

1. Title

Outside Activity Policy: Executive Officers and Employees Involved in Procurement Activities or Contract Management

2. Policy

Sec. 1 Applicability. This policy applies to all [INSTITUTION] Executive Officers, Employees Involved in Procurement Activities, and employees involved in contract management.

Sec. 2 Purpose. This policy is intended to protect the credibility and reputation of the U. T. System Administration, of [INSTITUTION], and their employees, by providing a framework to address conflicts of interest, conflicts of commitment, and outside activities.

Sec. 3 Value in Certain Outside Activities. Regents' Rule 30104 permits U. T. employees to engage in outside work or activities, subject to State laws, U. T. System Administration and [INSTITUTION] rules or policies. [INSTITUTION] encourages outside activities that clearly contribute to the mission of the institution and/or provide important elements of professional development related to their institution responsibilities.

Sec. 4 Approval for Outside Activities Required.

All Executive Officers, Employees Involved in Procurement Activities, and employees involved in contract management must electronically request and receive prior approval for the following activities:

- (i) all outside employment or other compensated activity;
- (ii) any outside activity, regardless of compensation, that reasonably appears to create a conflict of interest or a conflict of commitment; and
- (iii) outside board service as described in Section 7.4 below.

Sec. 5 Disclosure of Outside Activities and Interests

5.1 With the exception of the [Chancellor/institution president], and the minimum purchasing threshold discussed below, all Executive Officers, Employees Involved in Procurement Activities, and employees involved in contract management shall electronically disclose for themselves and for immediate family members:

- (i) a description of the nature and extent of all outside employment or other compensated activity;

- (ii) a description of the nature and extent of any outside activity, regardless of compensation, that reasonably appears to create a conflict of interest or a conflict of commitment;
- (iii) a description of the nature and extent of outside board service as described in Section 7.4 below,
- (iv) a description, including the amount of compensation or interest, of any substantial interest in a business entity which should be provided no later than 30 days after acquiring the interest;
- (v) a description of gifts over \$250. Do not include gifts received from: one's parent, child, sibling, grandparent, or grandchild; one's spouse or the spouse of anyone mentioned above; or the parent, child, sibling, grandparent, or grandchild of one's spouse;

5.2 The [Chancellor/president] is required by state law to file Personal Financial Statements with the Texas Ethics Commission. In lieu of filing the information listed above, the [Chancellor/president] shall file a duplicate copy of their Personal Financial Statement with the Office of the Chancellor of U.T. System Administration at the time that it is filed with the Ethics Commission. If the [Chancellor/president] seeks an extension of the time to file a Personal Financial Statement with the Texas Ethics Commission, the president must also notify the Chancellor's Office of the extension.

5.3 Outside activity disclosed under institutional HOPs developed pursuant to UTS 175, "Disclosure of Significant Financial Interests and Management and report of Financial Conflicts of Interest in Research," need not be re-disclosed.

5.4 Minimum Purchasing Threshold: Employees Involved in Procurement Activities who are not authorized to make purchases of \$15,000 or more, and who make no decisions or recommendations regarding purchases of \$15,000 or more, are not required to disclose their outside activities and interests in the U.T System electronic disclosure database.

5.5 In determining whether activity should be disclosed, the individual should resolve the doubt in favor of disclosure.

5.6 Officers and employees covered by this policy with nothing to disclose must affirmatively indicate that fact in the electronic database.

Sec. 6 Electronic Database.

U.T. System Administration shall develop a shared service electronic reporting system that is consistent with this policy. Institutions may choose to utilize this system to meet

the reporting guidelines outlined below or they may choose to electronically collect and transfer equivalent data to U.T. System Administration using their own electronic systems. Data transfers to U.T. System Administration shall occur on at least a bi-annual basis. All data locally collected and transferred to U.T. System Administration must comport with the data definitions, template, and format provided by U.T. System Administration.

