

ADVISORY OPINION

APPROVAL DATE: January 9, 1998

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REVIEWED ON: July 14, 2016

NEXT REVIEW: July 2021

REFERENCES: RCW 42.52.120

SUMMARY OF CHANGES: Updated format only.

Outside Employment

QUESTION

Can a corrections officer engage in outside employment as a contractor to his or her assigned correctional facility?

ANSWER

A corrections officer may engage in outside employment as a contractor to his or her assigned correctional facility when official state position does not appear to have influenced the employee's selection as a contractor; when official state time is not used to perform the contractual duties; and, when the contractual duties are clearly separated from supervisory duties over the incarcerated population.

ANALYSIS

A corrections officer assigned to a state corrections facility is responsible for providing general custody, supervision, and security over inmates, including the application and enforcement of security requirements. As a contractor to the same facility, the employee would be a service administrator assigned to maintain and repair the facility's phone system through the central switch box. As a contractor, the employee will wear an identifiable uniform and badge which is distinguishable from the corrections officer uniform. The employee works a 40-hour week, and proposes to work 20-40 hours per week as a contractor. The employee has no responsibility for the award or administration of the contract with the outside employer.

Pursuant to RCW 42.52.120(1), a state officer may not receive anything of economic value under any contract or grant outside of his or her official duties unless each of the following conditions are met:

- (a) The contract or grant is bona fide and actually performed;

- (b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's supervision;
- (c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;
- (d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;
- (e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;
- (f) The contract or grant would not require unauthorized disclosure of confidential information.

The corrections officer satisfies each of these conditions, and therefore would not violate the provisions of RCW 42.52.120.

Although the employee's clients as a contractor will be the incarcerated population, her contractual duties will be performed in a location where there is no inmate contact. Corrections facility management properly identified potential conflict of interest concerns inherent in this proposal, and established specific expectations for the employee in her respective capacities, including parallel provisions that direct the employee not to perform, or give the appearance of performing the duties of the employee's official position as a corrections officer when acting as a contractor, and not to perform, or give the appearance of performing, the duties of the contractual position when serving as a corrections officer. These provisions, combined with the clear separation of contractual and supervisory duties, are sufficient to remedy any apparent conflict of interest in this case.