

ARKANSAS ETHICS COMMISSION

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Opinion No. 92-EC-017

April 30, 1992

Ms. Carol Clendening
General Counsel and Director of Legal Affairs
AdminaStar, Inc.
8115 Knue Road
Indianapolis, IN 46250

Dear Ms. Clendening:

On April 23, 1992, this office received your request for an official opinion under authority of Initiated Act 1 of 1988 and Initiated Act 1 of 1990.

Your question, paraphrased, is:

Our company has learned that a national non-profit organization has made a substantial grant to the State of Arkansas to be used by a state agency to collect and compile certain health care data. As a specialized service provider, may we contact or hire an agent to contact the head of the state agency to promote our services and seek a contract with the state agency to provide the needed collection and compilation services without having to register as lobbyists?

What follows are the pertinent portions of Arkansas' lobbyist registration, activity, and disclosure laws:

ACA §21-8-402(10) "'Lobbying' means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action;

(11) 'Lobbyist' means a person who:

(A) Receives income or reimbursement in a combined amount of two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies; or

(B) Expends two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

§21-8-601 (a)(1) "A lobbyist shall register within five (5) days after beginning lobbying.

(2) A lobbyist shall not be required to register if he or she engages in no lobbying other than the following activities:

(H) Action by contractors or employees of contractors while engaged in selling to a governmental body by demonstrating or describing commodities or services or inquiring as to specifications or terms and conditions of a particular purchase unless such contractor or its employees expend in excess of two hundred fifty dollars (\$250) in a calendar quarter for food, lodging, travel, or gifts to benefit public servants who purchase commodities or services on behalf of a governmental body." (emphasis added)

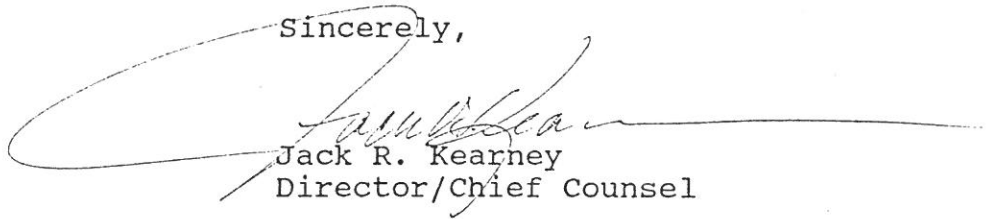
If your company or its representative engages in no activities other than contacting the state agency head, informing him of your services and providing him or her with materials which helps him choose among several vendors or contractors, you would not need to register as a lobbyist unless you expended two hundred fifty dollars (\$250.00) or more per quarter on benefits to the agency head in order to influence him to choose your company.

However, if the contract or arrangement you refer to is not one already utilized by the agency, and your efforts included convincing the agency head of the benefits of contracting the services through your company as opposed, for example, to using in-house employees or using the services of another state agency as

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would be his or her normal course, then your entire effort would be deemed a lobbying effort and would require registration if more than two hundred fifty dollars (\$250) a quarter is expended in any way in the effort. The person or persons who actually engages in the lobbying effort is expected to register and disclose the lobbying activity.

Sincerely,



Jack R. Kearney
Director/Chief Counsel

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