

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion**

**00-60**

#### **Issue:**

Whether a former county employee may participate in a project for a private employer, where the former employee was involved in that same project on behalf of the county during the previous employment.

#### **Background:**

The David Taylor Research Center (DTRC), is a former military research facility. When the property was closed to military use, Anne Arundel County was designated as the Local Reuse Authority (LRA) under the Base Realignment and Closure Act of 1990, and by virtue of a lease between the county and the federal government, now acts as the property manager of the DTRC. In that capacity, the county has been seeking a partner in the private sector, to develop and implement a master plan for the use and maintenance of the property. Toward that end, the county solicited proposals to develop the property. Seven private entities have been designated as "semi-finalists", with the final award to be made on or about June 1 of this year.

When the county first became involved with the DTRC, the county's project manager was an assistant to the county executive. That assistant, who is no longer employed by the county, now works for a private corporation. The corporation is one part of a project team that has been designated as one of the seven candidates for selection as the "master developer" of the DTRC. If the bid of this particular project team is accepted, the team will enter into negotiations with the county to develop a plan for the property. As part of this team, the corporation's responsibilities will be to develop and implement communication strategies. Specifically, the corporation will manage public and community relations and publicity for the redevelopment project. The former assistant will assume this responsibility for the corporation employer. In that capacity, the former county employee will be involved in establishing public and community advisory groups, talking with the media, publishing informational material about the progress of the DTRC project, and generally promoting the project team's efforts.

During the assistant's employment as the project manager with the County, his responsibilities on the DTRC project were to generally oversee the development of the RFQ (Request for Qualifications) for the property management proposal. That function was assumed by the Anne Arundel Economic Development Corporation, under an agreement with the county, in the fall of 1998.

The former assistant states that while employed on the DTRC project for the county, the assistant did not have access to any confidential information, or to any information that was not

equally accessible to members of the public, or to any entities that have submitted proposals to Anne Arundel County.

**Discussion:**

The Public Ethics Law, §3-109(a) provides that:

A former employee may not assist or represent a person in connection with a specific matter in which the former employee:

(1) acted on behalf of or represented the County in a matter involving substantial responsibility on the part of the employee; or

(2) with reference to which the former employee acquired information not generally available to the public when the former employee undertakes the assistance of representation.

The ethics commission has determined, based upon the former employee's assertion, that the former employee did not acquire confidential information while with the county, that would affect the DTRC project. However, as the county's DTRC project manager, the former assistant did have substantial responsibility in the development of the requests for proposals for a redevelopment manager. The new employer is part of the team that is seeking the award of the redevelopment project. It is apparent that the former employee will continue to work "in connection with the specific matter" that was part of the employee's previous county job.

The ethics law, §3-109(b) further provides that the ethics commission may waive the prohibition of this section, if it determines that the "County's interests will not be adversely affected by the assistance or representation". The only "interest" that the ethics commission may consider in making this determination, is the county's interest in conducting its business in an impartial and independent manner. There is no evidence indicating that any improper conduct, abuse of office, or breach of confidentiality occurred in this situation.

**Conclusion:**

The ethics commission has determined that the prohibition of §3-109(a) should be waived in this instance, since the former employee's participation in the DTRC project will not adversely affect the county's interests. Therefore, the former employee may participate in the DTRC project on behalf of the new employer.

Date:

By: the Anne Arundel County Ethics Commission