



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 438

*November 9, 2001*

*Whether the revolving door law in section 572.054(b) of the Government Code would prohibit a former employee of the Texas Department of Health from working for a private company on a contract matter pending before the Health and Human Services Commission. (AOR-488)*

The Ethics Commission has been asked to consider whether the revolving door law in section 572.054(b) of the Government Code would prohibit a former employee of the Texas Department of Health from working for a private company on a contract matter pending before the Health and Human Services Commission.

The revolving door prohibition in section 572.054(b) provides that certain former employees of state regulatory agencies “may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a matter within the officer’s or employee’s official responsibility.”

The request letter explains that employees of the Department of Health developed a request for proposals for the contract in question. As an employee of the Department of Health, the requestor performed some work for the Department of Health in connection with the development of the request for proposals. It is the Health and Human Services Commission, however, not the Department of Health, that will enter into the contract that results from a proposal submitted in response to the request for proposals. According to the request letter, the work of the former Department of Health employee would have to do with the decision to be made by the Health and Human Services Commission, not with any decision to be made by the Department of Health.

In previous opinions, we have concluded that the revolving door restrictions do not reach activity directed toward decisions at an agency other than the one with which the former commissioner, executive director, or employee was connected. [Ethics Advisory Opinion Nos. 292](#) (1995) (regarding former Commissioner of Health and Human Services); [246](#) (1995) (former member of State Board of Education may represent textbook publisher in matter to be decided by local school board); [232](#) (1994) (revolving door restrictions do not prohibit communications to legislature about statutes administered by former agency). In other words, even though two agencies may work together on a particular project, one agency’s decisions in regard to the project constitute a separate matter from the other agency’s decisions in regard to the project. Therefore, the former employee of the Department of Health may work on the matter of the contract decision to be made by the Health and Human Services Commission.<sup>1</sup>

### SUMMARY

If two state regulatory agencies work together on a particular project, one agency’s decisions in regard to the project constitute a separate matter from the other agency’s decisions in regard to the project for purposes of the revolving door prohibition in section 572.054(b) of the Government Code.

<sup>1</sup> The request letter takes the position that the former employee’s work on the request for proposals was insubstantial and that, therefore, the former employee is not prohibited from working on the matter of the request for a proposal. Any level of participation in a matter,

however, triggers the revolving door prohibition in section 572.054(b). *See generally* [Ethics Advisory Opinion Nos. 285 \(1995\); 275 \(1995\) n.1.](#)