



Ginger
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert E. Corbin

December 31, 1980

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INTERAGENCY

Mr. Bill Jamieson, Jr.
Director
Department of Economic Security
1717 West Jefferson
Phoenix, Arizona 85007

Re: I80-234 (R80-019)

Dear Mr. Jamieson:

You have asked two questions regarding CETA contracts for on-the-job training. In the CETA on-the-job training program, a private business firm with an on-the-job training opening hires someone from a group referred by CETA and provides training as it would for any other on-the-job training employee. The firm then receives reimbursement from CETA funds for part of its costs related to the CETA trainee. The applicable federal regulations for such contracts are 20 CFR, Pts. 675, 676, 677, 678, and 679. These regulations extensively and thoroughly govern all aspects of such contracts, including letting the contracts, hiring the CETA trainees, and administering the program.

Your first question is whether A.R.S. §§ 41-1051 through 41-1056, Contracts for Outside Professional Services, apply to on-the-job training contracts written with private business firms.^{1/} We must first decide whether the services provided by a contractor under a CETA on-the-job training contract constitute "outside professional services" as that term is used in the Arizona statutes. In our previous opinions, we have stated that the following services fall

1. The pertinent federal regulations are 20 CFR § 676.25-2, which describes the on-the-job training program, and § 676.28, which lists the requirements for the aforementioned contracts.

Mr. Bill Jamieson, Jr.
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within this definition: physicians and certified psychologists (Ariz. Atty. Gen. Op. I75-380); registered nurses, certified public accountants (I76-125); certified academic teachers (I76-187); county guidance centers, professional counseling and treatment agencies (I75-9); geologists and hydrologists (I75-382); lawyers, engineers and architects (I73-47-L).2/

In Ariz. Atty. Gen. Op. I75-9, we declined to express an opinion on the general meaning of the term "professional services" and stated that decisions as to the applicability of § 41-1051 can be decided only on a case-by-case basis. We think the nature of the services purchased under an on-the-job training contract do not constitute "outside professional services" as the term is used in A.R.S. § 41-1051 et seq so that these provisions do not apply to CETA on-the-job training contracts.

Your second question was whether A.R.S. §§ 38-501 through 38-510, Conflict of Interest of Officers and Employees, apply to a public official, a public appointed official or a government employee at the state, county, or city level whose family own companies seeking contracts to provide on-the-job training to CETA participants. The answer to your question is yes, assuming the facts in an individual case fall within the parameters of the statutes.

Sincerely,



BOB CORBIN
Attorney General

BC:cp

2. Some of these services may be "otherwise regulated by law" under the terms of § 41-1051.C and are exempt from these bidding requirements. We note that the services at issue here are governed extensively by federal law.



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Robert R. Corbin

January 15, 1981

INTERAGENCY
Mr. Bill Jamieson, Jr.
Director
Department of Economic Security
1717 West Jefferson
Phoenix, Arizona 85007

Re: Addendum
I80-234 (R80-019)

Dear Mr. Jamieson:

We are writing to clarify a reference made in the above-mentioned opinion. On page 2 of that opinion, we cited Ariz. Atty. Gen. Op. I73-47-L as stating that services provided by lawyers, engineers and architects are "outside professional services." That opinion went on, however, to state that those professions were exempt from the bidding requirements of A.R.S. § 41-1051 et seq., because they were "otherwise regulated by law" pursuant to A.R.S. § 41-1051.C. This portion of the 1973 opinion was subsequently re-examined in Ariz. Atty. Gen. Op. I75-9, in which lawyers and engineers were declared not to be exempt from bidding procedures.

Our reference to the 1973 opinion, while technically correct in standing for the proposition for which it was cited, was unfortunate because it could possibly lead to confusion. Accordingly, please ignore our reference to Ariz. Atty. Gen. Op. I73-47-L. We assure you, by the way, that the substance of our opinion to you is in no way changed by our comments herein.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN
Attorney General

BC:cp