

## OPINION NO. 462

The Commission received a request for an advisory opinion from the administrator of a state project that had considered engaging an individual to serve as a training consultant. Because the individual was a recently retired state employee, he wished to know if it was permissible, under the State Ethics Code, for the project to enter into a contract with the former employee.

The project was funded by a federal department to conduct a demonstration of the feasibility of a system of case management and service coordination for a particular population. Although the project was federally funded, the provisions of the ethics code applied because the project was administered by the State.

The project required the services of a training consultant to plan, coordinate, and conduct staff training. The training consultant also was to be responsible for locating training resources in the community. The administrator intended to hire the consultant on a fee-for-service contract basis, not to exceed \$4,000, for forty days extended over the life of the project.

HRS §84-18 sets out the restrictions on post-employment for former employees. Former employees are prohibited from disclosing or using any confidential information which they may have acquired in the course of their official duties, and, within a year of their departure, from assisting others on matters in which they have participated as employees, or from assisting any person or business on matters involving official action by the particular state agency or subdivision thereof with which they have actually served. Nevertheless, HRS §84-18(d) provides that the State may contract with former employees to act on matters on behalf of the State.

It was clear to the Commission that HRS §84-18(d) would permit the project to enter into the contract with the former employee. It was, however, the practice of the Commission to review the circumstances of the award of a contract to former employees to verify that they had not received any unwarranted advantages. Prior to his retiring from state service at the end of last year, the former employee's responsibilities included supervision of professional trainers who planned and conducted training programs for the staff of a state division. The former employee did, therefore, possess the skills the project had been seeking in a training consultant. Further, in conversations with the Commission's staff, a member of the project staff had noted that the former employee had not been involved in the project's work or the development of the consultant contract. Accordingly, the Commission determined that the contract could be awarded to the former employee.

We appreciated the candid nature of the presentation of facts by the administrator and his staff, and we wished to stress that we had seen no evidence of any kind that employees connected with the project had used their position to intentionally advantage the former employee in an inappropriate way. We commended the administrator for his concern about the ethical issues raised in a post-employment situation.

Dated: Honolulu, Hawaii, April 22, 1982.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairperson  
Paul C.T. Loo, Vice Chairperson  
Gary B.K.T. Lee, Commissioner

Note: Commissioner Dorothy K. Ching and Commissioner Robert N. Mitcham were excused from the meeting at which this opinion was considered.