

EXECUTIVE BRANCH ETHICS COMMISSION  
ADVISORY OPINION 94-28

---

May 17, 1994

RE: May employee at state correctional facility accept employment with U. S. Correctional Corporation upon resignation?

DECISION: Yes

This opinion is in response to your April 14, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 17, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The United States Correctional Corporation ("USCC") wishes to employ as deputy director at one of its minimum security correctional centers an individual currently employed as a unit administrator at a state medium security correctional facility. The Department of Corrections within the Justice Cabinet holds contracts with USCC to house inmates for the state. However, you state that the individual you wish to employ has never been involved with contract negotiations, contract compliance, vendor selection, or proposal evaluation regarding contacts with the Department of Corrections. In addition, the individual claims he has never been directly involved in any matters during his state tenure involving USCC. His only involvement with the minimum security correctional center where you wish to employ him is that of responding to inmates' requests to be transferred to the facility. The unit administrator may serve on a committee to consider the request and recommend approval. The recommendation must be approved by the deputy warden, the warden, and the central office. You request an opinion as to whether USCC may employ the unit administrator immediately upon resignation from state government.

KRS 11A.040(6) provides:

(6) 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.

Based on the information provided, the Commission believes USCC may employ the unit administrator immediately upon his resignation from state government. The provision above prohibits a former state employee from accepting employment from an entity which contracts with the state in matters in which the employee was directly involved. However, as a state employee, the unit administrator was not directly involved in any matters concerning USCC.

The provision above, KRS 11A.040(6), has been amended by the passage of House Bill 851 by the 1994 General Assembly. Upon the effective date of this bill, July 15, 1994, the above provision will apply only to public servants listed in KRS 11A.010(9)(a) to (i) and officers as defined in KRS 11A.010(7). Thus, the six-month prohibition will no longer apply to most executive branch employees.

