June 5, 2026

Mr. Matthew Sparks
Office of State Technology
Information Technology Supervisor/Expert
Via email: Matthew.Sparks@arkansas.gov

RE: Advisory Opinion: 2026-03, Potential Conflict of Interest of Former Employee

Dear Mr. Sparks,

This letter is in response to your May 18, 2026, written request for an advisory opinion pursuant to Arkansas Code Annotated § 19-64-402(a)(1) concerning restrictions on employment of former employees under Ark. Code Ann. § 19-64-206. Specifically, you request guidance regarding restrictions that may apply to your recently accepted employment as an Account Technical Leader within IBM's sales organization. You have also requested a determination regarding whether your proposed employment will violate ethical standards governing state employees transitioning to the private sector.

I. Findings of Fact

This opinion is based upon the following facts that you have presented to me and upon which I am relying. In your current role with the Office of State Technology (OST), you disclosed that your responsibilities include:

- **Direct administration**: Administration of three (3) active state procurement contracts between the State and IBM. However, you noted that you did not participate in the decision to procure the contracts:
    - IBM Cloud Pak for Data (Contract #4600055428)
    - IBM Cloud Pak for Business Automation (Contract #4600055430)
    - IBM Cloud Pak for Integration (Contract #4600055421)
- **Price Negotiation**: Negotiating pricing for converting two existing IBM products (IBM Cloud Pak for Business Automation and IBM Cloud Pak for Integration) to Software-as-a-Service (SaaS) and negotiating hardware expansions for IBM Cloud Pak for Data.
- **Agency Procurement Review**: Serving as the agency contact on Solicitation Review Memos for the above IBM products due to your administrative role.

- **Procurement Management**: Leading ongoing procurement efforts for IBM training related to Cloud Pak for Integration and Cloud Pak for Data.

You further explained that you have accepted a position with IBM as an Account Technical Leader within IBM's sales organization. Your anticipated responsibilities in the new role include leading the development and execution of client-specific technical strategies; collaborating with clients, sales teams, and stakeholders, serving as a trusted IT architecture advisor by providing expert guidance across IBM platforms and technologies; driving and delivering technical engagements and ensuring the successful implementation of proposed solutions; and creating, documenting, and refining the Client Technical Strategy (CTS) based on outcomes and client feedback. The accepted position also includes incentive compensation directly connected to technologies purchased by IBM clients.

II. Relevant Law

Arkansas Code Annotated § 19-64-206 sets forth ethical standards that apply to former state employees. It provides:

> (b) Restrictions on Former Employees in Matters Connected with Their Former Duties.
>
> > (1) Permanent Disqualification of Former Employee Personally Involved in a Particular Matter. It is a breach of ethical standards for a former employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:
> >
> > > (A) Judicial or other proceeding, application, request for a ruling, or other determination;
> > > (B) Contract;
> > > (C) Claim; or
> > > (D) Charge or controversy,
> >
> > In which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, when the state is a party or has a direct and substantial interest.
> >
> > (2) One-Year Representation Restriction Regarding Matters for Which a Former Employee Was Officially Responsible. It is a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility in connection with any:
> >
> > > (A) Judicial or other proceeding, application, request for a ruling, or other determination;
> > > (B) Contract;
> > > (C) Claim; or
> > > (D) Charge or controversy,
> >
> > knowingly to act as a principal or as an agent for anyone other than the state in matters that were within the former employee's official

responsibility, when the state is a party or has a direct or substantial interest.

...

(d) Selling to State After Termination of Employment Is Prohibited.

(1) It is a breach of ethical standards for a former employee, unless the former employee's last annual salary based on the state fiscal year did not exceed fifteen thousand dollars ($15,000), to engage in selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased.

Ark. Code Ann. § 19-64-101(8) defines "employee" as "an individual drawing a salary from a state agency, whether elected or not, and a nonsalaried individual performing personal services for a state agency." The term "former" is not defined; thus, I understand it to have its usual and ordinary meaning. *See L.H. v. State*, 333 Ark. 613, 973 S.W.2d 477 (1998).

III. Analysis and Opinion

Based on the law and representations of fact above, your prior employment with OST will classify you as a "former employee" after your voluntary termination date. Application of the ethical standards to the facts as presented identifies that your employment responsibilities with IBM trigger both a permanent disqualification and a temporary one-year representation restriction.

