



U.S. Department
of Transportation
Federal Highway
Administration

Illinois Division

December 20, 2012

3250 Executive Park Dr.
Springfield, IL 62703
(217) 492-4640
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In Reply Refer To:
HB-IL

Joseph E. Crowe, P.E.
Illinois Department of Transportation
13473 IL Highway 133
P.O. Box 640
Paris, IL 61944

Subject: Conflict of Interest

Dear Mr. Crowe:

We received your December 17, 2012, letter identifying a county's conflict of interest and requesting clarification regarding the Code of Federal Regulations (CFR). According to Title 23 CFR 1.33, no official authorized "to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract". This requirement applies to contracts financed with Federal-aid funds.

Based on the provided information, we concur with the Department's determination that there is the potential for a conflict of interest. To be in compliance with the Federal regulations, the Edgar County Executive must not be involved in contractual activities, as described above, when the firm of interest is considering pursuit of Federal contracts or subcontracts. The executive could not participate in pavement selection decisions where the firm would consider bidding directly or by subcontract. The executive could not approve a contract or concur in award where the construction firm submitted bids or subcontract proposals even when the firm was not selected to perform on the contract. In addition, the individual could not be in the approval process for subsequent actions on such projects.

A waiver or public records disclosure does not exist to address the conflict described above. A solution that meets Federal regulations would be for the executive to recuse himself from such actions for Edgar County and for the county to establish authority for another individual. For the executive to participate in the pavement selection decision, a letter stating the firm would not compete for work on the project would also appropriately document avoidance of a conflict of interest.

If you have any questions, please contact Heidi Liske at heidi.liske@dot.gov or by phone at (217) 492-4637.

Sincerely,

Scott McGuire
Field Engineering Manager

ecc: Mr. Scott Lackey, Bureau of Local Roads and Streets, IDOT District 5