

General Item

**Ethics Board Docket No. BD 2006-275
05/11/2006**

RE:

Appearance in connection with a request for an advisory opinion as to the propriety of a company owned by the brother of a senior partner in James Lee Witt Associates (JLWA) performing work in connection with JLWA's contractual obligations to the State of Louisiana.

Relevant Statutory Provisions, Advisory Opinions:

1112B(1) and 1113A

Comments:

JLWA has a contract with the State of Louisiana to assist the state, parish, city and private not-for-profit corporations in their efforts to effectively and efficiently maximize the assistance that can be expected from the federal government and private sources. JLWA also provides advice and counsel in activities and paperwork to ensure that claims, project reportings and appeal processes are properly handled, completed and fully-funded.

The first question asked was whether JLWA was a "public servant." It appears that JLWA is a public servant and its agency is defined as the scope of its contract.

The second question is whether Recovery Management, Inc. (RMI) is prohibited by the Ethics Code from providing services pursuant to JLWA's contract with the State.

Section 1112B(1) prohibits a public servant from participating in a transaction in which an immediate family member has a substantial economic interest. Also, Section 1113A of the Code prohibits a company owned in excess of 25% by the immediate family member of a public servant from entering into a contract, subcontract, or other transaction that is under the supervision or jurisdiction of the public servant's agency.

Additional information was solicited and provided pursuant to a request of the Board at its April meeting.

Mark Merritt owns 4.5% of JLWA. Mr. Merritt serves as a Senior Vice President for Crisis and Consequence Management and as such essentially serves as the "project manager" for JLWA with respect to its contract with the State.

RMI is owned by Mark Merritt's mother, who also serves as the company's president. RMI has been in existence since 2002 and has provided debris removal monitoring services for JLWA on other projects. Mark Merritt's brother, Mike Merritt is a director of RMI. RMI entered into a contract with JLWA on October 13, 2005 with respect to JLWA's contract with the State.

Mark Merritt does not supervise the JLWA's subcontracts. Anneilia Holton-Williams is the Director of the Southeast Region for JLWA and is responsible for monitoring the subcontractors' activities. Mark Merritt does not supervise Ms. Holton-Williams.

JLWA submits invoices to the State for payment and reimbursement of its costs, which includes that of work performed by subcontractors, based on a rate scheduled as provided in the contract. RMI submits its invoices to JLWA's controller in Washington, DC for initial review. The invoices are then submitted to Ms. Holton-Williams for review and then to the Louisiana Legislative Auditor for final review. RMI is paid by JLWA. (KMA)

Recommendations:

Issue an advisory opinion that 1) JLWA is a "public servant."
2) Mark Merritt is a "public servant" and as his agency is limited to the scope of the contractual services he provides for the State. Since he is not involved in the oversight of the subcontract with RMI, it does not appear that RMI is prohibited from providing the contractual services for the State.