**R33. Government Operations, Purchasing and General Services.**

**R33-124. Unlawful Conduct and Ethical Standards.**

**R33-124-101. Unlawful Conduct.**

Unlawful conduct shall be governed in accordance with the requirements set forth in Sections 63G-6a-2401 through 63G-6a-2407. This rule provides additional requirements and procedures and must be used in conjunction with the Title 63G, Chapter 6a, Utah Procurement Code. Definitions in the Utah Procurement shall apply to this rule.

**R33-124-102. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Procurement Professionals.**

Each executive branch employee classified as a Procurement Professional, as defined in Section 63G-6a-2402, shall be governed by:

(1) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties;

(2) Executive Order EO/002/2014, Establishing an Ethics Policy for Executive Branch Agencies and Employees;

(3) Title 67, Part 16, Utah Public Officers' and Employees' Ethics Act;

(4) Section 76-8-103, Bribery or Offering a Bribe; and

(5) any other applicable law.

**R33-124-103. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Employees.**

Each executive branch employee not classified as a Procurement Professional, as defined in Section 63G-6a-2402, shall be governed by:

(1) Executive Order EO/002/2014, Establishing an Ethics Policy for Executive Branch Agencies and Employees;

(2) Title 67, Part 16, Utah Public Officers' and Employees' Ethics Act;

(3) Section 76-8-103, Bribery or Offering a Bribe; and

(4) any other applicable law.

**R33-124-104. Socialization with Vendors and Contractors.**

(1) A procurement professional may not:

(a) participate in social activities with vendors or contractors that will interfere with the proper performance of the procurement professional's duties;

(b) participate in social activities with vendors or contractors that will lead to unreasonably frequent disqualification of the procurement professional from the procurement process; or

(c) participate in social activities with vendors or contractors that would appear to a reasonable person to undermine the procurement professional's independence, integrity, or impartiality.

(2) If a procurement professional participates in a social activity prohibited under Subsection R33-124-104(1) or has a close personal relationship with a vendor or contractor, the procurement professional shall promptly notify their supervisor and the supervisor shall take the appropriate action, which may include removal of the procurement professional from the procurement or contract administration process that is affected.

**R33-124-105. Financial Conflict of Interests Prohibited.**

(1) A procurement conflict of interest occurs when the potential exists for an employee's personal financial interests, or for the personal financial interests of a family member, to influence, or have the appearance of influencing, the employee's judgment in the execution of the employee's duties and responsibilities when conducting a procurement or administering a contract.

(2) To preserve the integrity of the state's procurement process, an executive branch employee may not take part in any procurement process, contracting or contract administration decision:

(a) relating to the employee or a family member of the employee; or

(b) relating to any entity in which the employee or a family member of the employee is an officer, director or partner, or in which the employee or a family member of the employee owns or controls 10% or more of the stock of such entity or holds or directly or indirectly controls an ownership interest of 10% or more in such entity.

(3) If a procurement process, contracting, or contract administration matter arises relating to the employee or a family member of the employee, the employee must advise their supervisor of the relationship, and must be recused from any discussions or decisions relating to the procurement, contracting, or administration matter. The employee must also comply with the disclosure requirements in Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

**R33-124-106. Personal Relationship, Favoritism, or Bias Participation Prohibitions.**

(1) Employees are prohibited from participating in discussions or decisions relating to the procurement, contracting, or administration process if they have any type of personal relationship, favoritism, or bias that would appear to a reasonable person to influence their independence in performing their assigned duties and responsibilities relating to the procurement process, contracting, or contract administration or prevent them from fairly and objectively evaluating a proposal in response to a bid, Request for Proposal (RFP), or other solicitation. This provision may not be construed to prevent an employee from having a bias based on the employee's review of a response to the solicitation in regard to the criteria in the solicitation.

(2) If an employee has a personal relationship, favoritism, or bias toward any individual, group, organization, or vendor responding to a bid, RFP, or other solicitation, the employee must make a written disclosure to the supervisor and the supervisor shall take appropriate action, which may include recusing the employee from discussions or decisions relating to the solicitation, contracting, or administration matter in question. This provision may not be construed to prevent an employee from having a bias based on the employee's review of a response to the solicitation in regard to the criteria in the solicitation.

**R33-124-107. Professional Relationships and Social Acquaintances Not Prohibited.**

It is not a violation for an executive branch employee who participates in discussions or decisions relating to the procurement, contracting, or administration process to have a professional relationship or social acquaintance with a person, contractor or vendor responding to a solicitation, or that is under contract with the state, provided that there is compliance with:

(1) Section R33-124-105;

(2) Section R33-124-106, Utah Public Officers' and Employees' Ethics Act;

(3) Executive Order EO/002/2014, Establishing an Ethics Policy for Executive Branch Agencies and Employees; and

(4) other applicable state laws.

**R33-124-108. Ethical Standards for an Employee of a Procurement Unit Involved in the Procurement Process.**

An employee of a procurement unit involved in the procurement process shall uphold and promote the independence, integrity, and impartiality of the procurement process as required in the Utah Procurement Code and, as applicable, Title R33, and shall avoid impropriety and the appearance of impropriety.

**KEY: executive branch employees, procurement code, procurement professionals, unlawful conduct**

**Date of Last Change: October 22, 2024**

**Authorizing, and Implemented or Interpreted Law: 63G-6a-107.7(1)**