A. Permanent Disqualification

Under Ark. Code Ann. § 19-64-206(b)(1), a former state employee is permanently disqualified from knowingly acting as a principal or an agent for anyone other than the state in connection with any contract in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, when the state is a party or has a direct and substantial interest.

Your disclosure establishes that you participated personally and substantially in the administration, price restructuring, and procurement management of three IBM Cloud Pak contracts (Contract # 4600055428, Contract # 4600055430, and Contract # 4600055421). Specifically, while employed by OST, your official duties involved the direct administration of those contracts, and you handled the financial negotiations required to convert IBM Cloud Pak for Business Automation and IBM Cloud Pak for Integration to a Software-as-a-Service (SaaS) model. You also negotiated hardware expansions for IBM Cloud Pak for Data. These duties establish a personal and substantial involvement with each contract.

Furthermore, your procurement management responsibilities included leading the ongoing procurement efforts for specialized IBM training related to both the Integration and Data contracts, and you served as the agency contact responsible for reviewing and processing Solicitation review memos for those contracts. Although you noted you did not participate in the initial decision to procure them, your extensive subsequent management and oversight of those contracts meet the threshold of personal and substantial involvement contemplated by the statute. Therefore, you are permanently disqualified from acting as an agent or principal for IBM in Contract # 4600055428, Contract # 4600055430, and Contract # 4600055421 due to your personal and substantial involvement with those contracts. This includes any future modifications, extensions, or subsequent renewals of those contracts.

You also disclosed that your proposed role resides within IBM's sales organization and carries incentive compensation connected to technology purchased by clients. Therefore, under Ark. Code Ann. § 19-64-206(b)(1), it would be a breach of ethical standards for you to receive any incentive compensation or commissions derived from past or future purchases made by the State of Arkansas under these specific contracts.

B. One year representation restriction

Under Ark. Code Ann. § 19-64-206(b)(2), a state employee is prohibited from participating on behalf of a private entity in matters that (1) were within his official responsibility as State employee, and (2) substantially involve the State. "Official responsibility" means "direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct state action…" Ark. Code Ann. § 19-64-101(12). This prohibition remains in place for one year after cessation of the official responsibility. *Id.* Section 206(b)(2) is broad in its prohibitions such that it could prohibit even the most tenuous of connections. Op. Att'y Gen. 99-171.

Because you directly administered three IBM Cloud Pak products during your state employment, it is reasonable to conclude that you are prohibited from engaging in work on projects related to those products if they substantially involve the state.

In addition to the Cloud Pak products, you may also be restricted from working on other projects or technologies that were part of your official OST responsibilities. For example, you indicated that in your new role you will be "serving as a trusted IT architecture advisor by providing expert guidance across IBM platforms and technologies." To the extent you were responsible for making decisions, recommendations, or determinations regarding the state's IT architecture during your service at OST, you are prohibited from providing related advice to the state in your new role. However, because this analysis is highly fact-defendant, I cannot render advice on every potential conflict that may exist in your position at IBM.

C. Selling to State After Termination of Employment Prohibition

Finally, Ark. Code Ann. § 19-64-206(d)(1), prohibits a former state employee from "selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date that employment ceased."

Your disclosure indicates that your accepted position will be as an Account Technical Leader within IBM's sales organization. Your anticipated responsibilities include collaborating with sales teams, serving as a trusted IT architecture advisor, and creating, documenting, and refining Client Technical Strategies (CTS) to support and deliver technical engagements involving IBM platforms and technologies. Furthermore, this position includes incentive-based compensation tied to technology purchased by IBM clients, which would include purchases made by the state.

Because your new role involves working directly with sales teams and includes potential linked to client purchases, these duties fall within the statutory definition of "selling or attempting to sell" under Ark. Code Ann. § 19-64-206(d)(2). Therefore, you are prohibited from selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year from your final date of state employment.

III. Conclusion

While employed with IBM, the statutorily mandated permanent disqualification prohibits you from being assigned the identified state contracts. In addition, the one-year representation restriction applies to matters that were within your official responsibility as a former OST employee pursuant to Ark. Code Ann. § 19-64-206(b)(1) and (b)(2). You are also prohibited from engaging in selling or attempting to sell commodities or services—including technical or professional consultant services—to the state for one year following your separation from state employment pursuant to Ark. Code Ann. § 19-64-206(d)(2).

Sincerely,

Leslie Fisken

Leslie Fisken, Secretary
Arkansas Department of Shared Administrative Services