

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 89

December 16, 1993

RE: May former employee's previously existing business do business with his former agency within six months?

This opinion is in response to your November 23, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 16, 1993, meeting of the Commission, and the following opinion is issued.

The relevant facts are provided as follows. A former employee for your agency owns a video editing service which may contract to do business with state agencies. The employee resigned on November 12, 1993, in order to pursue his private business on a full-time basis and avoid any perceived conflict of interest.

You asked whether the former employee must refrain for six months from doing business with your agency.

KRS 11A.040(6) provides:

No present or former public servant shall, 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 the state in matters in which he was directly involved during 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, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved 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.

If the former employee has returned to a business or occupation in which he was involved prior to state employment, his business may immediately do business with the state in matters in which he was involved as long as he personally refrains from working on such matters.

If the former employee has not returned to a business or occupation in which he was involved prior to his state employment, then his private business should not do business with the state in matters in which he was directly involved during his state tenure. However, he is not

prohibited from holding a personal service contract in his own name concerning matters in which he was directly involved during his tenure with the state.