Conflict of Interest and Procurement Training
Training Topics

• **Conflict of Interest**
  - Accepting gifts
  - Prohibited contracts
  - Reporting potential conflicts

• **Procurement**
  - State procurement laws
  - Procurement and contracting process
  - Pre-approval required for certain contracts and POs
  - Fund types and uses
Conflict of Interest

- Conflict of interest is when an employee or regent uses their position at UH System to obtain unauthorized privileges, benefits, or things of value for themselves or others. BOR 57.08 and SAM 02.A.09, Conflict of Interest.
- Both actual and apparent conflicts of interests must be reported by the employee or regent, so the situation can be addressed to make certain it does not interfere with UH System activity or interest.
Accepting Gifts

• Employees may not accept gifts from companies or individuals interested in doing business with UHS including:
  – cash, checks or gift cards of any amount
  – non-cash gifts worth more than $50
  – any gift, favor, or privilege that might influence an employee’s decision to perform his or her job differently

• If you are not sure if accepting the gift is appropriate, don’t accept the gift
# Prohibited Contracts

<table>
<thead>
<tr>
<th>UHS Person</th>
<th>Prohibited Contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of Regents (substantial interest)</td>
<td>No component of UHS can contract with the vendor for goods or services with the exception of those related to Regents and then only if the relationship is disclosed and the Regent refrains from voting on the contract or transaction.</td>
</tr>
<tr>
<td>Employees (financial interest) - Chancellor, President, General Counsel, CFO, Purchasing Director, and everyone between CFO and Purchasing Director Or family who has a financial interest in a private vendor.</td>
<td>Regents and employees (through their supervisor) must notify General Counsel of any known financial interests regarding contracts or bids</td>
</tr>
</tbody>
</table>

All other UHS employees (not listed above), or their family, who have a financial interest in a private vendor.

Employee may not purchase from, or recommend, negotiate, or approve a contract with the vendor for UHS, or ask others to do so

Employee may not continue to serve on a vendor selection committee if the vendor submits a bid or proposal

Note: “Family” and “financial interest” are defined in the upcoming slides
Definition of Family for Contracting and Procurement

Family is defined as the following relatives of the Employee or Regent:

- Spouse
- Child
- Parent
- Mother-in-Law
- Father-in-Law
- Son-in-Law
- Daughter-in-Law
- Stepson
- Stepdaughter
- Stepmother
- Stepfather
- Brother
- Sister
- Brother-in-Law
- Sister-in-Law
- Grandchild
- Grandchild's Spouse
- Grandparent
- Grandparent's Spouse
- Spouse's Grandparent
- Spouse's Grandchild
Financial Interest – State Employee

• Texas Government Code 2261.252: A state agency employee or official has a financial interest in a person if the employee or official:
  – owns or controls, directly or indirectly, an ownership interest of at least one percent in the person, including the right to share in profits, proceeds, or capital gains; or
  – could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.
  – does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation

• Applies to family members as well
Substantial Financial Interest - Regent

- Texas Education Code 51.923: a member of a governing board has a substantial interest in a business entity if:
  - the member owns one percent or more of the voting stock or shares of the business entity or owns either one percent or more or $15,000 or more of the fair market value of the business entity;
  - funds received by the member from the business entity exceed one percent of the member's gross income for the previous year;
  - the member is an officer of the business entity or a member of the governing board of the business entity;

- Applies to family members as well
## Reporting Potential Conflicts

### Pre-Approval is Required

<table>
<thead>
<tr>
<th><strong>Situation</strong></th>
<th><strong>Approval Process</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-time employee wants to accept an additional position at another UHS component or another state agency</td>
<td>Full-time employee request approval with the Consulting and Paid Professional Services Form</td>
</tr>
<tr>
<td>Exempt staff employee wants to do consulting or other outside employment work similar to their UHS position</td>
<td>Exempt staff employee request approval with the Consulting and Paid Professional Services Form</td>
</tr>
<tr>
<td>Other activities that may create a conflict of interest, time, or commitment with an employee's UHS responsibilities</td>
<td>Employee discusses with supervisor, chair, or Director who may meet with General Counsel if needed and obtain appropriate approvals</td>
</tr>
</tbody>
</table>
# Reporting Potential Conflicts

