



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

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May 2, 2018

Teresa Doan
Elementary Principal
Arkansas School for the Blind and Visually Impaired
2600 West Markham
Little Rock, AR 72203

RE: Advisory Opinion No. 2018-03

Dear Mrs. Doan:

This letter is in response to your request for an advisory opinion and/or waiver of a conflict of interest pursuant to Ark. Code Ann. §19-11-701 *et seq.*, regarding whether your husband, Dr. Kennan Doan (“Dr. Doan”), contracting with the State violates ethical standards. This opinion is based upon the following facts that have been presented to me in the attached request, as well as further communications, which I am relying upon. It should be noted that if one or more of these facts are later shown to be incorrect, it could result in a revised opinion.

1. Teresa Doan (“Mrs. Doan”) is the Elementary Principal for the Arkansas School for the Blind and Visually Impaired (“School”).
2. Mrs. Doan has worked at the School for the past nineteen (19) years and has been an administrator for the past nine (9) years.
3. Dr. Doan is an Optometrist and has been contracted to work as the Director of the Low Vision Clinic (“Clinic”) at the School for the past thirty-eight (38) years.
4. Dr. Doan and Mrs. Doan have been married for the past ten (10) years.
5. Contract #4600040121 is for Dr. Doan’s services at the Clinic.
6. The School’s procurement officer at the time of solicitation of the contract has left state employment. The paperwork filed for the contract solicitation lists the method of procurement as competitively bid. The solicitation was not a competitive sealed bid.
7. Mrs. Doan has no knowledge of how many bidders, if any other than Dr. Doan, responded to or were involved in the last procurement.
8. Mrs. Doan and Dr. Doan have conveyed that the type of work done at the Clinic is highly specialized and there has been difficulty in attracting other doctors to the Clinic.
9. Mrs. Doan was not involved in the procurement of Dr. Doan’s contract.

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. “Direct or indirect participation” is defined to include, but not be 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. See Ark. Code Ann. §19-11-705 (a)(2).

Based on the above facts, and reviewing the matter under Ark. Code Ann. §19-11-705 (a)(1)(A), there would be a conflict of interest under the statute if Mrs. Doan participated directly or indirectly in the solicitation of or proposal for the contract. Based on the information provided, it appears that there was no such participation in this instance. However, because of Mrs. Doan's administrative office at the School, and to avoid the appearance or opportunity for the contract to be awarded on the basis of self-interest in the future, the contract for Director of the Clinic should be rebid prior to next year's renewal through a sealed competitive bidding process, with the award going to the lowest bidder. To remove any question of tampering, the bidders should be instructed to deliver their sealed bids to Office of State Procurement to be opened.

This advisory opinion and written approval to proceed, subject to the condition that its renewal be rebid as a sealed competitive bid, is issued in accordance with Ark. Code Ann. § 19-11-715(b) and 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.*, and Executive Order 98-04.

Sincerely,



Larry W. Walther
Director

cc: Edward Armstrong, Office of State Procurement