



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-15

### Limitations On the Application of the Code's Post-State Employment Restrictions

A State employee, Ms. Lynn Billings, has asked the Ethics Commission how the post-state employment restrictions of Section 1-84b, General Statutes, will affect her possible future employment with a private firm.

Since July, 1987 Ms. Billings has been a Data Processing Applications Systems Analyst Intern in the Office of Policy and Management (OPM). For two years prior to this employment she was a Purchasing Services Officer I in the Department of Administrative Services (DAS). Her specific assignment was with the Data Processing Unit of the Resources and Facilities Planning Section in the Bureau of Purchases. Her principal duties as purchasing officer included assisting in the preparation of requests for proposals and bid specifications for data processing resources, assisting in the evaluation of vendor responses, making preliminary recommendations for contract awards, and assisting in contract negotiations.

In early 1987 Ms. Billings performed all of the above functions as a member of a five person selection committee. The Committee was composed of representatives from three State agencies, and was responsible for awarding a contract to design, develop, and implement an Automated Budget System and a Capital Budget System for OPM. The Firm with which Ms. Billings is considering employment was awarded a \$4,500,000 contract for this Project on March 31, 1987.

Since her transfer to OPM Ms. Billings has been involved in the design and development of software for the Project in question. Her principal responsibilities have included acting

Phone: (203) 566-4472

97 Elm Street — Rear [REDACTED] • Hartford, Connecticut 06106

*An Equal Opportunity Employer*

as a liason between the users of the systems and the State's Project managers, and reviewing the systems' detail designs as they are developed.

The position Ms. Billings is considering with the Firm would include technical work on the Project. This work would involve daily contact with State employees, all of which would be of two types: 1. working with users and other State personnel as a member of the Firm's technical team involved in the development and implementation of Project systems; and 2. attending Project meetings with State personnel to report on the technical aspects of the development of the systems. Ms. Billings states that at no time would she participate in any contractual or managerial functions regarding the Project, nor would she be involved in the resolution of any controversy between the State and the Firm.

Specifically, Ms. Billings has asked:

1. Does subsection 1-84b(d), General Statutes, preclude her employment with the Firm?

2. If she accepted employment with the Firm, would subsections 1-84b(a) and (b), General Statutes, allow her to perform the above described work on the Project?

1. Subsection 1-84b(d), General Statutes, states that:

No former public official or state employee who participated substantially in the negotiation or award of a state contract obliging the state to pay an amount of fifty thousand dollars or more, or who supervised the negotiation or award of such a contract, shall accept employment with a party to the contract other than the state for a period of one year after his resignation from his state office or position if his resignation occurs less than one year after the contract is signed.

It would appear that, as a member of the Selection Committee for the \$4,500,000 Project contract, Ms. Billings has "...participated substantially in the negotiation or award of a state contract obliging the state to pay an amount of fifty thousand dollars or more..." However, since more than one year has elapsed since the contract was signed (March 31, 1987) subsection 1-84b(d) does not bar her employment with the Firm given the award.

2. Subsections 1-84b(a) and (b), General Statutes, state that:

(a) No former executive branch public official or state employee shall represent anyone other than the state, concerning any particular matter (1) in which he participated personally and substantially while in state service and (2) in which the state has a substantial interest.

(b) No former executive branch public official or state employee shall, for one year after leaving state service, represent anyone, other than the state, for compensation before the department, agency, board, commission, council or office in which he served at the time of his termination of service, concerning any matter in which the state has a substantial interest.

Certain of Ms. Billings' activities on behalf of the Firm regarding the Project will undoubtedly bring her into contact with her former agency, OPM, within the one year prohibited period established by subsection 1-84b(b). The entire endeavor would appear to fall within subsection 1-84b(a) as concerning a particular matter in which she has participated personally and substantially while in State service. To determine whether the one year ban of 1-84b(b) and the lifetime prohibition of 1-84b(a) should apply in this instance, it is necessary to decide whether those subsections' identical language-- "...represent anyone other than the State..."--was intended to apply to activities such as those in question.

In the past, the Commission has applied the restrictions of subsections 1-84b(a) and (b) in situations where the representation concerned contract awards, contested cases, and applications for permits. See, e.g., Ethics Commission Advisory Opinion Nos. 88-5, 49 Conn. L.J. 43, p. 46B (April 26, 1988); 88-7, 49 Conn. L.J. 45, p. 3D (April 4, 1988); and 88-13, 50 Conn. L.J. 8, p. 4C (August 23, 1988). In essence, all these matters involved the exercise of discretionary authority by the State. Such an application of the subsections would seem to fulfill the principal legislative purpose behind these "revolving door" provisions: prevention of use of contacts, influence, or other insider's advantage gained during State service to obtain improper benefit in subsequent dealings involving the State's interests.

It does not seem necessary, or fair, to extend these restrictions to a former State employee performing only technical duties that involve no matters at issue between the State, or any other party, and her Firm. For such activities offer no opportunity for use of improper advantage. As long as Ms. Billings strictly confines her actions on behalf of the Firm

to those detailed above, her performance of work implementing the Project in question will not be found to amount to prohibited representation in violation of subsection 1-84b(a) or (b), General Statutes.

By order of the Commission,

  
\_\_\_\_\_  
William A. Elrick  
Chairperson

Dated 9/19/88