## Disclosure is Required

<table>
<thead>
<tr>
<th>Situation</th>
<th>Disclosure Process</th>
</tr>
</thead>
</table>
| Faculty member wants to do consulting or other outside employment that is similar to his/her position to UHS | • Prior notification and annual disclosure to Dean on Consulting and Paid Professional Service Form  
Pre-approval is not required but Dean may deny if conflicts with UHS interests |
| Employee has a related -party situation that could cause a conflict of interest | • Annual disclosure in Related-Party Disclosure Process |
| Employee works for multiple UHS components/state agencies or staff who do consulting/have outside employment | • Annual disclosure in Consulting and Paid Professional Service Form |
| Athletics employee receives income or other benefits from sources outside of UHS | • Annual disclosure in Consulting and Paid Professional Service Form (NCAA Compliance) |
| Principal Investigator and others involved in research project and/or proposal | • Annual disclosure of conflict of interest in research and updates when needed  
Follow campus procedures for guidance |
State Procurement Laws

- Texas Education Code 51.9335: Best Value (all goods and services except major construction, renovation, or repair services, professional services, and consulting services)
- Texas Education Code 51.776 – 785: building construction, renovation, or repair services over $1 million
- Texas Government Code 2254.001 – 007: professional services (architect, engineer, etc)
- Texas Human Resource Code 122: State Use Program, applies to state funds only.
- Texas Government Code 572.069: Employment after UH System
Best Value Selection Criteria

• **Texas Education Code 51.9335**
• Purchase price
• Vendor’s reputation, and the reputation of the vendor's goods or services
• Quality of vendor's goods or services
• Extent to which the goods or services will meet our needs
• Past relationship (performance) with UH System
• Compliance with HUB and State Use Program laws and rules
• Long-term cost of vendor's goods or services;
• Other relevant factors that a private business entity would consider in selecting a vendor;
• Materials for building construction or repair that are available from multiple vendors (unless using a unique material is justified in the RFP)
Building Construction/Renovation/Repair

- Texas Education Code 51.776 – 785
- Procurement Methods:
  - Design-Build
  - Construction Manager Agent
  - Construction Manager At Risk
  - Competitive Sealed Proposals
  - Job Order Contracts (minor contracts)

Building construction, renovation, and repair projects are managed by Facilities Planning & Construction
Professional Services

- Texas Government Code 2254.001 – 007
- Use Request for Qualifications (RFQ) to select vendor based on qualifications, not price
- Types of Professional Services

Accountant (CPA)        Optometrist
Architect               Physician
Engineer               Real Estate Appraisor
Land Surveyor          Registered Nurse
Landscape Architect
Historically Underutilized Business

• Texas Government Code 2161 & Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter D, Division 1. 20.281 – 20.298

• Required to utilize HUB vendors whenever possible to meet HUB use goals
  – Spot Purchase – HUB Vendors encouraged
  – Informal Bids – 2 or 3 bids from HUB Vendors
  – Formal Solicitations – Notify HUB Vendors
  – Formal Solicitations over $100K – Vendor must submit a HUB Subcontracting Plan if Purchasing determines that subcontracting is probable
  – HUB program applies to all fund types
State Use Program

- Texas Human Resource Code 122
- State Use Program require state agencies and universities to purchase goods and services from community rehabilitation programs that employ disabled Texans when their goods and services meet our needs in the time required.
- Agencies and universities must report monthly why it did not use State Use Program vendors when buying the same goods or services from other vendors. Price cannot be the reason.
- Requisition is used to gather this information for reporting.
- Applies to state funds only.
Employment after UH System

• Texas Government Code 572.069

• UHS employees that participate in a procurement or contract negotiation may not work for the chosen vendor for 2 years after leaving UHS
  – Participates in evaluation committee for RFP/RFQ
  – Involved in selecting vendor for other purchases (ITB, informal bid, sole source, emergency)
  – Signs or negotiates contract for UHS
# Procurement Methods

<table>
<thead>
<tr>
<th>Procurement Method</th>
<th>Only Federal Funds</th>
<th>Only Non-Federal Fund</th>
<th>Combined Federal and Non-Federal</th>
<th>Competition</th>
<th>HUB Vendors</th>
<th>Method</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Spot Purchase</strong></td>
<td>$0 - $9,999.99</td>
<td>$0 - $14,999.99</td>
<td>$0 - $9,999.99</td>
<td>No</td>
<td>Encouraged Voucher or P-Card</td>
<td></td>
</tr>
<tr>
<td><strong>Informal Bid</strong></td>
<td>$10,000.00 - $249,999.99</td>
<td>$10,000.00 - $25,000.00</td>
<td>3 Quotes</td>
<td>Required to Requisition obtain 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Formal Solicitation</strong></td>
<td>$250,000.00 or more</td>
<td>$25,000.01 or more</td>
<td>$25,000.01 or more</td>
<td>Yes</td>
<td>Required to notify Requisition after bids evaluated</td>
<td></td>
</tr>
</tbody>
</table>
## Types of Formal Solicitations

