

September 19, 1991

Former Employee
Address
City, State Zip

Re: Determination Regarding Post-state
Employment under the Executive Branch
Ethics Act (AS 39.52)
A.G. file no: 663-92-0114

Dear Former Employee:

This letter is in response to your letter of August 28, 1991, requesting that we determine under AS 39.52.240 and AS 39.52.250 whether your prior state employment bars you from working on certain matters.

During the past two years you served as a director of a division. You request a determination with respect to three scenarios:

1. You signed a designated grant on behalf of the division to a city to reimburse certain costs incurred by a private corporation in preparation of that corporation's new development. You ask whether you may now perform marketing and non-construction-related work for that private corporation.

2. An advertising agency has worked for the division and for a council. You were not involved in their selection, but have approved contract renewals and worked with them on a variety of projects. You ask whether you would be permitted to:

- (a) work with them as a •co-participant•; or
- (b) work as a subcontractor for them.

3. You wish to submit a proposal to provide marketing coordination and other administrative services for a multi-state consortium in which Alaska is a member.

Your request for guidance with respect to each of these alternatives is governed by AS 39.52.180 which provides in pertinent part as follows:

A public officer who leaves state service may not, for two years after leaving state service, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by that public officer, and in which the officer participated personally and substantially through the exercise of official action. For the purposes of this subsection, •matter• includes a case, proceeding, application, contract, or determination

We have consistently opined that the term •matter• is to be applied narrowly. Thus, with respect to example number 1, above, we see no conflict with your representation of a private corporation on matters unrelated to the designated grant.

With respect to the advertising agency, the circumstances which you describe may lead to an apparent conflict. We believe this can be avoided, however, by seeking a waiver under AS 39.52.180(c). We urge you to make that application.

Finally, with respect to working on behalf of the multi-state consortium of which the state is a member, we see no conflict arising under the Act.

Should you have any questions respecting these matters, please do not hesitate to contact this office.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By:

Bruce M. Botelho
Assistant Attorney General