

Purchasing Ethics Guidelines

Purpose

These guidelines establish requirements relating to purchases from officers or employees, 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

Financial interest is defined as:

- Owning or controlling, directly or indirectly, an interest of at least one percent in a contractor or business entity, including the right to share in profits, proceeds, or capital gains; or
- Reasonably foreseeing that a contract with the contractor or business entity could result in a financial benefit to the officer or employee.

Financial interest does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

Family Relationship is defined as anyone within the second degree of affinity or third degree of consanguinity as specified in Nepotism (03-208). The definition is further expanded to include: any firm in which one of these family members is a partner or sole proprietor; 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; 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 they would deal with a stranger.

Commitments and Outside Activities indicates any board or activity 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 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 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.

Purchases, including but not limited to procurement card, purchase order and direct pay disbursements from an SFA officer or employee are prohibited except as provided herein. In addition, purchases from any person or entity with whom the SFA officer or employee has a family, financial, or personal relationship must be 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 direct pay disbursements.

The university may not enter into a contract for the purchase of goods or services with any business entity with whom any of the following university employees have a financial interest:

- the president;
- general counsel;
- executive director of finance and administrative services; or
- a family member related to an employee as described above within the second degree of affinity or consanguinity (Reference Nepotism, 03-208)

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.

Except as otherwise prohibited herein, the purchase of commodities from any SFA officer or employee is allowed only if the price is equal to or less than that which can be obtained from any other known and ethical source, regardless of the dollar amount. Solicitation documentation showing pricing from a minimum of two other sources is required for any purchase including, but not limited to, procurement card, purchase order, or direct pay disbursements. A proprietary purchase from an officer or employee may be acceptable, but only with approval from the general counsel.

Except as otherwise prohibited herein, service contracts or agreements between employees and the university must be approved in advance by the director of procurement, with the advice of the general counsel. The standard procedure is to submit an additional compensation form to human resources.

If not related to a particular transaction, university employees may accept from vendors and others: unsolicited advertising or promotional material such as pens, pencils, scratch pads, and calendars; occasional business lunches or food and refreshments of insignificant value; and other items of nominal or minor value (i.e., a box of candy, fruitcake, etc.) that are merely tokens of appreciation. Reference Conflict of Interest, Conflict of Commitment, and Outside Activities (01-402). Reference Gifts, Prizes and Awards (05-104) regarding the giving of gifts, prizes and awards.

Required Disclosures

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 the procurement and business services department.

For any contract that requires approval by the Board of Regents 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, interagency contract, a contract with a publicly traded business entity (including a wholly owned subsidiary of the business entity, or a contract with an electric or gas utility).

Specific disclosure is required by SFA employees and officers 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 consanguinity.

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, members of cabinet, 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. Reference Best Value Procurement (05-301), Nepotism (03-208), and Conflict of Interest, Conflict of Commitment, and Outside Employment (01-402) for specific information regarding the disclosure.

Violations

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 executive director of finance and administrative 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. Reference Conflict of Interest, Conflict of Commitment, and Outside Employment (01-402).

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.

Forms: Exclusive Acquisition Justification Form; Employee Annual Conflict of Interest Disclosures

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