



STATE OF ALABAMA ETHICS COMMISSION



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August 6, 2025

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ADVISORY OPINION NO. 2025-03

Gregory L. S. Harris
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229 South Wilson Avenue
Prichard, Alabama 36610

Public Employee / Conflict of Interest /
Independent Contractor

A person hired as an independent contractor through a private company is not considered to be a “public employee” for the purposes of the Ethics Act.

The Ethics Act does not prohibit an independent contractor providing services to a municipality from providing additional services through their separate business to the municipality.

Dear Mr. Harris:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

FACTS

The City of Prichard (hereinafter, “the City”) currently contracts with an individual (hereinafter, “the Contractor”) to serve as a consultant in the field of grant writing. The Contractor is engaged with the City as a 1099 independent contractor. The Contractor performs services for the City through a for-profit company.

The Contractor also owns and operates a separate non-profit company. This non-profit company collaborates with other entities and individuals to develop property in blighted areas.

Recently, the City of Prichard passed a resolution declaring certain parcels of land within the city as no longer usable for municipal purposes. The City is now exploring options for the disposition and development of this surplus land. The City would like to consider conveying or leasing these parcels to the Contractor's non-profit company for development purposes. The potential conveyance would be strictly based on the Contractor's demonstrated ability to sufficiently develop the land. The City is considering structuring any such transaction as a reversionary conveyance or a lease for a term of approximately three to five years, wherein the property would revert to the City if the development fails to meet specified City standards.

QUESTION PRESENTED

Does a conflict of interest exist, under the Alabama Ethics Law, for a person engaged with the City of Prichard as an independent contractor for grant writing services, to utilize their separate investment company to accept land conveyed or leased by the City that has been declared by the City to be surplus and not in use for municipal purposes, for the purposes of development.

ANALYSIS

The Ethics Act prohibits public officials and public employees from using their positions for personal gain.¹ The Ethics Act defines "Public Employee" as:

Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county, or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.²

A person hired as an independent contractor through a private company is not considered to be a "public employee" for the purposes of the Ethics Act. Here, there is also no indication that the City's interest in utilizing the contractor's company was caused by the contractor's position as a consultant for grant writing. For these reasons, the Ethics Act does not prohibit the City of Prichard from utilizing the services of their independent contractor's company.

¹ Ala. Code § 36-25-5(a).

² Ala. Code § 36-25-1(26).


CONCLUSION

A person hired as an independent contractor through a private company is not considered to be a “public employee” for the purposes of the Ethics Act.

The Ethics Act does not prohibit an independent contractor providing services to a municipality from providing additional services through their separate business to the municipality.

AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on August 6, 2025.


Ret. Gen. Ed Crowell
Chair
Alabama Ethics Commission