Sec. 7 Outside Activity Guidelines

- 7.1 Approval Authorities. The President has appointed the following individuals as the approval authorities under this policy:

[These shall be designated by each institution]

- (a) For executive officers: [the President, or for the President, the Executive Vice Chancellor]
- (b) For Employees Involved in Procurement Activities: [their supervisor]
- (c) For employees involved in contract management: [their supervisor]

7.2 Time Commitment

No outside activity may be approved if it creates a conflict of commitment. The time commitment of outside activities must not interfere with an employee's primary responsibility to [INSTITUTION.] While the permissible level of time commitment to outside activities can vary depending upon the positions involved, under no circumstances may it exceed an average of one day (8 hours) per week, during the term of an appointment, without the explicit approval of the President.

7.3 Categories of Outside Activity

- (a) Activity that clearly contributes to the mission of [INSTITUTION.] Some outside activities clearly contribute to the mission of U.T. System and/or provide important elements of professional development related to the employee's [INSTITUTION] duties and responsibilities. These activities, when disclosed and approved, are permitted, can be encouraged, and may be performed during normal operating hours. Examples of these activities include:

Engaging in professional activity such as providing expert testimony, providing consulting services, professional/clinical practice, and serving on a board of directors

(b) [INSTITUTION] employees may also engage in activity that does not necessarily contribute to the mission of [INSTITUTION] or provide elements of professional development related to their [INSTITUTION] duties and responsibilities, so long as it does not reasonably appear to create a conflict of interest or a conflict of commitment with the employee's [INSTITUTION] duties and responsibilities. Any such activity must take place only outside of normal operating hours, without use of [INSTITUTION] resources, and is disclosed and approved as required by this policy.

7.4 Accounting for Outside Board Service

- (a) Recognizing the benefit to be derived by [INSTITUTION] from outside board service, and after thorough consideration of the time commitment that might be involved, time spent on uncompensated service on nonreligious boards, other than for reimbursement of usual and customary expenses, may be deemed to be of service to the [INSTITUTION] and may not require the use of a person's own time, with prior disclosure and approval before engaging in such service.
- (b) Service on an outside board for which the employee is compensated, and any service to a religious organization whether or not compensated, must be on the person's own time. If the service occurs during normal office hours, the person must use vacation time, compensatory time, or other appropriate leave while providing the service. The service should be without cost to [INSTITUTION]; and, except for service to religious organizations, must be disclosed and approved prior to engaging in such service.
- (c) Participation on the board of a municipality; local religious congregation; neighborhood association; public, private or parochial school; political organization; youth sports or recreation league; affinity group such as the local orchid society or model train collectors club; and other similar outside boards on which the service is primarily personal rather than professional in nature and does not require time away from [INSTITUTION] responsibilities, is permitted without the requirement of disclosure and advance approval if it does not create a conflict of interest or conflict of commitment or the appearance of a conflict of interest or conflict of commitment.

Sec. 8 Additional Process Requirements.

- 8.1 Management Plans. Management plans must be in place for all Officers and employees covered by this policy for outside activities that may create a conflict of interest or a conflict of commitment before activity begins. Management plans will be developed by [Designated Official] and approved by [Next Senior Official].

8.2 Appeals. Individuals whose request for approval of outside activity is denied may request that the denying authority reconsider the decision and provide an explanation in writing. If the individual remains unsatisfied with the decision, he or she may access standard grievance procedures to the extent that they are otherwise applicable.

8.3 Prospect and Retrospective Approval. In rare instance, outside activity may be approved retrospectively when the individual is called upon to assist in an emergency or urgent situation where it would be impossible or unreasonable to obtain advance approval. In such cases, the activity must be fully disclosed and approval sought from the appropriate authority as soon as reasonably possible.

Some activity may also be prospectively approved, for up to one year, when an individual describes to the approving authority as fully as reasonably possible the general nature and extent of anticipated, but not confirmed, outside opportunities.

