



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

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May 31, 2019

Director Arthur Boutiette
701 South Pulaski Street
Little Rock, AR 72201

RE: Advisory Opinion No. 2019-08

Dear Director Boutiette:

This letter is in response to a written request for an advisory opinion, pursuant to Ark. Code Ann. §19-11-715(b), or alternatively a waiver pursuant to Ark. Code Ann. §19-11-715(c), which was sent to my office in a letter from you at Disability Determination for Social Security Administration ("DDSSA") dated May 17, 2019 (the "Request Letter"), regarding the circumstances described below involving two separate contracts, one between DDSSA and Dr. James Hazlewood, and the other between DDSSA and Goldie LeCompt. This opinion is based upon the following facts that have been presented to me in the attached documents, which I am relying upon. 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. Dr. Hazlewood was awarded a contract with DDSSA, pursuant to a request for qualifications, for claim adjudication work (contract number 4600044286);
2. Elizabeth Berry has been a DDSSA employee since December 2017 as a medical consultant, and is the spouse of Dr. Hazlewood;
3. In a letter dated May 16, 2019, Ms. Berry reports she did not participate in the creation of any contract with Dr. Hazlewood, nor does she have input in any of the day to day administration of the contract between DDSSA and Dr. Hazlewood;
4. Goldie LeCompt was awarded a contract with DDSSA, to process disability claims (contract number 4600034142);
5. Bethanie Nickols has been a DDSSA employee since November 2016 as an administrative specialist, and is the daughter of Ms. LeCompt;
6. In a letter dated May 16, 2019, Ms. Nickols reports she did not participate in the creation of any contract with Ms. LeCompt, nor does she have input in any of the day to day administration of the contract between DDSSA and Ms. LeCompt;

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. *See* Ark. Code Ann. §19-11-705. Ark. 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 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 nonsalaried individual performing personal services for any state agency, before defining “state agency” 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.

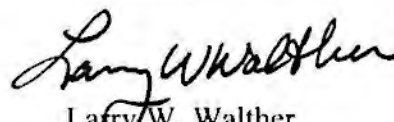
Ark. Code Ann. §19-11-709 goes on to state it is a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the state agency by which the employee is employed.

First, in looking at the DDSSA contract with Dr. Hazlewood, based on the above facts, Ms. Berry’s employment with DDSSA clearly classifies her as a state employee. Furthermore, the contract with her spouse, Dr. Hazlewood, creates a financial interest for her immediate family member in that contract. However, there is no reason to believe Ms. Berry participated directly or indirectly in any particular matter pertaining to the contract, as defined by Ark. Code Ann. §19-11-705 (a)(2).

Next, in looking at the DDSSA contract with Ms. LeCompt, based on the above facts, Ms. Nickols’ employment with DDSSA clearly classifies her as a state employee. Furthermore, the contract with her mother, Ms. LeCompt, creates a financial interest her immediate family member in that contract. However, there is no reason to believe Ms. Nickols participated directly or indirectly in any particular matter pertaining to the contract, as defined by Ark. Code Ann. §19-11-705 (a)(2).

Accordingly, under the facts as stated above, I opine that there is no conflict of interest in either contract, and DDSSA may proceed with each contract. This advisory opinion is issued in accordance with Ark. Code Ann. § 19-11-715 (b). 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