



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

OFFICE OF THE DIRECTOR
1509 West Seventh Street, Suite 401
Post Office Box 3278
Little Rock, Arkansas 72203-3278
Phone: (501) 682-2242
Fax: (501) 682-1029
www.dfa.arkansas.gov

May 1, 2019

Christina L. Clark
Chief Operating Officer
Vice Chancellor for Institutional Support Services
University of Arkansas for Medical Sciences
4301 W. Markham St., #541
Little Rock, AR 72205-7199

RE: Advisory Opinion No. 2019-04

Dear Ms. Clark:

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.*, regarding whether it would violate State ethical standards for Wittenberg, Delony, and Davidson (“WD&D”) 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 request, WD&D is an architecture firm that participates as an on-call job order contractor for the University of Arkansas for Medical Sciences (“UAMS”). WD&D is not currently involved in any project on campus.
2. You have recently been appointed vice chancellor for institutional support services and chief operating officer at UAMS. Your spouse, John “Jay” Clark, is a partner and vice-president with WD&D.
3. You do not participate in selecting on-call contactors for projects as that is the responsibility of Associate Vice Chancellor of Campus Operations Brian Cotton and other operations personnel and stakeholders.
4. The UAMS Conflict of Interest Office has approved an institutional management plan whereby any issue involving WD&D’s participation in a project will be directed to Vice Chancellor for Finance Amanda George, who will communicate directly with Dr. Cam Patterson.
5. According to attached correspondence from Vice Chancellor Cotton, UAMS contracts with several different on-call architect/ engineering firms and it is Vice Chancellor Cotton who is involved in contract negotiations and works with purchasing and contracting to secure services. Cotton confirms that you do not exercise decision-making authority as to who is selected for these on-call contracts and you are not eligible to be a member of any selection committee.

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), UAMS' on-call contract with WD&D does not violate the statute's wording regarding participating directly or indirectly in the procurement process. If you were involved in the UAMS procurement process in any way, directly or indirectly, it would violate Ark. Code Ann. §19-11-705 (a)(1)(A) . However, based on the information provided, you were not. Furthermore, the UAMS Conflict of Interest Office has approved an institutional management plan whereby you do not participate in any issue involving WD&D's participation in a project. Those issues are to be directed to Vice Chancellor for Finance Amanda George, who will communicate directly with Dr. Cam Patterson.

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.*

Sincerely,



Larry W. Walther
Director

cc: Edward Armstrong, Office of State Procurement