

SECTION 2: PURCHASING AUTHORITIES AND CODE OF CONDUCT

SUBJECT: PURCHASING ETHICS & FINANCIAL CONFLICT OF INTEREST Procedure 2.7

POLICY:All University of Washington employees engaged in selecting, awarding and administering contracts shall comply with the requirements of this policy. Employees covered by this policy may include such staff as procurement personnel, researchers, Pls, faculty, and administrators. All University of Washington purchases must be conducted in accordance with all applicable state and federal purchasing, ethics, and conflict of interest laws and regulations. In particular, all purchases must be conducted in accordance with RCW Chapter 42.52, and federally-funded purchases must be conducted in accordance with the federal Anti-Kickback Act of 1986 and the Financial Conflict of Interest Rules in 2 CFR 200.112.

PROCEDURE:

Violations of any of the below conflict of interest and ethics laws may subject violators to significant personal liability. The following guidance is intended to allow individuals to determine whether a conflict of interest may exist. In the event that an individual believes that a conflict of interest or ethics violation may exist, the individual is encouraged to contact the University of Washington Internal Audit department. Internal Audit is responsible for analyzing questions of ethics and conflict of interest as they relate to the University of Washington.

State Ethics Law (RCW Chapter 42.52)

The Washington State Ethics Law prohibits a broad range of unethical purchasing actions. Actions prohibited by the State Ethics Law include:

- Participating in transactions in which the employee has a financial interest (RCW 42.52.030 & 42.52.150)
 - Prohibits employees from benefitting, directly or indirectly, from a transaction with which the employee is involved. Prohibits employees from accepting any compensation, remuneration, etc. from any party beneficially interested in such contract.
 - Prohibits state agencies from awarding contracts to agency employees without receiving more than one bid, unless the employee was advised by the state ethics board, prior to the execution of the contract that the contract is permissible
- Accepting improper gifts (RCW 42.52.140 & 42.52.150)
 - Prohibits state employees from soliciting or accepting gifts which could reasonably be expected to influence an employee's purchasing decision.
- Improperly assisting in transactions (RCW 42.52.040)
 - Except in the course of their official duties, prohibits state employees and any businesses in which the state employee is a partner, managing officer or employee from assisting others in transactions with which the employee was or is involved in the state employee's official capacity.
- Accepting improper employment opportunities (RCW 42.52.080)

- Prohibits state employees from accepting employment from an employer if the employee was responsible for the employer's contract with the state agency for one year after the date of the employee's termination of state employment.
- Use of State resources for private gain (RCW 42.52.160)
 - Prohibits state employees from using state resources, including information technology, time, personnel, etc. for personal gain.

Therefore, UW employees shall not benefit or seek to benefit from contracts entered into between UW and a contractor. Employees shall not enter into contracts with UW except upon open competition wherein UW receives more than one bid, or upon a letter from the Executive Ethics Board to the employee, informing the employee that the contract is permissible. UW employees shall not solicit gifts of any kind, nor shall they accept gifts of a more than nominal value from potential contractors. UW employees shall not assist contractors in transactions with UW outside of their official duties or responsibilities. UW employees shall not accept employment from an employer with whom the UW employee negotiated or whose contract the employee administered as part of the employee's official duties at UW. Finally, employees shall not use UW resources for private gain.

Furthermore, University of Washington employees may not solicit gifts, gratuities, favors, or anything else of monetary value from potential contractors or parties to a subcontract. University employees may accept unsolicited items of nominal value if such unsolicited item of nominal value could not be reasonably interpreted as influencing the award of a federal subcontract.

Federal Anti-Kickback Act of 1986 (41 USC §§8701-8707)

The Federal Anti-Kickback Act of 1986 prohibits payments or gratuities intended to induce the award of a prime contract from the federal government or a subcontract from a prime contractor. As such, the University of Washington shall make no payments or gratuities that may be reasonably interpreted as improperly influencing the award of a federal prime contract, nor shall the University accept any payments or gratuities that may be reasonably interpreted as improperly influencing the award of a federal subcontract.

If an individual has reason to believe that a violation of the Anti-Kickback Act of 1986 has occurred, the individual shall report such suspected violation to the University of Washington's Internal Audit Department. The Internal Audit Department will make the determination whether such action is a violation of the Anti-Kickback Act of 1986 has occurred and whether such action must be disclosed in writing to the awarding agency. Furthermore, the University shall cooperate fully in any Federal investigation of a violation of the Anti-Kickback Act of 1986.

Federal Uniform Guidance for Federal Awards Financial Conflict of Interest (2 CFR 200.112)

The Federal Uniform Guidance for Federal Awards (2 CFR 200) requires that the University of Washington maintain written standards of conduct covering conflicts of interest and governing the performance of employees engaged in selecting, awarding and administering contracts. Furthermore, the University must disclose any potential conflict of interest in writing to the

Federal awarding agency or pass-through entity. Such disclosures must be made in accordance with the Federal Awarding Agency's policies.

Financial Conflicts of Interest are interpreted in accordance with the State Ethics Law. A potential procurement Financial Conflict of Interest arises where an employee or a member of his/her family has an actual or apparent financial interest in a contract, sale, lease, purchase, grant or other agreement between the University and a third party. University of Washington employees may not participate in the selection, award, or administration of a contract if the employee has an actual or apparent conflict of interest. A party with a Financial Conflict of Interest shall have the obligation to disclose such Financial Conflict of Interest to the University of Washington Internal Audit Department. Internal Audit shall evaluate all such reports, recommend methods for mitigating the risk of a potential Financial Conflict of Interest, and report potential conflicts to the Federal awarding agency or pass-through entity as required.

To the extent that the University of Washington has any "parent, affiliate or subsidiary organization[s] that [are] not a state, local government, or Indian tribe,"¹ the University of Washington shall follow the requirements of subsection "A" of this policy (below) with regard to transactions between the University of Washington and such parent, affiliate, or subsidiary organization.

- A. In the event that because of relationships between the University and any affiliate or subsidiary thereof which make the University unable, or could reasonably be interpreted to make the University unable, to act impartially in conducting a procurement action, the University's Internal Audit Department shall contact the Federal Awarding agency and request assistance in conducting an impartial procurement. The University shall be presumed impartial in all actions involving affiliates or subsidiaries, except where one or more employees are employed by both the University and an affiliate or subsidiary, and such employees participate in both the award of a subcontract between the University and such affiliate or subsidiary and the performance of the same subcontract as a member of the entity receiving such subcontract.

¹ See 2 CFR 200.318(2).