



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 345

October 11, 1996

*Whether a former employee of a state regulatory agency who worked on an agency grant proposal to a federal agency may work on a private company's bid for a project funded by grant proceeds.
(AOR-383)*

The Texas Ethics Commission has been asked whether the "revolving door" provision in section 572.054(b) of the Government Code prohibits a former state employee who worked on a grant application for a state agency from working for a private company on a bid to the agency for a project funded by grant proceeds.

In March 1996, a federal agency requested applications for grants to be used for transportation projects. The requestor was assigned the task of developing a grant application for his agency. The following month, the employee left state service to begin working for a private company. Another state employee completed the grant application. The Texas state agency was selected to participate in negotiations for a final grant application, for submission for further federal approval. If the state agency receives the grant, the agency will develop a request for proposals for projects to be funded by the grant. The private company for which the requestor now works may wish to respond to the request for proposals. If it does and if its proposal is accepted, the company would like the requestor to work on the proposal to the agency as well as on the design and construction of the project. The question before the commission is whether the initial grant application in which the requestor participated is a separate matter from a proposal developed in response to the request for proposals issued for work on a project funded by grant proceeds.

Section 572.054(b) of the Government Code prohibits a former state employee of a regulatory agency from representing a person or receiving compensation for services rendered on behalf of any person regarding a particular matter in which the former state employee participated during his or her state employment. For purposes of that provision, a "particular matter" is "a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding." Gov't Code § 572.054(h)(2). "Participated" means "to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action." *Id.* § 572.054(h)(1). In previous opinions, we have explained that "particular matter" refers to a specific proceeding involving the exercise of discretion by the agency. See [Ethics Advisory Opinion Nos. 232 \(1994\); 246 \(1995\)](#).

The situation described in the request letter involves two distinct agency proceedings: the application for a federal grant and the selection of a contractor through the competitive bidding process. The fact that both matters relate to the same general subject matter of a proposed agency project does not make them part of the same "matter," as that term is used in Government Code section 572.054. See [Ethics Advisory Opinion No. 324 \(1996\)](#) (certification of a groundwater monitoring system to federal government and application for state permit for landfill involving same monitoring system are separate matters). Compare [Ethics Advisory Opinion No. 337 \(1996\)](#) (revolving door provision precludes former state employee who participated in audit for state agency from working on redetermination hearing stemming from that audit). The former state employee's work on the grant application does not prohibit him from working on a response to the agency's request for proposals for a project to be funded by grant proceeds, nor from working on the project itself.¹

SUMMARY

The fact that a former state employee worked on an agency grant application seeking federal funds does not prohibit the former state employee from working on a response to the agency's request for proposals for projects to be funded by grant proceeds, nor from working on the project itself.

¹ The answer would be different if the requestor had participated in the development of the request for proposals to which his company responded. In that case, the former employee's state work and private sector work would both relate to the same matter: the contract for the project.