



Department of Transformation and Shared Services

Governor Sarah Huckabee Sanders

Secretary Joseph Wood

March 6, 2023

Mr. Jeremy Wooldridge
Chief Executive Officer
Crowley's Ridge Development Council, Inc.
2401 Fox Meadow Lane
Jonesboro, Arkansas 72403

RE: Advisory Opinion No. 2023-03

Dear Mr. Wooldridge:

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), which was sent to me in a letter received on March 3, 2023, regarding three proposed contracts in which Crowley's Ridge Development Council, Inc. (Crowley's Ridge) and the University of Arkansas at Little Rock (UALR) are parties.

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, that could result in a revised opinion.

1. Crowley's Ridge is a 501(c)(3) Non-Profit Organization;
2. You were hired as the Chief Executive Officer of Crowley's Ridge on May 3, 2021, and your duties include oversight of all operations for the organization under the supervision of 24 board members;
3. You delegate contracts and budget submissions to the Chief Financial Officer of the organization;
4. The Chief Financial Officer presents all budget proposals to the Board of Directors, and the minutes are recorded for documented approval;
5. All contracts require approval by a vote of 51% or greater of the members of the Board of Directors;
6. UALR MidSouth issued a Request for Proposal (RFP) for bid FB-22-002 for identified services on June 17, 2022;
7. Crowley's Ridge submitted a bid in response to the RFP to provide comprehensive methamphetamine prevention services to Arkansas communities;
8. Bids were opened on July 5, 2022;
9. UALR MidSouth issued an intent to award three contracts to Crowley's Ridge on August 2, 2022, as follows:
 - a. RA23145404 – Region 3 – Cleburne, Fulton, Independence, Izard, Jackson, Sharp, Stone, Van Buren, and Woodruff Counties;
 - b. RA23145405 – Region 4 – Clay, Craighead, Greene, Lawrence, Mississippi, Poinsett, and Randolph Counties; and
 - c. RA23145408 – Region 7 – Crittenden, Cross, Lee, Monroe, Phillips, and St. Francis Counties;
10. You were elected to serve in the state's House of Representatives in November 2022;

11. Your term of elected service began on January 1, 2023;
12. The identified contracts were awarded prior to the commencement of your term of service as a member of the House of Representatives; and
13. There has been no crossover in time or responsibilities between the two roles in which you are engaged.

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 Ark. Code Ann. §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.”

In addition, Executive Order 98-04 Section II addresses approval of contracts and grants and provides in pertinent part as follows:

Agencies shall be prohibited from entering into or renewing any contract ... with any current or former member of the general assembly ... or with any entity in which any such person holds (1) any position of control, or (ii) any ownership interest of 10% or greater. The prohibition provided in the previous sentence shall not apply to: (i) contracts ... that are the result of competitive sealed bidding or a request for proposal, which requires public notice and public opening of bids or proposals; provided, however, agencies shall be required to disclose any such contract ... entered into with any of the persons described in the previous paragraph, notice of which is given to the Governor and the Legislative Council; ...

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II. Analysis

Based on the above representations, your employment as an elected member of the state's House of Representatives classifies you as a state employee, and your role as Chief Executive Officer of Crowley's Ridge establishes that you have a financial interest in a state agency contract.

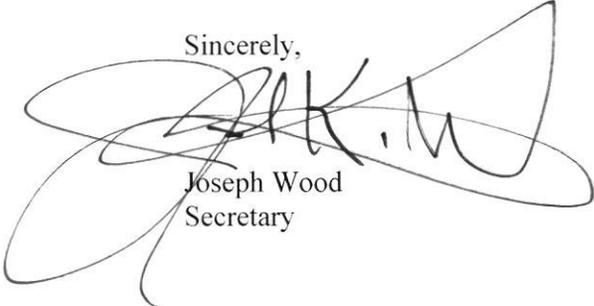
Your employment at Crowley's Ridge preceded its submission of responses to UALR's RFP for services through the competitive bid process. UALR's evaluation of the responses and ultimate intent to award Crowley's Ridge three contracts also precedes your election to the state's House of Representatives. You have affirmed that there has been no crossover in time or responsibilities between the two roles in which you are engaged. As a result, I am persuaded that the circumstances demonstrate that a conflict is insubstantial or remote so as not to taint the procurement process in this case.

I also find that the prohibition contained in Executive Order 98-04 Section II is inapplicable due to the competitive procurement process utilized by UALR.

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 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 the Arkansas Code Annotated § 19-11-701 *et seq.*

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Wood', is written over a large, loopy scribble. The signature is positioned above the printed name and title.

Joseph Wood
Secretary