



**Department of Transformation and Shared Services**  
Governor Asa Hutchinson  
Secretary Amy Fecher

May 25, 2022

Ms. Libby Slatton, LCSW  
550 South Main Street  
Malvern, Arkansas 72104

**VIA EMAIL TRANSMISSION:**  
[libbyslattonlcsw@gmail.com](mailto:libbyslattonlcsw@gmail.com)

RE: Advisory Opinion No. 2022-08

Dear Ms. Slatton:

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 received on May 19, 2022, regarding the ability of your subcontractor, Tisha R. Jenkins, to provide services to the Department of Human Services (DHS) while she is employed as an adjunct faculty member at the University of Central Arkansas (UCA).

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

1. You are the owner and president of Libby Slatton LCSW PA (Libby Slatton), which is a sole proprietorship providing behavioral health services to youth and adults;
2. Libby Slatton provides services to DHS through Contract No. 4600046335 under Bid No. 710-2-0011;
3. The annual contract was awarded on July 1, 2020, with the option to renew for six (6) additional annual terms;
4. Tisha R. Jenkins, LCSW, AADC, has been a subcontractor for Libby Slatton since October 2015;
5. Ms. Jenkins has been employed as an adjunct faculty member with UCA since January 2022 and teaches various courses in the Bachelor of Addiction Studies program;
6. The UCA courses are taught through asynchronous methods including on-line lectures, posted materials, and other written assignments; and
7. Ms. Jenkins' work at UCA is performed separately from her work with Libby Slatton and is usually completed during weekdays.

**I. Relevant Law**

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

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Ark. Code Ann. §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 Ark. Code Ann. §19-11-701 (9) 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;

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

Based on the above representations, Ms. Jenkins’s employment at UCA classifies her as a state employee, and your role as a contractor to DHS and her proposed status as a subcontractor on the contract establishes that she has a financial interest in the state agency contract.

Ms. Jenkins’s employment with Libby Slatton began in 2015, Libby Slatton has provided services to DHS under its current contract since 2020; and Ms. Jenkins’s employment at UCA began in 2022. Based on this timeline and your representation that the two roles are separate and there is no cross-over in time or responsibilities, I am persuaded that Ms. Jenkins’s role as an adjunct faculty member at UCA and her proposed role as a subcontractor to Libby Slatton’s contract with DHS providing behavioral health services to youth and adults demonstrate that a conflict does not exist at this time so as to taint the procurement process.

## III. Decision

Thank you for seeking my counsel and approaching the issue with transparency. I have determined that under the representations 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 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,



Amy Fecher  
Secretary

cc: Mitch Rouse, Office of State Procurement