



MIDWESTERN STATE UNIVERSITY

## Operating Policies & Procedures Manual

### University Operating Policy/Procedure (OP)

#### **OP 30.02: Conflicts of Interest Relating to Purchasing, Payments, and Contracts**

<b>Approval Authority:</b>	President
<b>Policy Type:</b>	University Operating Policy and Procedure
<b>Policy Owner:</b>	Vice President for Administration and Finance
<b>Responsible Office:</b>	Director of Purchasing and Contract Management
<b>Next Scheduled Review:</b>	09/01/2025 (This OP will be reviewed in November of every odd year, or as needed, by the MSU Director of Purchasing and Contract Management with recommended revisions forwarded through the Vice President for Administration and Finance to the President.)

#### **I. Policy Statement/Purposes**

Midwestern State University (“MSU” or “University”) is a component institution of the Texas Tech University System (“System” or “TTUS”). The purpose of this Operating Policy/Procedure (OP) is to define conflicts of interest with respect to: (1) the conduct of employees; and (2) payments, purchases, and/or contracts by MSU or related entities in compliance with *Texas Government Code* Sec. 572 and Chapter 03 (Personnel) of the *TTUS Regents’ Rules*.

#### **II. Policy/Procedure**

##### **A. Policy for Officers, Faculty, and Staff**

###### **1. General Rule**

Officers, faculty, and staff (“employees”) of MSU may not have direct or indirect interests, including financial and other interests; engage in business transactions or professional activities; or incur any obligation of any nature that is in substantial conflict with the proper discharge of the employee's duties, including any purchasing, payables, or contracting function in which such employee has any delegated authority to conduct or approve the transaction. Any potential conflict of interest must be disclosed to the employee's supervisor. The supervisor is responsible for evaluating the conflict and, if there are concerns, reporting the conflict to the Director of Purchasing and Contract Management.

Employees may not act as an agent for another person or entity in the negotiation of the terms of an agreement relating to the provision of money, services, or property to MSU.

MSU may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following employees or officials have a financial interest:

- a. The Chancellor, Vice Chancellor and General Counsel, President, Director of Purchasing and Contract Management, or equivalent employee responsible for procuring goods and services for the institution involved in the contract; or
- b. A family member related to the employees and officials listed above within the second degree of affinity or consanguinity.

A copy of this operating policy shall be distributed to each new employee not later than the third business day after the date the person begins employment with the University, in accordance with *Texas Government Code 572.051 (c) (2)*.

## 2. Benefits and Gifts

A “benefit” is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any person in whose welfare an MSU employee has an interest as under state laws.

An employee shall not receive, attempt to receive, nor intend to receive at any time any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service from any vendor in connection with any bid, proposal, qualification request, purchase, payment, or contract.

An employee shall not make personal investments that could be reasonably expected to impair the employee's independence of judgment in the performance of the employee's job duties.

## 3. Dual Employment

An employee may not be in any dual employment positions that would result in a conflict of interest in relation to their position at MSU. If such a circumstance arises, the employee shall remove herself/himself from the procurement and/or contract process and disclose the relationship to their direct supervisor and to the Director of Purchasing and Contract Management.

An MSU department may not engage a vendor to provide goods or services under the following circumstances:

- a. A current employee of such department is also employed by such vendor;
- b. A current employee of such department or their spouse, children, or parents have a direct or indirect ownership interest in such vendor;
- c. A current employee serves on the board of directors or other governing board of the vendor or serves as an elected officer of the vendor; or

- d. The hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department.
- 4. If the owner of any such vendor who provides services to MSU is an MSU employee, a compliant payment to any vendor classified as a sole proprietorship or an individual shall be made through the Business Office.
- 5. Transactions with Other Individuals and/or Entities

An employee shall not conduct any transaction with other individuals and/or entities in which the employee is related by blood or marriage to such individual and/or any owner or employee of such entity. If such a circumstance arises, the employee shall remove herself/himself from the process and disclose the relationship to their supervisor and to the Director of Purchasing and Contract Management.

An MSU department may not hire a vendor under the following circumstances:

- a. The Chancellor, President, Vice Chancellor and General Counsel, or the Director of Purchasing and Contract Management or a family member has a financial interest in the vendor;
- b. A current employee of such department is also employed by such vendor;
- c. A current employee of such department has a direct or indirect ownership interest in such vendor;
- d. A current employee serves on the board of directors or other governing board of the vendor or serves as an elected officer of the vendor; and/or
- e. The hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department.

An employee shall not make any unauthorized commitments or promises of any kind purporting to bind MSU for any goods or services without an authorized purchase order and/or contract.

An MSU employee shall act impartially and not give preferential treatment to any private or public organization or individual.

