



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

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September 1, 2016

Danny Campbell
Chairperson
University of Arkansas at Pine Bluff
1200 N University Drive, Mail Slot 4925
Pine Bluff, AR 72601

RE: Advisory Opinion No. 2016-11

Dear Mr. Campbell,

This letter is in response to your request for an advisory opinion, pursuant to Ark. Code Ann. § 19-11-715(b), regarding whether the circumstance involving a possible contract between the University of Arkansas at Pine Bluff (UAPB) and an employee, as described below, would violate ethical standards under Ark. Code Ann. § 19-11-705. This opinion is based upon the following facts as they have been presented to me. It should be noted that if one or more of these facts are later shown to be incorrect, that could result in a revised opinion.

1. You are employed at UAPB as a chairperson and professor with a salary of \$88,345;
2. You are the sole owner of an art business called Repurposed Wonders located at 3 Par Lane, Suite 100, Pine Bluff, Arkansas;
3. The UAPB library staff requested to purchase a collection of mixed-media works to display in the John Watson Memorial Library; and
4. You would like to be a vendor eligible to sell works of art to UAPB.

Act 483 of 1979, codified in part at Ark. Code Ann. §19-11-701 et seq. ("the Act"), prohibits state agency contracts with a business in which an employee or an employee's immediate family member has a financial interest where the employee participates, either directly or indirectly, in the procurement of such contracts. See Ark. Code Ann. §19-11-705. "Direct or indirect participation" is defined at Ark. Code Ann. § 19-11-705(a)(2), and includes, but is not limited to, "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content or any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity." The position of employment and/or an employee's "participation" in the procurement process, both directly and indirectly, is examined on a case-by-case basis.

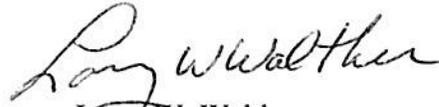
Act 483 of 1979, Section 5, codified at Arkansas Code Annotated Section §19-11-706, requires that any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Director of the Department of

Finance and Administration. This section does not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.

Based on the above facts, you will be participating directly or indirectly in the procurement of the mixed-media works, as you are the sole owner of the entity from which UAPB intends to purchase from. Additionally, you will receive a direct benefit as a result of the relationship between Repurposed Wonders and UAPB. Though works of art are exempt from procurement law under Ark. Code Ann. § 19-11-203(14)(X), such contract is not exempt from the ethics provisions under § 19-11-701 et seq. I find that the proposed relationship between you and UAPB violates the ethical standards governing state employees.¹

This advisory opinion is issued in accordance with Ark. Code Ann. § 19-11-715(b).

Sincerely,



Larry W. Walther
Director

Cc: Edward Armstrong, Office of State Procurement

¹ Note that, on written request of a state employee, I may grant a written waiver from the application of Ark. Code Ann. § 19-11-705, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as I may specify. See Ark. Code Ann. § 19-11-705(b). I may grant such a waiver when the interests of the state so require or when the ethical conflict is insubstantial or remote. *Id.* I was not asked to grant a waiver with this request for an opinion, and therefore did not decide whether a waiver would be appropriate under the circumstances.