



Department of Transformation and Shared Services

**Governor Asa Hutchinson
Secretary Amy Fecher**

May 25, 2022

Mr. Craig Douglass
Executive Director
Pulaski County Regional Solid Waste
Management District
300 Spring Building, Suite 200
Little Rock, Arkansas 72201

RE: Advisory Opinion No. 2022-09

Dear Mr. Douglass:

This letter is in response to a written request for a waiver pursuant to Ark. Code Ann. §19-11-715(b) and (c), which was sent to me electronically in a letter dated and received on May 24, 2022, regarding the Contract and Grant Disclosure and Certification Form (Form) that you submitted for Pulaski County Regional Solid Waste Management District. *See* Attachment 1.

I. Relevant Law

Arkansas Code Ann. §19-11-715(b) and (c) address the duties of the Secretary of the Department of Transformation and Shared Services and provide as follows:

(b) Advisory Opinions. On written request of employees or contractors and in consultation with the Attorney General, the secretary may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions. Such requests and advisory opinions may be duly published in the manner in which rules of this state are published. Compliance with the requirements of a duly promulgated advisory opinion of the secretary shall be deemed to constitute compliance with the ethical standards of this subchapter.

(c) Waiver. On written request of an employee, the secretary may grant an employee a written waiver from the application of § 19-11-705, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the state so require or when the ethical conflict is insubstantial or remote.

For purposes of interpreting Ark. Code Ann. §19-11-701 *et seq.*, Ark. Code Ann. §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 Ark. Code Ann. §19-11-701 (16) as meaning “any office, department, commission, council, board, bureau,

Office of the Secretary

501 Woodlane, Suite 201 * Little Rock, AR 72201 * 501.319.6551

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Mr. Craig Douglass
Adv. Op. 2022-09
May 25, 2022

committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.”

The ethical strictures set forth in Ark. Code Ann. §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* Ark. Code Ann. §19-11-705. 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.”

II. Analysis

Although you have disclosed yourself as a current state employee on the Form, you are not identified in the state employee directory as an employee. However, the Pulaski County Departments Listing, located at <https://pulaskicounty.net/pulaski-county-departments-listing/>, identifies you under the listing of Regional Solid Waste Management. *See* Attachment 2. Further, the information contained in your letter request reflects the following:

1. Employment Status: I serve as executive director of the Pulaski County Regional Solid Waste Management District, the solid waste coordinating entity for Pulaski County and the municipalities in the county. RSWMD directors and staff statewide are salaried by the district in which they serve.

See Attachment 3.

As a result, your request for review is not subject to the statutory provisions over which I have authority as you are not a state employee.

III. Decision

In order to continue processing the pending contract for contract administrator of the Electronic Waste Collection, Recycling, and Reuse Program, please revise the Form in accordance with the determination of this advisory opinion and resubmit it and any other documentation as appropriate for review.

Sincerely,



Amy Fecher
Secretary

Attachments

cc: Mitch Rouse, Office of State Procurement

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SUBCONTRACTOR: _____

Yes No

TAXPAYER ID NAME: PULASKI COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT

IS THIS FOR: Goods? Services? Both?

YOUR LAST NAME: DOUGLASS FIRST NAME: CRAIG M.I.: S.

ADDRESS: 300 SPRING BLDG., STE. 200

CITY: LITTLE ROCK

STATE: MO ZIP CODE: 72201

COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

| Position Held | Mark (✓) | | Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.] | For How Long? | | What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.] | Relation |
|----------------------------------|----------|--------|--|---------------|-------------|---|----------|
| | Current | Former | | From MM/YY | To MM/YY | | |
| General Assembly | | | | | | | |
| Constitutional Officer | | | | | | | |
| State Board or Commission Member | | | | | | | |
| State Employee | | | | | | | |

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

| Position Held | Mark (✓) | | Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.] | For How Long? | | What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control? | | |
|----------------------------------|-------------------------------------|--------|--|---------------|---------------|--|------------------------|---------------------|
| | Current | Former | | From MM/YY | To MM/YY | Person's Name(s) | Ownership Interest (%) | Position of Control |
| General Assembly | | | | | | | | |
| Constitutional Officer | | | | | | | | |
| State Board or Commission Member | | | | | | | | |
| State Employee | <input checked="" type="checkbox"/> | | <u>SOLID WASTE EXC. DIR</u> | <u>7-17</u> | <u>PARENT</u> | <u>CRAIG DOUGLASS</u> | <u>NA</u> | <u>Exec. DIR.</u> |

None of the above applies

ATTACHMENT 1

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature Chris Dwyler Title EXEC. DIRECTOR Date 2-15-2022
Vendor Contact Person CHARL DUBOIS Title EXEC. DIRECTOR Phone No. 561-580-1608

| | | | |
|--------------------------------|-------------|-----------------------|--------------------------------|
| <small>Agency use only</small> | | | |
| Agency Number | Agency Name | Agency Contact Person | Contact Phone No. or Grant No. |



