

[Advisory Opinion 1997-11]

MEMORANDUM

June 16, 1997

TO: [Name1 withheld]
Department of Housing and Community Affairs
[Name2 withheld]
Department of Housing and Community Affairs

FROM: Laurie Horvitz
Chair, Montgomery County Ethics Commission [initialed]

SUBJECT: Rehabilitation Loan Program: Advisory Opinion

Attached is the Ethics Commission's Advisory Opinion in response to your request of March 3, 1997.

If you have any questions or concerns regarding this advice, please contact the Ethics Commission.

LH:lma

Attachment

cc: Marc P. Hansen, Senior County Attorney

Montgomery County Ethics Commission Advisory Opinion

June 16, 1997

Background

The Ethics Commission has been asked for an advisory opinion concerning the County's Rehabilitation Loan Program which is administered by the Rehabilitation Section of the Housing Division of the Department of Housing and Community Affairs (DHCA). Under this loan program, the County makes loans to homeowners for the purpose of renovating the owner's home. The homeowner, in turn, enters into a contract with a home improvement contractor. Although DHCA will provide the homeowner with a list of home improvement contractors, the homeowner is free to select a contractor not on the list. Although the County is not a party to the contract, employees of DHCA prepare the specifications for the work to be performed, inspect the work for compliance with the contract, and approve payments to the home improvement contractor.

Question

This opinion addresses whether an employee of the Rehabilitation Section may use a home improvement contractor involved in the Rehabilitation Loan Program to perform private work for the employee. This opinion also addresses whether other employees of DHCA who do not participate in the Rehabilitation Loan Program can use the private work contractors who participate in the program.

Response

1. Employees of the Rehabilitation Section.

Section 19A-11(a)(2)(E) prohibits a public employee from participating in a matter “if the employee knows . . . that any party to the matter is . . . a business . . . that is a party to an existing contract with the public employee . . . if the contract could reasonably result in a conflict between private interests and official duties.”

The Ethics Commission believes that Section 19A-11(a)(2)(E) prohibits employees of the Rehabilitation Section from entering into a contract with a home improvement contractor for private work if the public employee is called upon under the Rehabilitation Loan Program to inspect the work of or approve payments to that contractor.

2. Other Employees of DHCA.

Section 19A-11, however, does not prohibit DHCA employees who are not working for the Rehabilitation Section from entering into contracts for private work with home improvement contractors participating in the Rehabilitation Loan Program. But, the Ethics Commission cautions employees of DHCA that Section 19A-16 prohibits public employees from accepting a direct or indirect gift from any individual or organization that does business with the County agency with which the employee is affiliated. Accordingly, an employee of DHCA must not accept a discount from a home improvement contractor that participates in the Rehabilitation Loan Program. Employees of DHCA should exercise great caution in negotiating with home improvement contractors that participate in the Rehabilitation Loan Program.

If there are any questions or concerns regarding this advice, please contact the Ethics Commission.