



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

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June 5, 2020

Dr. Antimoore Jackson
A1 U.S. Company, Inc.
1323 S. Pulaski Street
Little Rock, Arkansas 72202

RE: Advisory Opinion No. 2020-06

Dear Dr. Jackson:

This letter is in response to a written request for a waiver pursuant to Arkansas Code Annotated §19-11-715(b) and (c), which was sent to me electronically in a letter dated June 4, 2020, and received on this date (“the Request Letter”), regarding the circumstances described below involving A1 U.S. Company, Inc. (A1) obtaining a contract from the Arkansas Department of Human Services to provide youth residential mental health services.

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, then that could result in a revised opinion.

1. You are Chief Executive Officer (CEO) at A1 and have been in that position since 1997;
2. You have also been an assistant professor at the University of Arkansas at Pine Bluff (UAPB) since August 2016;
3. Your employment at UAPB is totally unrelated and in no way connected to procurement of a state contract;
4. Your work at UAPB primarily consists of teaching courses and advising students;
5. Your work at A1 consists of administering the contract and counseling clients;
6. The work time allocation of these two work efforts is completely separate. A1 work is not performed during the time that you are working at UAPB, which is well understood with your UAPB supervisor;
7. A1 has contracted similar services at DHS for the past fourteen (14) years, the last four (4) of which were while you were employed at UAPB, and no conflicts of interest issues were raised at any time;
8. You are designated as a nine-month contract employee at UAPB, which involves you working during the fall and spring, but not during the summer;

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9. At this time, you are not currently employed or otherwise obligated at UAPB; as a result, there could not be a conflict at this time; and
10. Due to COVID-19, your future employment is questionable based on UAPB's current closure.

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) 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 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 representations, your contract employment at UAPB, while currently not in effect during the summer, can be anticipated to be resumed in the fall as you resume your duties as an assistant professor at UAPB. Your role as CEO in A1, and your representation on the Contract and Grant Disclosure Certification Form that you own 100% of the company, establishes that you have a financial interest in a State Department contract.

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


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interest. Your role as a nine-month-contract assistant professor at UAPB and your role as owner of a company seeking to continue a state contract for services from DHS, supported by your own representations that the two roles are separate and there is no crossover in time or responsibilities, demonstrates 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 am persuaded 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 Arkansas Code Annotated § 19-11-715(c). Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Arkansas Code Annotated §19-11-701 *et seq.*

Sincerely,



Larry W. Walther
Secretary

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