

Opinion No. 2007-269

October 25, 2007

The Honorable Robert T. Rogers, II
Prosecuting Attorney
Nineteenth-East Judicial District
301 West Trimble
Post Office Box 536
Berryville, Arkansas 72616

Dear Mr. Rogers:

I am writing in response to your request for an opinion on the application of A.C.A. § 14-14-1202 to a particular situation in Carroll County. Specifically, you recite the following facts and pose the following question:

An anonymous donor gave \$20,000.00 to Carroll County, Arkansas. The anonymous donor is now a vendor of asphalt to the county pursuant to an award of the asphalt contract after the asphalt contract was bid. The donor was not the vendor at the time the bid award was made. The donor subsequently purchased the assets of the asphalt company after the bid award.

The donor, in two separate checks of \$10,000.00 each, specified that the money was to be split evenly between the county road department and the sheriff's office for use as a bonus for selected employees of those two departments. The determination of which employees would receive the compensation was left to the discretion of the county judge for the road department employees and the sheriff for the sheriff's employees. No elected official will receive any additional compensation.

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The money was deposited into the county's general fund and subsequently appropriated on August 24, 2007, by the quorum court to the salaries line items of the road department and the sheriff's office budgets. The money has not been paid out to employees pending a resolution of any ethical issue.

Does this arrangement violate Ark. Code Ann. Section 14-14-1202?

Our office has sought an opinion from the Arkansas Ethics Commission with regard to Ark. Code Ann. Section 21-8-801.

RESPONSE

It is my understanding that the Arkansas Ethics Commission has issued its advisory opinion regarding this matter, concluding that the situation described above appears to violate A.C.A. § 21-8-801. *See* Arkansas Ethics Commission, Advisory Opinion No. 2007-EC-005. In my opinion, therefore, it is unnecessary to issue an Attorney General's advisory opinion on your remaining question regarding A.C.A. § 14-14-1202.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:ECW/cyh