

STEPHEN F. AUSTIN
STATE UNIVERSITY

Office of the General Counsel

POLICY SUMMARY FORM

Policy Name: Purchasing Ethics and Confidentiality

Policy Number: 17.22

Is this policy new, being reviewed/revised, or deleted? Review/Revise

Date of last revision, if applicable: 7/28/2015

Unit(s) Responsible for Policy Implementation: Vice President for Finance and Administration

Purpose of Policy (what does it do): This policy exists to address conflicts of interest related to the procurement process.

Reason for the addition, revision, or deletion (check all that apply):

☒ Scheduled Review ☐ Change in law ☐ Response to audit finding

☐ Internal Review ☐ Other, please explain:

Please complete the appropriate section:

Specific rationale for new policy:

Specific rationale for each substantive revision: Changes made to legislation updates.

Specific rationale for deletion of policy:

Additional Comments:

Reviewers:

Kay Johnson, Director of Procurement and Property Services
Danny Gallant, Vice President for Finance and Administration
Damon Derrick, General Counsel

Purchasing Ethics and Confidentiality

Original Implementation: Unpublished

Last Revision: ~~July 28, 2015~~ July 24, 2018

Purpose

This policy identifies conflicts of interest related to the procurement process and establishes guidelines to protect the integrity and objectivity of employees involved in the purchasing process.

Definitions

Family Relationship is defined as anyone within the second degree of affinity or third degree of consanguinity as specified in Nepotism (11.16). The definition is further expanded to include: any firm in which one of these family members is a partner or sole proprietor; ~~or~~ any corporation in which any of those persons holds a 10% or more interest in stock or an investment of \$25,000 or more either directly or indirectly; ~~or~~ and any other individual living in the same household.

Financial Relationship indicates a partnership or other commercial relationship involving a joint venture between the employee and another person or entity. Examples are: research grants, consultancies, honoraria and travel, self-managed equity interest in a company, employment of an immediate family member in a company and/or other benefits or substantial gifts from a company.

Personal Relationship indicates a relationship with a person or entity sufficiently close such that a reasonable person would believe that it would be difficult for the SFA employee to deal with the person as he or she would deal with a stranger.

Commitments and Outside Activities indicates any board on which the employee or officer serves in any organization other than SFA, including, but not limited to, for-profit business entities, 501(c)(3) organizations, etc.

General

Employees and officers of Stephen F. Austin State University are expected to maintain high personal standards in the conduct of daily business on behalf of the university, in addition to complying with all federal, state, and local laws ~~and as well as~~ university policies. Credibility and public confidence are vital throughout the purchasing and contracting process. If any involved party displays a lack of honesty, integrity, or openness, the entire program is injured. Even a perception of impropriety can destroy public confidence and therefore be as harmful as the conduct itself.

For the purpose of protecting both the integrity and objectivity of its employees and officers in the performance of their university obligations, it is the policy of the university that conflicts of

interest should be avoided where possible or otherwise disclosed and managed.

Each employee and officer *should* understand that their primary responsibility is to accomplish the duties and responsibilities assigned to their position and will be required to annually disclose conflicts of interest, conflicts of commitment, and outside activities that could give rise to concerns regarding contracting practices including, but not limited to, *procurement* –cards, purchase requisitions, purchase orders, bi-lateral contracts, or purchase vouchers. Contracts are strictly prohibited if certain officers or employees, or their family members, have a financial interest. See Purchases from Officers or Employees (17.21). SFA employees and officers involved in any form of procurement or the procurement process may not:

- participate or work on a contract by taking action as an employee through decision, approval, disapproval, recommendation, giving advice, investigation or similar action knowing that any person or entity with whom the employee has a family, financial, or personal relationship has an actual or potential financial interest in the contract, including prospective employment;
- participate or work on a contract as noted above knowing that the employee has an actual or potential financial interest in the contract, including prospective employment;
- solicit or accept gifts or gratuities which might tend to influence purchasing decisions;
- be employed by, or agree to work for, a vendor or potential vendor;
- knowingly disclose confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of another person.

