



Department of Transformation and Shared Services

Governor Sarah Huckabee Sanders

Secretary Joseph Wood

January 20, 2023

Ms. Laveta Wills-Hale  
Network Director  
The Arkansas Out of School Network  
501 Woodlane Street, Suite 312C  
Little Rock, Arkansas 72201

RE: Advisory Opinion No. 2023-02

Dear Ms. Wills-Hale:

This letter is in response to a written request for an advisory opinion and a waiver pursuant to Arkansas Code Annotated § 19-11-715(b) and (c). The request was sent to me in a letter received on December 19, 2022, and supplemented several times through January 17, 2023, regarding a proposed contract between Eric B. Hale as part-owner of CleanRite Janitorial for cleaning services at Agriculture's state office located in Little Rock, Arkansas.

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. Your husband, Eric B. Hale, owns 50% of CleanRite Janitorial;
2. You own 50% of CleanRite Janitorial;
3. Agriculture is proposing to contract with CleanRite Janitorial for cleaning services at Agriculture's state office located in Little Rock, Arkansas;
4. You are employed as Network Director of the Arkansas Out of School Network, which is affiliated with Arkansas State University (ASU);
5. Storey Williams, ASU Childhood Services Business Manager, affirms that "[t]he Arkansas Out of School Network (AOSN) is a sponsored initiative of the Arkansas State University and is housed within the Department of Education and Behavioral Sciences in the Department of Childhood Services. AOSN is one of the C. S. Mott Foundation funded 50 State Afterschool Networks with the U.S. The Network Director serves as the lead staff person who is responsible for all Network operations and coordination with the fiscal sponsor and other partners. In this capacity, the Network Director is responsible for the implementation of policies set by the Arkansas State University as well as annual goals and objectives, and financial, program, and administrative management of the Network.

The Network Director reports to the Director of A-State Childhood Services, Jo Ann Nalley, who serves as the PI over all Network contracts and agreements, the Childhood Services leadership team, and is responsible for the coordination of the AOSN Steering Committee and Network Advisory Committees.”;

6. Mr. Storney also confirmed that Ms. Wills-Hale “does not have any procurement authority. She also does not have direct responsibilities over contract administration.”;
7. You are not an employee of CleanRite Janitorial, and you do not direct any of the oversight of CleanRite Janitorial; and
8. You also did not have any involvement in the development of other activities related to the submission of the proposed contract.

### **I. Relevant Law**

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.”

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## **II. Analysis**

Based on the above representations, your employment as the Network Director of the Arkansas Out of School Network classifies you as a state employee, and your role as 50% owner of CleanRite Janitorial in the proposed contract between Agriculture and CleanRite Janitorial establishes that you have a financial interest in a state agency contract.

Based upon the representations that your employment 1) does not have any procurement authority, 2) does not have direct responsibilities over contract administration, and 3) did not involve the development of other activities related to the submission of the proposed contract, I am persuaded that the disclosure of your ownership interest in CleanRite Janitorial demonstrates that a conflict is insubstantial or remote so as not 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 are specified in this letter. Any change or modification to the stated representations shall require additional review if the proposed contract is renewed or extended. This decision grants a waiver in the interests of the state and 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 Arkansas Code Annotated § 19-11-701 *et seq.*

Sincerely,

A handwritten signature in black ink, appearing to read 'Mitch Rouse', with a stylized flourish at the end.

Mitch Rouse  
Director