

April 13, 2004
Re: IO-04-36

You inquired whether you may hire a contractor to work on your home remodeling plans. The contractor has or has had a number of contracts with the county that are administered by you as the manager of your division. The answer is that you may contract personally with this contractor, but you may not, during the life of your contract, participate in any official matters pertaining to this contractor. This result is dictated by §5-101(a)(2)(iv) and (vi) of the ethics law. Subsection (iv) prohibits an employee from participating in a matter if a party to the matter has a contract with the employee, if the contract could be expected to result in a conflict between the private interest and the official county duties of the employee. In this case, a conflict of interest could result if the contractor were to offer you favorable terms on your personal contract in hopes of continued county business. Or, if after entering into a personal contract with this contractor, you got into a dispute involving the quality of the work performed, your impartial and independent judgment could be impaired in your official dealings with the contractor. There are a number of situations that could create a conflict of interest between your personal and official dealings with this contractor.

Subsection (vi) prohibits an employee from participating in any matter involving an entity that is a creditor of the employee, if as a creditor, the entity is in a position to affect directly and substantially the interest of the employee. Again in the inquiry you raised, the entity would certainly be in a position to offer you more favorable terms than would be otherwise available to you.

You should also consider the possibility that even if you abstain from further participation in any matters involving this entity for the duration of your personal dealings, the contractor may still be inclined to offer you terms that are more favorable than those offered to other customers. The contractor will obviously be aware that favorable treatment to you with respect to your home contract may result in your continued good opinion in the future when you are at liberty to participate in county contracts with this entity. For this reason, you should ensure that any contract into which you enter with this contractor should be made at rates that are competitive with other contractors – that you do not “get a deal” because of your county position.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director