Each employee and officer must complete a disclosure once each year and shall update the disclosure during the year as needed to identify applicable changes. The information provided in the disclosure will be considered confidential information and will be released only to those individuals involved in applicable decisions and only as needed or required by law; i.e., procurement, accounts payable, department heads, vice presidents, president, general counsel, etc. The disclosure shall, at a minimum, identify known conflicts of interest identifying family, financial, and personal relationships, conflicts of commitments, and outside activities.

~~Family Relationship—~~

- ~~Anyone within the second degree of affinity or third degree of consanguinity as specified in policy 11.16, Nepotism.~~
- ~~any firm in which any of the above persons is a partner or sole proprietor, or any corporation in which any of those persons or more stock either directly or indirectly, or any other individual living in the same household.~~

~~Financial Relationship—~~ ~~indicates a partnership or other commercial relationship involving a joint venture between the employee and another person or entity. Examples are: research grants, consultancies, honoraria and travel, self-managed equity interest in a company, employment of an immediate family member in a company and/or other benefits or substantial gifts from a company.~~

~~Personal Relationship~~—indicates a relationship with a person or entity sufficiently close such that a reasonable person would believe that it would be difficult for the SFA employee to deal with the person as he or she would deal with a stranger.

~~Commitments and Outside Activities~~—indicates any board on which the employee or officer serves in any organization other than SFA, including, but not limited to, for-profit business entities, 501c3 organizations, etc.

If not related to a particular transaction, university employees may accept from vendors and others: ~~(1)~~unsolicited advertising or promotional material such as pens, pencils, scratch pads, and calendars; ~~(2)~~occasional business lunches or food and refreshments of insignificant value; and ~~(3)~~other items of nominal or minor value (i.e., a box of candy, fruitcake, etc.) that are merely tokens of appreciation. Refer to Ethics (2.6) for the statutory definition of a "benefit." Refer to Gifts, Prizes and Awards (3.18) regarding the giving of gifts, prizes and awards.

Specific rules apply to purchases from ~~an~~ SFA officerss or employees. See Purchases From Officers or Employees (17.21).

Written disclosure specific to the procurement must be signed by all parties involved in the procurement process for major contract awards of \$1 million or more in value. All such written disclosures will be retained in procurement services. Reference Ethics (2.6) for specific information regarding the disclosure.

Specific disclosure is required by SFA employees for consultant contracts in which there is a financial interest in the private consultant by an officer or employee, or by anyone related to the officer or employee within the second degree of affinity or ~~third degree of consanguinity~~. (See Nepotism 11.6) Reference Professional and Consultant Services (17.12) or Ethics (2.6) for specific information regarding the disclosure.

For any contract that requires approval by the Board of Regents before the contract may be signed and has a value of at least \$1 million, the vendor must submit a disclosure of interested parties on a form prescribed by the Texas Ethics Commission. The procurement office shall submit a copy of the disclosure to the Texas Ethics Commission. This requirement does not apply to a sponsored research contract or an interagency contract.

When an actual violation of any of these standards is discovered, the person involved shall promptly file a written statement concerning the matter with the director of procurement and property services. If an actual violation occurs or is not disclosed and remedied, the employee involved may be reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled. Any employee or officer who knowingly violates laws, rules, or policies relating to contracting processes is

subject to disciplinary action up to and including termination. Other penalties may apply depending on the severity of the action. See Ethics (2.6).

Purchasing professionals have the right under law to have any ethics question reviewed and decided by the Texas Ethics Commission. To learn whether a specific action violates the ethics rules, contact the Texas Ethics Commission, 201 East 14th St., 10th Floor, Austin, Texas 78701 or call them at 512-463-5800.

Cross Reference: Ethics (2.6), Professional and Consultant Services (17.12); Purchases From Officers or Employees (17.21); Gifts, Prizes and Awards (3.18); Nepotism (11.16); Tex. Educ. Code § 51.9337; Tex. Gov't Code §§ 573.021-.025, 2252.908, 2254.032, 2261.252, 2262.004; 2 CFR §§ 200.317-.326

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Procurement and Property Services/HUB Coordinator

Forms: Conflict of Interest, Outside Commitment and Activities

Board Committee Assignment: Finance and Audit