## **B. Policy for Vendors**

### **1. Bidder/Proposer Affirmation**

Vendors shall be required to sign MSU's Affirmation and Conflict of Interest Disclosure when submitting any competitive procurement response to MSU/TTUS. MSU's Affirmation and Conflict of Interest Disclosure requires prospective vendors to affirm their compliance with state laws, federal laws, and/or MSU/TTUS policies, as applicable. MSU's Affirmation and Conflict of Interest Disclosure becomes part of any solicitation and becomes part of the binding terms and conditions on any resulting contract or purchase order. Any misrepresentation or false statement that is deemed material by MSU/TTUS is a

breach of contract, which shall void or make voidable any solicitation, resulting contract, or purchase order.

Vendors shall be required to affirm the terms of MSU's Affirmation and Conflict of Interest Disclosure to remain in compliance with all items throughout the duration of the contract or purchase order. In instances where the term "bidder" or "proposer" is used, that term shall also refer to the vendor once a successful purchase order or contract has been established.

- a. The bidder/proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to an employee in connection with the submitted bid/proposal or any resulting contract or purchase order.
- b. Pursuant to *Texas Government Code*, Title 10, Subtitle D, Section 2155.004 (a), the bidder/proposer has not received compensation for participation in the preparation of the specifications for this solicitation.
- c. Pursuant to *Texas Government Code*, Title 10, Subtitle D, Section 2155.004 (b), the bidder/proposer certifies that the individual or business entity named in such bid, proposal, or contract is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
- d. By submitting a bid/proposal, the bidder/proposer is certifying that neither the owners nor any employees are in dual employment positions as an MSU employee. In addition, the bidder/proposer is certifying that the owner and any employee are not related in any manner to any MSU employee. If such a relationship exists, then that relationship shall be disclosed during the bid/proposal process to the Purchasing and Contract Management Office. If the status of any owner or employee of the bidding/proposing company changes during the contract or purchase order, then that relationship shall be disclosed immediately to the Director of the Purchasing and Contract Management. Any violation of this policy shall result in immediate cancellation of any resulting contract or purchase order in addition to a potential disbarment of the company from doing business with the State of Texas.
- e. By submitting a bid/proposal, the bidder/proposer is certifying that neither the owner nor any employee is related in any manner to any member of the Board of Regents or any legislative representative of the district in which MSU is located. If the status of any owner or employee of the bidding/proposing company changes during the contract or purchase order, then that relationship shall be disclosed immediately to the MSU Director of Purchasing and Contract Management. Any violation of this policy shall result in immediate cancellation of any resulting contract or purchase order in addition to a potential disbarment of the company from doing business with the State of Texas.

### C. Policy for Procurement Services Staff

In addition to the rules for officers, faculty, and staff, Purchasing and Contract Management staff members shall also follow the following policies:

- a. Purchasing and Contract Management staff members shall disclose annually any relations they may have that would cause a conflict of interest in performing their duties. If such conflict exists, the staff member shall remove herself/himself from any procurement in which there might be a conflict. Staff members shall at all times keep their supervisors notified of any conflicts and any changes in the status of a conflict.
- b. A Purchasing and Contract Management staff member must disclose any confidential information in which there would be private interest or personal gain.
- c. A Purchasing and Contract Management staff member may not authorize any purchase order, contract, or payment with any vendor in which there would be private interest or personal gain.

### D. Disclosure System

All employees with approver, requisitioner, and purchaser permissions in [Banner Finance](#) and all financial managers of any organization code in Banner are required to disclose conflicts annually in the MSU Conflict of Interest disclosure process. Supervisors are responsible for ensuring that their employees have made the required disclosure and are responsible for mitigating the risk of any conflict in consultation with the MSU Director of Purchasing and Contract Management.

## III. Related Statutes, Rules, Policies, and Forms

#### Related Statutes/Rules:

*Texas Government Code* §572 - Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest

TTUS *Regents' Rule* Chapter 03 - Personnel

TTUS *Regents' Rule* Chapter 07.12 – Contracting Policies and Procedures

[TTUS Contract Management Handbook](#)

#### Related OPs:

[OP 02.09: Conflict of Interest and Commitment](#)

[OP 30.01: Approval and Execution of University Contracts](#)

[OP 30.05: Use of Private Consultants](#)

[OP 30.06: Professional Services](#)

[OP 54.01: Purchase of Goods and Services](#)

#### Related Forms:

[Non-Disclosure and Conflict of Interest Disclosure \(Evaluation Team Member\)](#)

#### IV. Responsible Office

Contact: MSU Director of Purchasing and Contract Management  
Phone: 940-397-4277  
E-mail: [tracy.nichols@msutexas.edu](mailto:tracy.nichols@msutexas.edu)

#### V. History

22 Sept. 2023: Adopted and approved by MSU President Stacia Haynie as MSU Operating Policy/Procedure (OP) 30.02: Conflicts of Interest Relating to Purchasing, Payments, and Contracts. The OP is needed to: define conflicts of interest with respect to: (1) the conduct of employees; and (2) payments, purchases, and/or contracts by MSU or related entities in compliance with *Texas Government Code* Sec. 572 and Chapter 03 - Personnel of the TTUS *Regents' Rules*.