<table>
<thead>
<tr>
<th>Type of Solicitation</th>
<th>Description</th>
<th>Minimum Days on Electronic State Business Daily</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invitation to Bid (ITB)</td>
<td>Common goods (supplies, furniture, standard equipment)</td>
<td>14 days</td>
<td>Lowest bid that meets ITB requirements; no negotiation</td>
</tr>
<tr>
<td>Request for Proposal (RFP)</td>
<td>Complex goods and/or services (specialty equipment, consulting, construction)</td>
<td>21 days</td>
<td>Committee evaluates proposals against RFP criteria, including price; can negotiate</td>
</tr>
<tr>
<td>Request for Qualifications (RFQ)</td>
<td>Professional services (Architect, engineer, physician)</td>
<td>21 days</td>
<td>Committee evaluates qualifications against RFQ criteria, excluding price; can negotiate</td>
</tr>
</tbody>
</table>
## Types of UHS Contracts

<table>
<thead>
<tr>
<th>Description of Contract</th>
<th>Type of Document</th>
<th>Document Approved By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase goods, materials, or supplies</td>
<td>Purchase Order</td>
<td>Campus Purchasing Department</td>
</tr>
<tr>
<td>Procure services and other signed agreements that are NOT research related</td>
<td>UHS Standard Agreement (preferred) or vendor's agreement</td>
<td>UHS Contract Administration or campus Contracts office</td>
</tr>
<tr>
<td>Procure services and other signed agreements that are research related</td>
<td>UHS Standard Agreement (preferred) or vendor's agreement</td>
<td>Campus Office of Contracts &amp; Grants or Sponsored Projects</td>
</tr>
</tbody>
</table>

Note: All expense contracts (except research agreements) at any amount on state funds and 15K or more on local funds must be listed on the UHS website for as long as the contract is in effect (TX GOVT CODE 2261.253). Therefore, these agreements for goods and services must be placed on a PO to include them in the list. The UH Finance Department maintains this list for all campuses.
Non-Research Agreements

• Review the “Contract Management Handbook” on the UHS Contract Administration website before entering into a non-research contract.

• Email contractadmin@uh.edu with questions about the contracting process or consult your campus Contracts Office.
State And Cooperative Contracts

• Contracts solicited by the state or by a purchasing cooperative, including:
  – TxSmartBuy (Comptroller’s State Contracts)
  – Department of Information Resources (DIR)
  – BuyBoard Purchasing Cooperative
  – E&I Purchasing Cooperative
  – US Communities Purchasing Cooperative

• Send requisition and contract to Purchasing to place order
Sole Source Purchase

- Only one vendor can provide the good or service required
- Sole Source Justification form must be approved by Purchasing in advance.
  - Examples:
    - annual software license for an already-installed software that is only available from the software vendor (copyright or patent)
    - replacement parts that are only available from the manufacturer through one distributor in Texas.
  - Attach the Sole Source Justification form to the requisition/PO
Emergency Purchase

- A purchase of goods or services so critical that will suffer severe financial or operational damage unless they are obtained immediately.

- Purchase must be justified by providing the following information:
  - Nature of emergency (hazard to life, health, safety, welfare, or property) and cause of emergency.
  - Estimated impact (financial or otherwise) if normal procurement process is followed.
  - Explanation why the needs could not have been anticipated and procured through the standard process.

- Attach justification letter/form to requisition/PO.

- Under this purchase provision, any contract over $100,000 must have a contract period not exceeding 18 months or life of project. There will be no option to extend the contract period.
Pre-Approval Required for Hazardous Items and Vehicles

- Attach Pre-Approval Form for Hazardous Items or Vehicle to requisition and send to Purchasing
- Hazardous Items (approved by Environmental Health and Life Safety)
  - Radioactive materials
  - X-ray machines
  - Class 3b and 4 lasers
  - Biological agents and biological safety cabinets
  - UH-controlled chemicals (see pre-approval form for list)
- Vehicles, including golf carts (approved by Facilities)
### Additional Approval Required for Large Contracts and Purchase Orders

<table>
<thead>
<tr>
<th>Amount of Contract or PO</th>
<th>Additional Approval Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100K to $300K (non-Athletics)</td>
<td>Division VP</td>
</tr>
<tr>
<td>$100K to $300K (Athletics)</td>
<td>Athletic Director and UHS CFO</td>
</tr>
<tr>
<td>$300K to $500K</td>
<td>Division VP and UHS CFO</td>
</tr>
<tr>
<td>$500K to $1 million</td>
<td>President and UHS CFO</td>
</tr>
<tr>
<td>Over $1 million</td>
<td>Board of Regents</td>
</tr>
</tbody>
</table>

