

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 05-20

May 27, 2005

RE: May former employee present grant application proposal
 before former state agency?

DECISION: Yes, if former employee had no involvement with grant as
 a part of official duty.

This opinion is issued in response to your March 24, 2005, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 27, 2005, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You were employed by the Kentucky Housing Corporation ("KHC") for over 12 years, most recently as the Director of Specialized Housing Resources where you were responsible for development, implementation, and coordination of policies and procedures relating to the operation of community development and housing programs. Your employment there ended in February 2005.

After leaving the KHC, you joined The Partnership Center, Ltd. (the "Partnership"), a consulting firm, which enhances the effectiveness of organizations addressing critical social needs by creating new service models and collaborative efforts. The Partnership facilitates needs assessments, evaluative efforts, and funding processes; provides individual and group training and consultation; and manages projects that are outside the scope of existing resources of an organization. It is your understanding, based on KRS 11A.040, that you may work on grant applications and present proposals to KHC and the U.S. Department of Housing and Urban Development for all programs except those with which you were directly related.

Please find enclosed the brochure entitled *Leaving State Government?* provided for your review.

KRS 11A.040 (7) and (9) provide:

(7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

...

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

The Commission assumes that because you are currently employed by the Partnership that the Partnership did not do business with KHC in any matters in which you or anyone under your supervision at KHC had any direct involvement during the last three years of your employment. If the Partnership did have a business relationship with KHC concerning matters in

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 05-20
May 27, 2005
Page Three

which you (or anyone under your supervision) were directly involved the last three years, you should not have accepted employment or compensation from the Partnership unless you were returning to your former business or occupation in which you were employed prior to state employment.

You are not prohibited from performing ministerial functions in your new employment; however, for one year you may not represent the Partnership or anyone else before the KHC regarding any matters that may have been before the Division of Specialized Housing Resources over which you served as the director. "Representation" includes communication with KHC on behalf of the Partnership. The completing and filing of a grant application would not necessarily be considered a ministerial function, and thus you should ascertain that you do not communicate for one year with KHC regarding any applications or other matters which may have been before your division during the last three years of your tenure. If neither you, nor anyone under your supervision, had involvement during the last three years with the grant on which you would be working and presenting a proposal, then you would not be prohibited from representing your new employer before KHC on the grant proposal.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: James S. Willhite

Enclosure: *Leaving State Government?*