8.4 Confidential Outside Activity. If an individual wishes to engage in an activity for which some or all of the relevant information is confidential, the approving authority may nonetheless approve the activity without requiring full written disclosure upon satisfaction that there is a compelling reason to treat the information confidentially and the activity is otherwise fully compliant with this policy and all other applicable laws and [INSTITUTION] and U. T. System policies.

8.5 Rescinding Approvals. An approving authority may rescind an approved outside activity upon receipt of information indicating that the activity is not consistent with this policy or any applicable law or [INSTITUTION] or U. T. System policy. The individual for whom the activity may be rescinded shall be given notice of the information and an opportunity to respond.

Sec. 9 Noncompliance. Noncompliance with this policy may subject one to discipline in accord with applicable procedures up to and including termination of employment.

Sec. 10 Annual Report. Employees shall review and finalize all disclosures after the end of the calendar year during the annual reporting period (January through March of the following year).

Sec. 11 Education and Training. Each institution must develop a comprehensive training program to implement this policy that includes at a minimum: training for those responsible for approving and managing outside activities and interests and annual distribution to all employees of the institution's conflicts of interest and conflicts of commitment HOPs.

Sec. 12 Definitions

Business Entity - Any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust.

Compensation - Any form of benefit including but not limited to salary, retainer, honoraria, intellectual property rights or royalties, or promised, deferred, or contingent interest. It also includes sponsored travel or reimbursement.

Conflict of Commitment - A state in which the time or effort that a U. T. employee devotes to an outside activity directly or significantly interferes with the employee's fulfillment of their institutional responsibilities or when the employee uses State property without authority in connection with the employee's outside employment, board service, or other activity (See Sec. 8, RR 30104). Exceeding the amount of total time permitted by U.T. System Administration or institution policy for outside activities creates the appearance of a conflict of commitment.

Conflict of Interest - A significant outside interest of a U. T. employee or one of the employee's immediate family members that could directly or significantly affect the employee's performance of the employee's institutional responsibilities. The proper discharge of an employee's institutional responsibilities could be directly or significantly affected if the employment, service, activity or interest: (1) might tend to influence the way the employee performs his or her institutional responsibilities, or the employee knows or should know the interest is or has been offered with the intent to influence the employee's conduct or decisions; (2) could reasonably be expected to impair the employee's judgment in performing his or her institutional responsibilities; or (3) might require or induce the employee to disclose confidential or proprietary information acquired through the performance of institutional responsibilities.

Employees Involved in Procurement Activities - An employee who makes decisions or recommendations regarding:

- a) contract terms or conditions on a contract;
- b) who is to be awarded a contract;
- c) preparation of a solicitation for a contract; or
- d) evaluation of a bid or proposal.

Executive Officer- includes, but is not limited to, the president, all individuals who report directly to the president (other than administrative support positions), and any employee who exercises broad and significant discretion over key institution functions. The following positions are hereby designated as Executive Officers:

[List positions]

Immediate Family Members - include:

- a) a spouse;
- b) a dependent child or stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the disclosure statement; and
- c) a related or non-related, unmarried adult who resides in the same household as the individual and with whom the individual is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage, or investments.

Nature and Extent - Shall include a description of the activity, the time commitment, the amount of compensation, if any, and the anticipated length of time the commitment is expected to continue.

Outside Board - The board, council, or other governing or advisory body of a business, civic, professional social, or religious organization, whether for profit or nonprofit.

Outside Employment - Any activity performed by an employee, other than fulfilling employment obligations at U.T. System Administration or a U.T. System institution, for which remuneration is received, including distance teaching.

Substantial Interest in a Business Entity - For purposes of this policy, means:

- (1) a controlling interest;
- (2) ownership of more than 1 percent of the voting interest;
- (3) ownership of more than \$5,000 of the fair market value;
- (4) a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 1 percent of the profits, proceeds, or capital gains; or
- (5) service as an officer.

Not to include investments in mutual funds or retirement accounts, so long as the individual does not directly control the investment decisions made in those vehicles.

Cross References

Links to forms

Etc.

