

# **Texas Woman's University University Regulation and Procedure**

<b>Regulation and Procedure Name:</b>	<b>Conflicts of Interest Relating to Purchasing, Payments and Contracts</b>
<b>Regulation and Procedure Number:</b>	<b>URP: 04.350</b>
<b>Policy Owner:</b>	<b>Finance and Administration</b>

## **POLICY STATEMENT**

The purpose of the Regulation and Procedure (“URP”) is to define conflicts of interest with respect to (1) the conduct of employees and (2) payments, purchases, and/or contracts by Texas Woman’s University (“TWU”) in compliance with Texas Government Code Section 572.

## **APPLICABILITY**

This policy is applicable to TWU Faculty, Staff, and University Affiliates.

## **DEFINITIONS**

1. “University Affiliate” means any individual associated with TWU in a capacity other than as a Student or Employee who has access to TWU resources through a contractual arrangement or other association. This includes the following individuals:
  - a. Contractors and Vendors: an individual, business, or governmental entity that has a fully executed contract to provide goods or services to TWU. This includes employees of contractors or vendors and independent contractors.
  - b. Employee of a Governmental Agency: an individual employed by a federal or Texas state agency.
  - c. Employee of a TWU-Affiliated Institution: an individual who works for organizations that are tightly aligned with the University.
  - d. Pre-Employment Individual: an individual who will be hired by the University and the hiring department has sponsored their access to TWU resources.

- e. Other University Affiliate: any individual who does not fit into any other category and needs access to TWU resources.

## **REGULATION AND PROCEDURE**

### **I. Policy/Procedure for Officers, Faculty and Staff**

#### **A. General Rule**

Officer, faculty and staff (“employees”) of TWU 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 Assistant Vice President of Procurement and Contract Services and be resolved prior to any obligation being made.

#### **B. Benefits and Gifts**

1. A “benefit” is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any person in whose welfare a TWU employee has an interest as under state laws.
2. 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, qualifications request, purchase, payment or contract.
3. 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.

#### **C. Dual Employment**

1. An employee may not be in any dual employment positions that would result in a conflict of interest in relation to his/her position at TWU. If such circumstance arises, the employee shall remove him/herself from the process and disclose the relationship to his/her direct supervisor and to the Assistant Vice President of Procurement and Contract Services.
2. A TWU department may not hire a vendor under the following circumstances:

- a. A current employee of such department is also employed by such vendor;
- b. A current employee of such department has 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;
- d. The hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department.

#### D. Compliant Payment

If the owner of any such vendor who provides services to TWU is a TWU employee, compliant payment to any vendor classified as a sole proprietorship or an individual shall be made through Payroll Services.

#### E. Transactions with Other Individuals and/or Entities

1. 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 circumstance arises, the employee shall remove him/herself from the process and disclose the relationship to the Assistant Vice President of Procurement and Contract Services.
2. A TWU department may not hire a vendor under the following circumstances:
  - a. A current employee of such department is related to an employee of the vendor and the employee of the vendor would receive a financial benefit resulting from the transaction;
  - b. A current employee of such department is related to a person who has direct or indirect ownership interest in the vendor; and/or
  - c. The hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department.
3. An employee shall not make any unauthorized commitments or promises of any kind purporting to bind TWU for any services without an authorized purchase order and contract.

4. A TWU employee shall act impartially and not give preferential treatment to any private or public organization or individual.

## II. Procedure for Disclosures

### A. Required Disclosures

1. An employee must file timely written disclosure statements as required by law, rule, or policy. An employee's position with Texas Woman's University, relationship with other employees, contemplated activity, etc. will determine which disclosure statements, if any, are required.
2. Some pertinent examples include: (1) If an employee is in a position to make decisions or exercise significant discretion over whether the University enters into a contract or agreement, he or she must complete the Non-Disclosure and Conflict of Interest Certification form. (2) For procurements with an expected value of \$1 million or more, the SAO Nepotism Disclosure Statement of Purchasing Personnel must be utilized. Any actual or potential conflicts of interest must be reported promptly to legal counsel.

### B. Consequences for Violations

1. There are consequences for failing to comply with conflict of interest laws, rules, or policies. The law provides that appropriated money may not be used to compensate an employee who violates the standards of conduct. Failure to comply may be grounds for disciplinary action by Texas Woman's University, including termination of employment. Additionally, civil and criminal penalties may apply under certain circumstances.
2. Summary: Employees may be subject to disciplinary action or civil or criminal penalties for violating a conflicts of interest law, rule, or policy.

## III. Policy/Procedure for Vendors and Bidder/Proposer Affirmation

- A. Vendors shall be required to sign the Bidder/Proposer Affirmation (Affirmation) when submitting any procurement response to TWU. The Affirmation requires prospective vendors to affirm their compliance with state laws, federal laws, and/or TWU policies, as applicable. The Affirmation 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 TWU is a breach of contract, which shall void or make voidable any solicitation, or resulting contract or purchase order.

- B. Vendors shall be required to affirm the terms of the Affirmation in order to remain in compliance with all items throughout the duration of the contract or purchase order. In instances where the term “bidder/proposer” is used, that term shall also refer to the vendor once a successful purchase order or contract has been established.
- C. 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.
- D. Pursuant to Texas Government Code, Title 10, Subtitle D, Section 2155.004 (b), the bidder/proposer has not received compensation for participation in the preparation of the specifications for this solicitation.
- E. Pursuant to Texas Government Code, Title 10, Subtitle D, Section 2155.004 (b), the bidder/proposer certifies that the individual or business entity names 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.
- F. By submitting a bid/proposal, the bidder/proposer is certifying that neither the owners nor any employees are in dual employment positions as a TWU employee. In addition, the bidder/proposer is certifying that the owner and any employee are not related in any manner with any TWU employee. If such relations exist, then that relationship shall be disclosed during the bid/proposal process to the Procurement and Contract Services Office. If the status of any owner or employee of the bidding/proposing company changes during the course of the contract or purchase order, then that relationship shall be disclosed immediately to the Assistant Vice President of Procurement and Contract Services. Any violation of this policy/procedure 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.
- G. By submitting a bid/proposal, the bidder/proposer is certifying that neither the owner nor any employee is related in any manner with any member of the Board of Regents or any legislative representative of the district in which TWU is located. If the status of any owner or employee of the bidding/proposing company changes during the course of the contract or purchase order, then that relationship shall be disclosed immediately to the Assistant Vice President of Procurement and Contract Services. Any violation of this policy/procedure 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.

#### IV. Policy/Procedure for Procurement and Contract Services Staff

- A. In addition to the rules for officers, faculty, and staff, staff members in Procurement and Contract Services shall also follow the following policies/procedures:
1. Procurement and Contract Services 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 himself/herself 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.
  2. A staff member of Procurement and Contract Services must disclose any confidential information in which there would be a private interest or personal gain.
  3. All staff members of Procurement and Contract Services receive training within the first two weeks of their hire date as well as ongoing ad hoc training sessions as needed.
- B. A staff member of Procurement and Contract Services may not authorize any purchase order, contract, or payment with any vendor in which there would be a private interest or personal gain.

#### **REVIEW**

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

#### **REFERENCES**

Texas Government Code 2261.256

Texas Education Code 51.9335

#### **FORMS AND TOOLS**

SAO Nepotism Disclosure Statement of Purchasing Personnel

<p><b>Publication Date:</b></p> <p><b>Next Review:</b></p>
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