

April 1, 1997
Re: I-97-52

You inquired whether it would violate the Public Ethics Law for the County to enter into a personal services contract with a retiring County official so that he may complete certain projects started before his retirement.

In an informal opinion, IO-95-105, dated February 2, 1995, the Commission advised that it would be permissible to contract with a former County Executive to provide advice to County officials in certain matters. That opinion stated that the ethics law, §3-109, prohibiting a former employee from representing a "person" in a matter in which the former employee was previously involved, did not apply when the "person" was Anne Arundel County. There is no conflict of interest where the former employee's client is the former employer.

There is one problem that may be created by the County's contractual relationship with a former official. The Ethics Laws apply only to County employees. As a contractual worker, the former official may be considered an independent contractor and not an employee of the county. In that case, he may not be subject to the Ethics Laws governing outside employment, conflict of interest, or financial disclosure. If the former official enters into secondary employment with a private entity while he is under contract to the County, there could be conflict of interest or appearance of conflict issues. To avoid this possibility, the contract with the former county official should require him to comply with the ethics laws of the county for the duration of the contract, and to file financial disclosure statements.

This informal opinion does not address personnel, contract, budget or other legal issues that may be pertinent to your inquiry. If you have any further ethics questions, do not hesitate to contact the Ethics Commission office.

Sincerely,

Betsy K. Dawson
Executive Director