

April 4, 1997

Kelly Miner  
Oregon Emergency Management  
595 Cottage Street NE  
Salem, Oregon 97310

Dear Ms. Miner:

This letter is in response to your correspondence dated March 25, 1997, concerning possible conflicts of interest in your being employed by a state agency and engaging in outside employment involving private support services for an association which includes members who are employees of the state agency and employees of similar agencies in political subdivisions of the state.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION  
97S-013**

STATED FACTS: You are an office specialist for Oregon State Police (OSP), Office of Emergency Management (OEM). As an individual outside of OEM, you are interested in bidding on a contract with the Oregon Emergency Management Association (OEMA) to provide support services to them. This work would be in your off duty time from OEM. You would have a telephone set up in your home, establish an address for OEMA and do such things as mailings and design of a newsletter. You understand that no computer, fax, copier, phone calls, etc., related to this would be allowed during your on duty time at OEM.

OEM does have contact with OEMA; however, you, as an OEM support person, have no decision making authority with OEMA. You are a member of OEMA.

RELEVANT STATUTES: The following Oregon Revised Statutes are relevant to the issues addressed herein:

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

ORS 244.040: Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120.

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION: Would it be a violation of Government Standards and Practices laws for a public official to perform support services on a private contract basis for a private association of public agency employees while being employed by a state agency and while also being a member of the association?

OPINION: No. Oregon Government Standards and Practices laws, ORS Chapter 244, do not prohibit outside employment by a public official. In previous opinions of a similar nature, the GSPC has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines include the following:

1. That private business not be conducted on public time.
2. That public supplies, facilities, equipment, personnel, records or any other public resources not be used to carry out private business.
3. That no official action toward a third party be conditioned on a private business relationship with that third party.
4. That no confidential information be used to obtain financial benefit for the employee.
5. That employees will notify their appointing authority in writing of a potential or actual conflict of interest if private endeavors could or would be affected by public employment.

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While it is permissible for a public official to engage in private employment on their own time, state law does not permit a public official to use anything that a person who is not also a public official is not entitled to use. The law also prohibits the promotion of outside business pursuits while engaged in the performance of official public duties. Private employment must always be kept clearly separate from public employment in order to avoid violations of Government Standards and Practices laws.

**THIS RESPONSE IS BASED SOLELY ON THE INFORMATION PROVIDED IN YOUR WRITTEN INQUIRY AND IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.**

Please don't hesitate to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn  
Executive Director

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