

TEXAS A&M UNIVERSITY-KINGSVILLE

Title: Conflict of Interest and Ethics
Procurement Rule No.: P-060

Approved by:
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I. Purpose

The purpose of this policy is to provide guidance to employees engaged in any aspect of the procurement function concerning the avoidance of conflict of interest and to establish the ethical standards for the procurement professionals.

II. Scope

This policy applies to all employees who participate in any phase of the procurement process.

III. Conflict of Interest

Employees engaged in the procurement function are expected to be free of interests or relationships which are or potentially inimical or detrimental to the best interests of the University, and shall not engage or participate in any commercial transaction involving the University, its affiliates, divisions or subsidiaries in which they have a significant undisclosed financial interest.

Any employee engaged in procurement that has assumed, or is about to assume, a financial or other outside business relationship that might involve a conflict of interest, must immediately inform the supervisor of the circumstances involved. This information is to be reviewed at an appropriate level for decision on whether a conflict of interest is present and, if so, what course of action is to be taken. In this connection, a conflict of interest exists where an employee:

1. Has an outside interest that materially encroaches on time or attention which should be devoted to the affairs of the University.
2. Has a direct or indirect interest in or relationship with an outsider that is inherently unethical or that might be implied or construed to be, or make possible personal gain due to the employee's ability to influence dealings; render the employee partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the employee's business judgment; place the employee or the organization in an equivocal, embarrassing or unethically questionable position; or reflect on the integrity of the organization.
3. Takes personal advantage of an opportunity that properly belongs to the University.
4. Uses University property without approval.

5. Buys or sells stock at a time when the employee has “inside” information as a result of his position or job within the University.
6. Discloses University trade secrets or any other proprietary information to unauthorized persons.

IV. Codes of Ethics

The Office of Procurement and General Services subscribes to the Codes of Ethics of:

A. Code of Ethics, The Building and Procurement Commission

1. General Ethical Standards for Employees. Public employment is a public trust. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.
2. General Ethical Standards for Non-Employees. Any effort to influence any public employee to breach the standards of ethical conduct set forth in this Policy Manual is also a breach of ethical standards.
3. Conflict of Interest. It shall be a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that.
 - a. the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.
 - b. the employee, or any member of the employee's immediate family, has a financial interest pertaining in a business or organization pertaining to the procurement; or
 - c. any other person, business, or organization with whom the employee or any of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
4. Discovery of Actual or Potential Conflict of Interest, and Disqualification. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the transaction. The employee may, at the same time, apply to the Director of Procurement and General Services for an advisory opinion as to what further participation, if any, the employee may have in the transaction.
5. Gratuities. It shall be breach of ethical standards for any employee or former employee to solicit, demand, accept, or agree to accept from another person any

economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any purchasing activity.

6. Kickbacks. It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee a gratuity or an offer of employment in connection with influencing a purchasing activity.

7. For the purpose of interpreting Paragraphs 5 and 6, above, purchasing activity includes:

- a. approvals, disapprovals, or recommendations concerning a purchasing transaction;
- b. preparation of any part of a program requirement or a purchase request;
- c. influencing the content of any specification or procurement standard; and
- d. acting in any advisory capacity including rendering of advice, investigation, or auditing in any purchasing proceeding. For this purpose, purchasing proceeding includes applications, requests for rulings, determinations of claims or controversies and other matters pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

8. Contingent Fees. It shall be a breach of ethical standards for a person to be retained or to retain a person, to solicit or secure a State of Texas contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

9. Representation of Contractor: At the option of the University, a person before being awarded a contract, may be required to represent in writing, that such person has not retained anyone in violation of Paragraph 8, above. Failure to do so constitutes a breach of ethical standards.

10. Contemporaneous Employment Prohibited. It shall be breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee or any person contracting with the University.

11. Disqualification of Business When a Employee Has a Financial Interest. It shall be breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the University, in connection with any:

- a. judicial, or other proceeding, application, request for ruling, or other determination;
- b. contract;

c. claim; or

d. charge or controversy,

in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is subject of the employee's official responsibility, where the University is a party or has a direct and substantial interest.

12. Use of Confidential Information. It shall be breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

B. Code of Ethics, National Institute of Governmental Purchasing

The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization.

1. Seeks or accepts a position as head or employee only when fully in accord with the professional principles applicable thereto, and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
2. Believes in the dignity and worth of the service rendered by the organization and the societal responsibilities assumed as a trusted public servant.
3. Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
4. Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
5. Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
6. Believes that members of the Institute and its staff should at no time or under any circumstances accept directly or indirectly, gifts, gratuities, or other things of value from suppliers which might influence or appear to influence purchasing decisions.
7. Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.

8. Resists encroachment on control of personnel in order to preserve integrity as a professional manager. Handles all personnel matters on a merit basis. Politics, religion, ethnicity, gender, and age carry no weight in personnel administration in the agency being directed or served.

9. Seeks or dispenses no personal favors. Handles each administrative problem objectively and emphatically without discrimination.

10. Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.