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September 2, 1998

**ADVISORY OPINION NO. 98-45**

Steven R. Ballard  
Administrator  
DeKalb County Commission  
Suite 200  
111 Grand Avenue, S.W.  
Fort Payne, Alabama 35967

Revolving Door/County Administrator  
Accepting Employment After Retirement  
With Entity That Was Awarded A Contract  
By The County.

The County Administrator for the DeKalb  
County Commission may not, for a period  
of two years after retiring, accept  
employment with an entity that was awarded  
a contract by the County, when he was  
personally involved in the contractual  
process.

Dear Mr. Ballard:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**QUESTION PRESENTED**

May a County Administrator accept employment after retirement with an entity which was awarded a contract by the County?

### **FACTS AND ANALYSIS**

Steven R. Ballard is presently the County Administrator of DeKalb County. Prior to assuming this position, he was a sub-contractor under IBM Corporation. In this position, he made several contacts over the years for various clients. Approximately (1) one year ago the County Commission awarded its computer maintenance services to a former contact to be done at Mr. Ballard's determination, with the reason being cost savings.

Mr. Ballard is considering retiring from the County's service. Upon his discussion with some associates, he has now been offered possible employment as a computer consultant (not maintenance work) with the company that the Commission awarded the maintenance contract to nearly a year ago. Mr. Ballard notes that the company in question only did maintenance work at the time the County elected to use them, not consultation work.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(23) states:

"(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

Section 36-25-1(13) defines governmental corporations and authorities as:

"(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES. Public or private corporations and authorities, including but not limited to, hospitals or other health care corporations, established pursuant to state law by state, county or municipal governments for the purpose of carrying out a specific governmental function. Notwithstanding the foregoing, all employees, including contract employees, of hospitals or other health care corporations and authorities are exempt from the provisions of this chapter."

Section 36-25-13(a) states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission,

department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(b) states:

“(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(c) states:

“(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.”

Section 36-25-7(b) states that:

“(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action.”

Section 36-25-13(d) states:

“(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.”

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On March 4, 1998, the Ethics Commission rendered Advisory Opinion 98-14. That opinion held that:

“The Director of the Bureau of Mental Illness Community Programs with the Alabama Department of Mental Health and Mental Retardation may not, for a period of two years after leaving employment with the State of Alabama, accept employment with the Mobile Mental Health Center, Inc., when he has personally participated in the negotiation of a contract between the Department of Mental Health/Mental Retardation and the Greater Mobile Mental Health/Mental Retardation Board who subcontracts with the Mobile Mental Health Center, Inc., when he has personally been involved with the Mobile Mental Health Center, Inc. staff in negotiating the contract . . .”

In addition, on July 1, 1998, the Commission rendered Advisory Opinion No. 98-35. That opinion in pertinent part stated:

“ . . . A public official or a public employee, who is in a position to award or grant contracts, may not award or grant a contract to a private entity and then resign his or her public service and go to work with that entity with which he or she has recently awarded or negotiated a contract, as this would create a quid pro quo.”

Based on the above law and the facts as provided, the County Administrator for the DeKalb County Commission may not accept employment after retirement with an entity that was awarded a contract by the County, when he was personally involved in the contractual process. This prohibition would extend for a period of two years after he retires from the County.

### CONCLUSION

The County Administrator for the DeKalb County Commission may not, for a period of two years after retiring, accept employment with an entity that was awarded a contract by the County, when he was personally involved in the contractual process.

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**AUTHORITY**

By 5-0 vote of the Alabama Ethics Commission on September 2, 1998.



Camille S. Butrus  
Chair  
Alabama Ethics Commission