Employees are not authorized to sign contracts on behalf of the System for any amount unless they have been delegated authority by the Board of Regents or as authorized in the Delegations of Authority Table at [http://www.uh.edu/legal-affairs/contract-administration/signature-authority/](http://www.uh.edu/legal-affairs/contract-administration/signature-authority/)

Note: Contracts require a signature, but there is no signature on a Purchase Order. If your purchase is goods that are on a PO with a related contract, you will obtain signature on the contract. If your purchase is goods that are on a PO with no related agreement, the PO itself does not require signature. You will obtain approvals using the Addendum C for Purchases over $100,000, as defined by the form.
## Fund Types and Uses

<table>
<thead>
<tr>
<th>Code</th>
<th>Fund Type</th>
<th>Source of Fund</th>
<th>Use of Fund/Restrictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1xxx</td>
<td>Education and General Funds</td>
<td>State appropriations, statutory tuition, Higher Education Assistance Funds (HEAF)</td>
<td>Restricted by General Appropriations Act, Comptroller's rules for state funds and Legislative Budget Board rules for HEAF</td>
</tr>
<tr>
<td>2xxx</td>
<td>Designated Funds</td>
<td>Sales and services, designated tuition, indirect cost revenue</td>
<td>University operations; restricted by UHS rules for tuition and federal rules for indirect cost</td>
</tr>
<tr>
<td>3xxx</td>
<td>Auxiliary Funds</td>
<td>Student fees, housing, parking, athletics event tickets, etc.,</td>
<td>Used for auxiliary operations; Athletics restricted by NCC requirements</td>
</tr>
<tr>
<td>4xxx</td>
<td>Restricted Funds</td>
<td>Endowment income and gifts</td>
<td>Restricted by donor requirements</td>
</tr>
<tr>
<td>5xxx</td>
<td>Sponsored Project Funds</td>
<td>Federal, state, and private sponsors of contracts and grants</td>
<td>Used for research; restricted by contract or grant and Uniform Guidance for federal funds</td>
</tr>
<tr>
<td>6xxx</td>
<td>Endowment and Loan Funds</td>
<td>Endowment assets and loans to students</td>
<td>Restricted by donor and bank requirements; not used for operations</td>
</tr>
<tr>
<td>7xxx</td>
<td>Plant Funds</td>
<td>Bond Proceeds, HEAF, or funds transferred to Plant Funds</td>
<td>Building construction/renovation/repair and recording assets and library items</td>
</tr>
<tr>
<td>9xxx</td>
<td>Agency Funds</td>
<td>Funds provided by third party or collected as a fee (not UHS funds)</td>
<td>Used for conferences, summer camps, or other purposes indicated by third party fund owner</td>
</tr>
<tr>
<td>Type of Question</td>
<td>Campus</td>
<td>Contact</td>
<td>Phone or Email</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>--------</td>
<td>--------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Conflict of Interest - General</td>
<td>All</td>
<td>Lauri S. Ruiz</td>
<td><a href="mailto:lsruiz@uh.edu">lsruiz@uh.edu</a></td>
</tr>
<tr>
<td>Conflict of Interest - Research</td>
<td>UH</td>
<td>Penny Maher</td>
<td><a href="mailto:coi@central.uh.edu">coi@central.uh.edu</a></td>
</tr>
<tr>
<td>Procurement</td>
<td>UH</td>
<td>Robert Adkins</td>
<td>713-743-7488</td>
</tr>
<tr>
<td>Procurement</td>
<td>UHCL</td>
<td>Catina Chapman</td>
<td>281-283-2155</td>
</tr>
<tr>
<td>Procurement</td>
<td>UHD</td>
<td>Lorena Sanchez</td>
<td>713-221-8561</td>
</tr>
<tr>
<td>Procurement</td>
<td>UHV</td>
<td>Shawn Clark</td>
<td>361-570-4821</td>
</tr>
<tr>
<td>Contracts - Non Research</td>
<td>All</td>
<td>Donna Halton</td>
<td><a href="mailto:contractadmin@uh.edu">contractadmin@uh.edu</a></td>
</tr>
</tbody>
</table>
Conclusions/Summary

• Actual and apparent conflicts of interest must be reported.

• Some contracts with certain related party entities are prohibited.

• Contracting and procurement rules and required approvals are complex.

• The type of funds used can affect the requirements for the procurement or contract.
Thank you for completing Conflict of Interest and Procurement Training