C. Ronald Matthews  
Executive Director  
North-central Alabama Regional  
Council of Governments  
City Hall Tower  
402 Lee Street, N.E.  
Post Office Box C  
Decatur, Alabama 35602

Conflict Of Interests/Employee Of North-Central Alabama Regional Council of Governments Entering Into A Contract To Perform Janitorial And Lawn Care Services For That Agency.

An employee with the North-central Alabama Regional Council of Governments may enter into a contract to perform janitorial and lawn care services for that agency; provided, the services are not related to his or her normal duties; that the contract is done through the competitive bid process; that the employee has no input or influence on the bid or contract compliance process; that a copy of the contract is filed with the Alabama Ethics Commission within ten (10) days of its execution; that all work in performing the contract is done after hours or on annual leave; and provided further, that no public equipment, facilities, time, materials, human labor, or any other public property under his discretion or control are used in any manner that would benefit the contract holders or assist them in performing the contract.
Dear Mr. Matthews:

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 an employee of the North-central Alabama Regional Council of Governments enter into a contract with that agency to perform janitorial and lawn care services?

**FACTS AND ANALYSIS**

C. Ronald Matthews is the Executive Director for the North-central Alabama Regional Council of Governments. An employee of that agency wishes to enter into a contract to perform janitorial and lawn care services for the agency after normal office hours and on weekends. The present job responsibilities of that staff member do not include related tasks to be performed in the contracts.

The staff members making the proposal are not responsible for procuring and administering the contracts for janitorial and lawn care services. All contracts will be handled through the administrative services division of the agency.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) states:

"(24) 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(2) states:

"(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED. Any business of which the person or a member of his or her family is an officer, owner, partner,
board of director member, employee, or holder of more than five percent of the fair market value of the business."

Section 36-25-1(8) states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-11 states:

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into."
Based on the above law and the facts as presented, an employee with the North-central Alabama Regional Council of Governments may enter into a contract to perform janitorial and lawn care services for that agency; provided, the services are not related to his or her normal duties; that the contract is done through the competitive bid process; that the employee has no input or influence on the bid or contract compliance process; that a copy of the contract is filed with the Alabama Ethics Commission within ten (10) days of its execution; that all work in performing the contract is done after hours or on annual leave; and provided further, that no public equipment, facilities, time, materials, human labor, or any other public property under his discretion or control are used in any manner that would benefit the contract holders or assist them in performing the contract.

CONCLUSION

An employee with the North-central Alabama Regional Council of Governments may enter into a contract to perform janitorial and lawn care services for that agency; provided, the services are not related to his or her normal duties; that the contract is done through the competitive bid process; that the employee has no input or influence on the bid or contract compliance process; that a copy of the contract is filed with the Alabama Ethics Commission within ten (10) days of its execution; that all work in performing the contract is done after hours or on annual leave; and provided further, that no public equipment, facilities, time, materials, human labor, or any other public property under his discretion or control are used in any manner that would benefit the contract holders or assist them in performing the contract.

AUTHORITY

By 3 - 0 vote of the Alabama Ethics Commission on May 14, 1997.

Camille S. Butrus
Acting Chair in the absence of the Chair and Vice-Chair
Alabama Ethics Commission