



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

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June 5, 2020

Mr. Landrei Hankins
905 Fairwater Circle
Horseshoe Bend, Arkansas 72512

RE: Advisory Opinion No. 2020-04

Dear Mr. Hankins:

This letter is in response to a written request for a waiver pursuant to Arkansas Code Annotated §19-11-715(c), which was sent to the Department of Transformation and Shared Services, Division of Building Authority in a letter dated May 14, 2020 (“the Request Letter”), regarding the circumstances described below involving your agreement to purchase the property in which the Stone County Department of Human Services (DHS) office is located at 1821 East Main Street, Mountain View, Arkansas and the employment of your father, Paul Hankins, as a DHS Program Coordinator in the child care licensing office.

This opinion is based upon the following facts that have been presented to me and upon which I am relying. It should be noted that if one or more of these facts are later shown to be incorrect, that could result in a revised opinion.

1. Since November 1, 2015, the Arkansas Department of Human Services – Division of County Operations has leased property located at 1821 East Main Street, Mountain View, Arkansas;
2. Troy Bradley, Lorice Bradley, and Benita MacNichol d/b/a Triple B Wood Dealers are the current owners of the property;
3. The term of the current lease is November 1, 2019 through October 31, 2021 as contained in the State of Arkansas’s Third Lease Amendment.
4. Triple B Wood Dealers anticipates selling the property to Landrei Hankins on May 15, 2020.
5. Landrei Hankins will be the sole owner of the property;
6. The decision to purchase the property was one made by Landrei Hankins;
7. The finances to purchase the property are those of Landrei Hankins;
8. Landrei Hankins’s father, Paul Hankins, is a current DHS employee who works as a Program Coordinator in the child care licensing office;
9. Landrei Hankins does not and will not have any business affiliation with Paul Hankins;
10. Whitney Haynie, DHS Office of Human Resources Personnel Manager, confirms that Paul Hankins has no contract authority or procurement responsibilities; and
11. In order to be compensated for the property lease agreement, Landrei Hankins seeks a waiver of Arkansas Code Annotated §19-11-715(c).

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I. Relevant Law

For purposes of interpreting Arkansas Code Annotated §19-11-701 *et seq.*, Arkansas Code Annotated §19-11-701(8) defines “employee,” as “an individual drawing a salary from a state agency, whether elected or not, and any non-salaried individual performing personal services for any state agency.” “State agency” is defined in Arkansas Code Annotated §19-11-701(16) as meaning “any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.”

Arkansas Code Annotated §19-11-701(2) defines “business” to mean “any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity.” The term “financial interest” is defined in Arkansas Code Annotated §19-11-701 (9) (C) as meaning:

- (A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;
- (B) Ownership of more than a five percent (5%) interest in any business; or
- (C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management;

Arkansas Code Annotated §19-11-701(9)(C). The ethical strictures set forth in Arkansas Code Annotated §19-11-705 (a)(1)(A) prohibit 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. *See* Arkansas Code Annotated §19-11-705. Arkansas Code Annotated §19-11-705 (a)(2) defines “direct or indirect participation” as including, but not being 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.”

II. Analysis

Based on the above facts, your father’s current employment at the Department of Human Services as a Program Coordinator in the child care licensing office clearly classifies him as a state employee, and your proposed ownership, once finalized, of the property located at 1821 East Main Street, Mountain View, Arkansas, which is being leased by the State, certainly classifies you as having a financial interest in a state agency contract.

The Arkansas Department of Human Services—Division of County Operations and Triple B Wood Dealers had coordinated the price and terms of the property lease prior to the proposed sale of the property. There was no apparent involvement in the lease negotiation by Paul Hankins. Therefore, at the time that the property lease was entered into on November 1, 2019, this conflict did not exist. Accordingly, your father could not have used his state employee position to taint the initial procurement process. Additionally, Ms. Haynie confirms that your

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father has no contract authority or procurement responsibilities, and you aver that you do not and will not have any business affiliation with him. While the analysis does not raise an issue of potential conflict, any decision to renew the property lease while you own the property and your father is a state employee must be submitted for further review at that time.

Public service is a position of trust and the public must maintain its trust of public servants. It is, therefore, paramount that state employees strive to avoid even the appearance of a conflict of interest. In this case, the compensation for the property lease paid by the State must remain at a reasonable market value, and your father should not participate directly or indirectly in the state issuing payment.

III. Decision

Thank you for seeking my counsel and approaching the issue with transparency. I am persuaded that under the facts as stated above, any ethical conflict that might exist is insubstantial or remote, and I grant permission to proceed to such extent and upon such terms and conditions as specified in this letter. This decision grants a waiver in accordance with Arkansas Code Annotated § 19-11-715(c). If a renewal of the property lease is pursued by Landrei Hankins while Paul Hankins is subject to the state's ethical provisions, then a waiver must be submitted in accordance with the ethical provisions. Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of Arkansas Code Annotated §19-11-701 *et seq.*

Sincerely,



Larry W. Walther
Secretary

cc: Edward Armstrong, Office of State Procurement
Amy Fecher, Secretary