PULASKI COUNTY DEPARTMENTS LISTING

Accounting

Sarah Besancon
201 S. Broadway, Suite 440
Little Rock, AR 72201
501-340-8381

Administrative Services

201 S. Broadway, Suite 420
Little Rock, AR 72201
501-340-8306

Animal Services

Kathy Botsford
3403 West 33rd Street
Little Rock, AR 72204
501-210-7508

Assessor

Janet Troutman-Ward
201 S. Broadway, Suite 310
Little Rock, AR 72201
501-340-6170

CASA

Darryl Capps
3001 West Roosevelt
Little Rock, AR 72204
501-340-6741

Circuit & County Clerk

Terri Hollingsworth



401 West Markham, Suite 420
Little Rock, AR 72201
501-340-8590

Circuit Court 2nd Division
Casey Tucker
401 West Markham, Suite 320
Little Rock, AR 72201
501-340-8424

Circuit Court 3rd Division
Cathleen Compton
401 West Markham, Suite 240
Little Rock, AR 72201
501-340-8426

Circuit Court 4th Division
Herb Wright
401 West Markham, Suite 440
Little Rock, AR 72201
501-340-8593

Circuit Court 5th Division
Wendell Griffen
401 West Markham, Suite 410
Little Rock, AR 72201
501-340-8550

Circuit Court 6th Division
Timothy Davis Fox
401 West Markham, Suite 210
Little Rock, AR 72201
501-340-8416

