



## TEXAS TECH UNIVERSITY™

### Operating Policy and Procedure

#### **OP 72.03: Conflicts of Interest Relating to Purchasing, Payments, and Contracts**

**DATE:** December 16, 2022

**PURPOSE:** 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 Texas Tech University or related entities (TTU) in compliance with [Texas Government Code Sec. 572](#) and Chapter 03 of *The Rules and Regulations of the Board of Regents of the Texas Tech University System (Regents' Rules)*.

**REVIEW:** This OP will be reviewed in November of even-numbered years by the Chief Procurement Officer with substantive revisions forwarded to the Senior Vice President for Administration & Finance and Chief Financial Officer.

#### **POLICY/PROCEDURE**

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

###### **a. General Rule**

Officers, faculty, and staff (“employees”) of TTU 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 Chief Procurement Officer.

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 TTU.

TTU 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:

- (1) The Chancellor, Vice Chancellor and General Counsel, President, Chief Procurement Officer, or equivalent employee responsible for procuring goods and services for the institution involved in the contract; or
- (2) 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 \(c\) \(2\)](#).

b. Benefits and Gifts

A “benefit” is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any person in whose welfare a TTU 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.

c. 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 TTU. If such a circumstance arises, the employee shall remove themselves from the procurement and/or contract process and disclose the relationship to their direct supervisor and to the Chief Procurement Officer.

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

- (1) A current employee of such department is also employed by such vendor;
- (2) A current employee of such department or their spouse, children, or parents have a direct or indirect ownership interest in such vendor;
- (3) 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
- (4) The hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department.

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

e. 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 themselves from the process and disclose the relationship to their supervisor and to the Chief Procurement Officer.

A TTU department may not hire a vendor under the following circumstances:

- (1) The Chancellor, President, Vice Chancellor and General Counsel, or the Chief Procurement Officer or a family member has a financial interest in the vendor;
- (2) A current employee of such department is also employed by such vendor;
- (3) A current employee of such department has a direct or indirect ownership interest in such vendor;
- (4) 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
- (5) 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 TTU for any goods or services without an authorized purchase order and/or contract.

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

## 2. Policy for Vendors

### Bidder/Proposer Affirmation

Vendors shall be required to sign the *Bidder/Proposer Affirmation* when submitting any competitive procurement response to TTU/TTUS. The *Bidder/Proposer Affirmation* requires prospective vendors to affirm their compliance with state laws, federal laws, and/or TTU/TTUS policies, as applicable. The *Bidder/Proposer 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 TTU/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 the *Bidder/Proposer Affirmation* 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.

- 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 a TTU employee. In addition, the bidder/proposer is certifying that the owner and any employee are not related in any manner to any TTU employee. If such a relationship exists, then that relationship shall be disclosed during the bid/proposal process to the Procurement Services 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 Chief Procurement Officer. 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 TTU 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 TTU Chief Procurement Officer. 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.

### **3. Policy for Procurement Services Staff**

In addition to the rules for officers, faculty, and staff, Procurement Services staff members shall also follow the following policies:

- a. Procurement 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 themselves 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 staff member of Procurement Services must disclose any confidential information in which there would be private interest or personal gain.
- c. A staff member of Procurement Services may not authorize any purchase order, contract, or payment with any vendor in which there would be private interest or personal gain.

### **4. Disclosure System**

All employees with approver, requisitioner, and shopper permissions in Techbuy and all financial managers of any organization code in Banner are required to disclose conflicts annually in the TTU Conflict of Interest disclosure system. 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 TTU Chief Procurement Officer.