



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

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July 16, 2018

Gina [Keri] Moye
Buyer
Arkansas Agriculture Department.
1 Natural Resources Drive
Little Rock, AR 72205

RE: Advisory Opinion No. 2018-05

Dear Ms. Moye:

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 98-04¹ (“EO 98-04”) regarding whether it would violate State ethical standards for Mr. Brandon Love (“Love”) to contract with the State. This opinion is based upon the following facts that have been presented to me in your request, 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. According to the Contract Grant and Disclosure for this contract, Love is the one hundred percent (100%) owner of a lawn company and is also a current Arkansas State Trooper.
2. The Arkansas Agriculture Department (“AAD”) recently solicited bids for lawn care services for the Arkansas Bureau of Standards.
3. You solicited quotes from eleven vendors and received seven responses and chose the lowest bid.
4. The value of the contract with Love is \$3,600.00 for one year’s service payable at \$300.00 per month.
5. The solicitation was an Invitation for Bid for a contract under \$75,000.00.
6. Love had no direct or indirect involvement in AAD’s procurement process. You were unaware of Love’s employment status and the status had no bearing on the bid.


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).

¹ The contract is for less than \$10,000.00 and therefore does not trigger any scrutiny under EO 98-04.

Based on the above facts, and reviewing the matter under Ark. Code Ann. §19-11-705 (a)(1)(A), Love's proposed 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 Invitation for Bid process, Love is the apparent low bidder, and there is no indication that Love were involved in AAD's procurement process in any way, directly or indirectly.

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