Circuit Court 7th Division
Barry Sims



3001 West Roosevelt
Little Rock, AR 72204
501-340-6666

Circuit Court 9th Division

Andy Gill
401 West Markham, Suite 202
Little Rock, AR 72201
501-340-5602

Circuit Court 10th Division

Shanice Johnson
3001 West Roosevelt
Little Rock, AR 72204
501-340-6725

Circuit Court 11th Division

Patricia James
3001 West Roosevelt
Little Rock, AR 72204
501-340-6700

Circuit Court 12th Division

Alice Gray
401 West Markham, Suite 350
Little Rock, AR 72201
501-340-8530

Circuit Court 13th Division

Mike Reif
401 West Markham, Suite 350
Little Rock, AR 72201
501-340-8534



Circuit Court 15th Division

Amy Dunn Johnson

401 West Markham, Suite 340

Little Rock, AR 72201

501-340-5610

Circuit Court 16th Division

Morgan Welch

401 West Markham, Suite 310

Little Rock, AR 72201

501-340-8542

Circuit Court 17th Division

Mackie Pierce

401 West Markham, Suite 360

Little Rock, AR 72201

501-340-5620

Community Services

Fred Love

201 S. Broadway, Suite 220

Little Rock, AR 72201

501-340-3374

Comptroller

Michael Hutchens

201 S. Broadway, Suite 440

Little Rock, AR 72201

501-340-8392

Coroner

Gerone Hobbs

201 S. Broadway, Suite 340

Little Rock, AR 72201

501-340-8355



County Judge

Barry Hyde
201 S. Broadway, Suite 400
Little Rock, AR 72201
501-340-8305

Detention Facility

3201 West Roosevelt
Little Rock, AR 72204
501-340-7000

District Court

Wayne Gruber
3001 W. Roosevelt
Little Rock, AR 72204
501-340-6841

Election Commission

Bryan Poe
501 W. Markham, Suite A
Little Rock, AR 72201
501-340-8383

Emergency Management

Andy Traffanstedt
3200 Brown Street
Little Rock, AR 72204
501-340-6911

Extension Service

Randy Forst
2901 W. Roosevelt
Little Rock, AR 72204
501-340-6650



Health Department

Vickie Jones
3915 W. 8th Street
Little Rock, AR 72204
501-280-3100

Housing

Fredrick Love
201 S. Broadway, Suite 220
Little Rock, AR 72201
501-340-3321

Human Resources

Chastity Scifres
201 S. Broadway, Suite 120
Little Rock, AR 72201
501-340-6110

Information Systems

Joe Musgrove
201 S. Broadway, Suite 250
Little Rock, AR 72201
501-340-8380

Juvenile Court

3001 West Roosevelt
Little Rock, AR 72204
501-340-6700

Juvenile Detention

Ronnie Routh
3001 West Roosevelt
Little Rock, AR 72204
501-340-6691



Planning & Development

Van McClendon
3200 Brown St
Little Rock, AR 72204
501-340-8260

Probate

401 W. Markham, Suite 103
Little Rock, AR 72201
501-340-8766

Prosecuting Attorney

Larry Jegley
224 S. Spring St.
Little Rock, AR 72201
501-340-8000

Public Defender

Bill Simpson
201 S. Broadway, Suite 211
Little Rock, AR 72201
501-340-6120

Public Works

Steve Brummett
3200 Brown Street
Little Rock, AR 72204
501-340-6800

Purchasing

Michelle Johnson
201 S. Broadway, Suite 440
Little Rock, AR 72201
501-340-8390



Regional Solid Waste Management

Craig Douglass
300 Spring Building, Suite 200
Little Rock, AR 72201
501-340-8787

Road & Bridge

Shane Ramsey
3200 Brown Street
Little Rock, AR 72204
501-340-6800

Sanitation

Kathy Botsford
3403 West 33rd Street
Little Rock, AR 72204
501-210-7500

Sheriff

Eric Higgins
2900 South Woodrow
Little Rock, AR 72204
501-340-6600

Treasurer

Debra Buckner
201 S. Broadway, Suite 110
Little Rock, AR 72201
501-340-8345

Treasurer – Tax Division

201 S. Broadway, Suite 150
Little Rock, AR 72201
501-340-6040



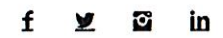
Youth Services

Jamie Scott

201 S. Broadway, Suite 220

Little Rock, AR 72201

501-340-8250





Regional Recycling
& Waste Reduction
District

Ms. Amy Fecher, Secretary
Arkansas Department of Transformation
and Shared Services
501 Woodlane Street, Suite 201
Little Rock, Arkansas 72201

May 24, 2022

Dear Secretary Fecher:

On Monday, May 23, 2022, Mr. Anthony Black, Legal Counsel for the Arkansas Department of Transformation and Shared Services (TSS), contacted me by phone to clarify the agency or department classification of regional solid waste management districts (RSWMD) and to inquire on my employment status as executive director of the Pulaski County Regional Solid Waste Management District (the District).

In our brief discussion, I shared that Pulaski County is one of 19 RSWMDs around the state. RSWMDs receive revenue from landfill tipping fees, tire recycling fees, solid waste management services and licensing, and sales of recycled commodities.

Mr. Black asked who is our primary contact at DEQ? I shared that it is Ms. Susan Speake in the Office of Land Resources. It is my understanding that Mr. Black contacted Ms. Speake and requested the following information from our District:

1. Your employment status (State – as listed on your Disclosure Statement, county, or other);
2. What relationship you may have with potential contractors or any other entity that may perform services related to this contract;
3. What services will be provided by you as the Contract Administrator;
4. What role did you and/or the District had in crafting Act 839 of the 2021 Legislative; and
5. Any other relevant information that would need to be disclosed in relation to specific conflicts of interest.

We are happy to provide the following statements and answers:


1. Employment Status: I serve as executive director of the Pulaski County Regional Solid Waste Management District, the solid waste coordinating entity for Pulaski County and the municipalities in the county. RSWMD directors and staff statewide are salaried by the district in which they serve;

2. Contractor Relationships: Act 839 of 2021 [§8-9-712(b)] states that, “Within thirty (30) days of being selected by the secretary, the contract administrator shall issue a request for qualifications for a contractor.” At this writing, that process has not yet begun, as the contract administrator has yet to be selected. If selected as the contract administrator, the only relationship the District has with a potential contractor is that eSCO Processing and Recycling currently holds a contract with the District (and with other RSWMDs) to handle electronic waste recycling. In addition, Reficio, LLC, may provide future services to the District. The District has no relationship with Reficio, other than on a fee-for-service basis. The same is true for services to the District by Recycling Research Resources, Inc. Recycling Research Resources, Inc., is a 501(c)(3) not-for-profit organization. I had the honor of registering the non-profit with the Secretary of State’s Office, and currently serve as an ex officio member on the foundation board.
3. Contract Administrator Services: If selected as contract administrator, the District will perform supervision, coordination, or administration of county, municipal, or state solid waste, recycle, or reuse programs recovering electronic waste, having demonstrated experience in the monthly collection of consumer electronic items, and a minimum annual collection of consumer electronic items in excess of 200 tons [see §8-9-703(4)(A)(B)].
4. Act 839 of 2021: The District provided secondary electronic waste program research from other states and a rough outline of a possible public-private partnership to DEQ and to the Bureau of Legislative Research for a statewide electronic waste program.
5. Conflicts of Interest: As one of 19 RSWMDs in the state that has since 1992 managed or coordinated the county and municipal collection, transport, recycling, and disposal of solid waste, including electronic waste, we see no existing conflict of interest with the electronic waste program as outlined by Act 839 of 2021.

We hope this has answered any questions TSS may have, and will be happy to answer any additional questions, or further clarify the department’s inquiries.

Thank you for this opportunity.

Best Regards,


Craig Douglass
Executive Director

CD/csd

cc: Mr. Anthony Black
Ms. Rhoda Classen

Anthony Black

From: Craig Douglass <Craig@regionalrecycling.org>
Sent: Tuesday, May 24, 2022 9:40 AM
To: Amy Fecher
Cc: Rhoda Classen; Anthony Black; Susan Speake
Subject: Electronic Waste Advisory Opinion
Attachments: TSSAdvisoryLetter.pdf

Good morning Amy.

The attached letter is in response to a call I received on Monday from Anthony Black of your staff, with a follow-up from Susan Speake at DEQ. This is in reference to the pending contract for contract administrator of the Electronic Waste Collection, Recycling, and Reuse program.

Please let me know if there are other questions, or if further clarifications are needed.

Thanks.

Craig

*Craig Douglass
Executive Director
Regional Recycling District in Pulaski County
300 Spring Bldg., Ste. 200
Little Rock, AR 72201
Voice/Text: 501-580-1608
Email: craig@regionalrecycling.org*