



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

UHS Person

Board of Regents (substantial interest)
 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.

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

Prohibited Contracts

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.

Regents and employees (through their supervisor) must
 notify General Counsel of any known financial interests
 regarding contracts or bids

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

Brother

Child

Sister

Parent

Brother-in-Law

Mother-in-Law

Sister-in-Law

Father-in-Law

Grandchild

Son-in-Law

Grandchild's Spouse

Daughter-in-Law

Grandparent

Stepson

Grandparent's Spouse

Stepdaughter

Spouse's Grandparent

Stepmother

Spouse's Grandchild

Stepfather

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

Situation

Approval Process

Full-time employee wants to accept an additional position at another UHS component or another state agency

Full-time employee request approval with the Consulting and Paid Professional Services Form

Exempt staff employee wants to do consulting or other outside employment work similar to their UHS position

Exempt staff employee request approval with the Consulting and Paid Professional Services Form

Other activities that may create a conflict of interest, time, or commitment with an employee's UHS responsibilities

Employee discusses with supervisor, chair, or Director who may meet with General Counsel if needed and obtain appropriate approvals

Reporting Potential Conflicts

Disclosure is Required

Situation

Faculty member wants to do consulting or other outside employment that is similar to his/her position to UHS

Employee has a related -party situation that could cause a conflict of interest
Employee works for multiple UHS components/state agencies or staff who do consulting/have outside employment
Athletics employee receives income or other benefits from sources outside of UHS

Principal Investigator and others involved in research project and/or proposal

Disclosure Process

- 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
- Annual disclosure in Related-Party Disclosure Process
- Annual disclosure in Consulting and Paid Professional Service Form
- Annual disclosure in Consulting and Paid Professional Service Form (NCAA Compliance)
- 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 Government Code 2161 & Texas Administrative Code 20.281 – 20.298: Historically Underutilized Businesses, applies to all purchases
- 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

Procurement Method	Only Federal Funds	Only Non-Federal Fund	Combined Federal and Non-Federal	Competition	HUB Vendors	Method
Spot Purchase	\$0 - \$9,999.99	\$0 - \$14,999.99	\$0 - \$9,999.99	No	Encouraged	Voucher or P-Card
Informal Bid	\$10,000.00 - \$249,999.99	\$15,000.00 - \$25,000.00	\$10,000.00 - \$25,000.00	3 Quotes	Required to obtain 2	Requisition
Formal Solicitation	\$250,000.00 or more	\$25,000.01 or more	\$25,000.01 or more	Yes	Required to notify	Requisition after bids evaluated

Types of Formal Solicitations

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

Types of UHS Contracts

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

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

Amount of Contract or PO	Additional Approval Required
\$100K to \$300K (non-Athletics)	Division VP
\$100K to \$300K (Athletics)	Athletic Director and UHS CFO
\$300K to \$500K	Division VP and UHS CFO
\$500K to \$1 million	President and UHS CFO
Over \$1 million	Board of Regents

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/>

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

Code	Fund Type	Source of Fund	Use of Fund/Restrictions
1xxx	Education and General Funds	State appropriations, statutory tuition, Higher Education Assistance Funds (HEAF)	Restricted by General Appropriations Act, Comptroller's rules for state funds and Legislative Budget Board rules for HEAF
2xxx	Designated Funds	Sales and services, designated tuition, indirect cost revenue	University operations; restricted by UHS rules for tuition and federal rules for indirect cost
3xxx	Auxiliary Funds	Student fees, housing, parking, athletics event tickets, etc.,	Used for auxiliary operations; Athletics restricted by NCC requirements
4xxx	Restricted Funds	Endowment income and gifts	Restricted by donor requirements
5xxx	Sponsored Project Funds	Federal, state, and private sponsors of contracts and grants	Used for research; restricted by contract or grant and Uniform Guidance for federal funds
6xxx	Endowment and Loan Funds	Endowment assets and loans to students	Restricted by donor and bank requirements; not used for operations
7xxx	Plant Funds	Bond Proceeds, HEAF, or funds transferred to Plant Funds	Building construction/renovation/repair and recording assets and library items
9xxx	Agency Funds	Funds provided by third party or collected as a fee (not UHS funds)	Used for conferences, summer camps, or other purposes indicated by third party fund owner

Contacts

Type of Question	Campus	Contact	Phone or Email
Conflict of Interest - General	All	Lauri S. Ruiz	lsruiz@uh.edu
Conflict of Interest - Research	UH	Penny Maher	coi@central.uh.edu
Procurement	UH	Robert Adkins	713-743-7488
Procurement	UHCL	Catina Chapman	281-283-2155
Procurement	UHD	Lorena Sanchez	713-221-8561
Procurement	UHV	Shawn Clark	361-570-4821
Contracts - Non Research	All	Donna Halton	contractadmin@uh.edu

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

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and
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