



**Department of Transformation and Shared Services**

**Governor Asa Hutchinson  
Secretary Amy Fecher**

October 5, 2021

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

Re: Advisory Opinion No. 2021-11

Dear Mr. Hankins:

This letter is in response to a written request for an advisory opinion pursuant to Arkansas Code Annotated § 19-11-715(c), which was sent to Chris Bell, Division of Building Authority, and received by my office on September 16, 2021, regarding the renewal of a property lease by the Arkansas Department of Human Services (DHS)—Division of County Operations for a property located at 1821 East Main Street, Mountain View, Arkansas.

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, then that could result in a revised opinion.

1. You are the sole owner of the property located at 1821 East Main Street, Mountain View, Arkansas, which serves as the Stone County Department of Human Services Office;
2. The decision to purchase this property and the finances used for the purchase were “of your own making”;
3. You have not and will not have any business affiliation with Paul Hankins, your father;
4. Paul Hankins is a former employee of DHS;
5. You are a military veteran and aspiring business owner who strives to provide excellent service to Arkansas and would like to continue to do so;
6. The proposed Fifth Lease Amendment for the identified property reflects the same terms and conditions as the original Lease Agreement and subsequent Amendments except for the following modifications:
  - a. A term of two years between November 1, 2021, and October 31, 2023;
  - b. One (1) two-year renewal option at the same rate and upon the same terms and conditions as provided in the Lease;
  - c. Rent is increased from \$61,800.00 to \$63,036.00 per annum; and
  - d. Should the Lease and any applicable amendments expire prior to the execution of the proposed Fifth Lease Amendment, then the parties agree that the Lease and any applicable previous amendments would be reinstated and ratified upon the Fifth Lease Amendment being fully executed by the parties.
7. Advisory Opinion No. 2020-04 was issued to you on June 5, 2020, in regard to the state’s current lease of this property.

**I. Relevant Law**



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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. Arkansas Code Ann. § 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."

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; ...

## **II. Analysis**

Based on the above facts, Paul Hankins's employment at DHS through January 2021 qualifies him as a former employee subject to the state's ethics provisions, *see* EO 98-04, and your current ownership of the subject property that is being leased by the state classifies you as having a financial interest in a state agency contract.

In this case, the lease term is the same length as the Fourth Lease Amendment, and the rent has increased \$1,236.00 per annum. This amount equates to a 2% increase over the prior annual rent, and the Division of Building Authority avers that this increased rental amount is a reasonable market value for the property.

In the previous advisory opinion, DHS confirmed that Paul Hankins had no contract authority or procurement responsibilities. Mr. Hankins's state employment termination in January 2021 serves as additional support that he has not exerted undue or inappropriate influence in your negotiation of the Fifth Lease Agreement terms and conditions. As a result, I am persuaded that any potential conflict is insubstantial and remote.

## **III. Decision**





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Thank you for seeking my counsel and approaching the issue with evident transparency. I am persuaded that, under the facts as stated above, any ethical conflict that might exist is insubstantial and 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) regarding you entering into a Fifth Lease Agreement with DHS for the identified property

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,

A handwritten signature in blue ink that reads "Amy Fecher".

Amy Fecher

cc: Edward Armstrong, Office of State Procurement