



STATE OF ARKANSAS
**Department of Finance
and Administration**

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September 8, 2017

Justin C. Magie, P.E.
Civil Engineer/Sole Owner
Magie Engineering and Land Development, Inc.
915 Oak Street, Suite 117
Conway, AR 72032

RE: Advisory Opinion No. 2017-10

Dear Mr. Magie:

This letter is in response to your request for an advisory opinion and/or waiver of a conflict of interest pursuant to Ark. Code Ann. §19-11-701 *et seq.*, and Executive Order 98-04 (“EO 98-04”) regarding whether Magie Engineering and Land Development, Inc. (“Magie”) contracting with the State violates ethical standards. This opinion is based upon the following facts that have been presented to me in the attached requests and which I am relying upon. It should be noted that if one or more of these facts are later shown to be incorrect, it could result in a revised opinion.

1. Mr. Justin Magie is the sole owner of Magie.
2. Mr. Magie is the son of State Representative Steve Magie.
3. Magie is a sub-consultant/sub-contractor for two separate professional consulting services contract for on-call services procured via the Request for Qualifications process. The general contractor for both contracts is Taylor-Kempkes Architects (“Taylor”).
4. Contract #4600022366 is for certain ongoing projects located at Mount Magazine, Pinnacle Mountain, Petite Jean, Plantation Agriculture Museum, and DeGray Lake Resort.
5. Contract #4600038854 is for certain ongoing projects located at Cane Creek, Cossatot River, Crater of Diamonds, Delta Heritage Trail and Plantation Agriculture Museum State Parks.
6. Both sub-contracts relating to Magie are less than ten thousand dollars (\$10,000.00).
7. State Representative Steve Magie has no interest in, or control over, Magie.

Ark. Code Ann. §19-11-705 (a)(1)(A) prohibits state employees from participating directly or indirectly in any particular matter pertaining to any state agency contracts in which an employee or an employee's immediate family member has a financial interest. “Direct or indirect participation” is defined to include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity. See Ark. Code Ann. §19-11-705 (a)(2).

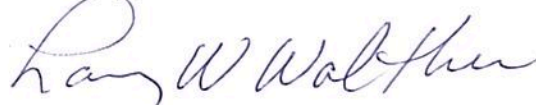
Based on the above facts, and reviewing the matter under Ark. Code Ann. §19-11-705 (a)(1)(A), Magie's contract work with the State does not violate the statute's wording regarding participating directly or indirectly in the procurement process. The procurement was via the Request for Qualification process, Magie is a subcontractor of Taylor, and there is no indication that Rep. Magie was involved in the procurement process in any way, directly or indirectly.

Additionally, Ark. Code Ann. §19-11-703 (a) would seem to reflect a legislative interest to balance the intent to avoid creating unnecessary obstacles for those in public service, and thereby facilitate better personnel retention, with the need to avoid conflicts of interest.

Furthermore, the two contracts do not need to be reviewed under EO 98-04 as both are under the threshold amount of ten thousand dollars (\$10,000),

This advisory opinion and written approval is issued in accordance with Ark. Code Ann. § 19-11-715(b) and Ark. Code Ann. § 19-11-715(c). Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Ark. Code Ann. §19-11-701 *et seq.*, and Executive Order 98-04.

Sincerely,



Larry W. Walther
Director

cc: Edward Armstrong, Office of State Procurement