influence a governmental decision that will have a reasonably foreseeable material financial effect on the business entity.

There are, however, other laws implicated in your account of the facts. We urge you to consult with Department's management or counsel to determine if your proposed work is restricted by the agency's statement of incompatible activities or other laws. Also, enclosed is our pamphlet titled "Can I Vote? . . ."

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

John W. Wallace
Assistant General Counsel


By: Valentina Joyce
Counsel, Legal Division

VJ:jgl

Enclosure