

ADVISORY OPINION 94 - 5

February 3, 1994

RE: Is acceptance of position with company which holds state contract a violation of KRS 11A.040(6)?

DECISION: Yes, under circumstances cited.

This opinion is in response to your January 3, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 3, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are a procedures development coordinator assigned to the **Kentucky Automated Management and Eligibility Systems ("KAMES")** project within the Department for Social Insurance of the Cabinet for Human Resources. The KAMES project encompasses both Food Stamps and Aid to Families with Dependent Children ("AFDC"). You have been offered a position as a business analyst with **Complete Business Solutions, Inc. ("CBSI")**. Your assignment with this company will be to help the state of Illinois in the development of a automated child support system. The Department of Information Systems within the Finance and Administration Cabinet holds a contract with CBSI in which CBSI provides assistance to the state on the KAMES project. You had no involvement in the award of a state contract to CBSI. You do interact with CBSI employees in your work on the KAMES project, but have never supervised or been supervised by any CBSI employees. Prior to your state employment you were a student.

You do not believe the intent of the Executive Branch Code of Ethics (the "Code") was to prohibit future employment in a situation such as yours. You cite an example of a former state employee who accepted employment from a business that holds contracts with the state as precedent that you should be allowed to accept such employment.

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.

The Commission finds that for a period of six months following your state employment, you are prohibited from accepting employment from CBSI. Your direct involvement on the KAMES project, with which CBSI is involved through state contracts, prohibits you from immediately accepting employment upon your resignation from state government. Although you are not in a position to have any influence over the awarding of a contract to CBSI, the current law allows no exceptions for such a situation.