

R33. Government Operations, Purchasing and General Services.

R33-24. Unlawful Conduct and Ethical Standards.

R33-24-101. Unlawful Conduct.

(1) Unlawful conduct shall be governed in accordance with the requirements set forth in Sections 63G-6a-2401 through 2407. All definitions in the Utah Procurement Code shall apply to this Rule unless otherwise specified in this Rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Procurement Code.

R33-24-102. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Procurement Professionals.

- (1) Each executive branch employee classified as a "Procurement Professional" shall be governed by:
- (a) Part 24 of the Utah Procurement Code, "Unlawful Conduct and Penalties."
 - (b) Executive Order EO/003/2010 issued by the Governor (<http://www.rules.utah.gov/execdoks/2010/ExecDoc149415.htm>);
 - (c) Title 67, Part 16 "Utah Public Officers' and Employees' Ethics Act;"
 - (d) Section 76-8-103, "Bribery or Offering a Bribe;" and
 - (e) any other applicable law.

R33-24-103. Laws and Executive Orders Pertaining to Gifts, Meals, and Gratuities for Executive Branch Employees.

- (1) Each executive branch employee not classified as a "Procurement Professional" shall be governed by:
- (a) Executive Order EO/003/2010 issued by the Governor (<http://www.rules.utah.gov/execdoks/2010/ExecDoc149415.htm>);
 - (c) Title 67, Part 16 "Utah Public Officers' and Employees' Ethics Act;"
 - (d) Section 76-8-103, "Bribery or Offering a Bribe;" and
 - (e) any other applicable law.

R33-24-104. Socialization with Vendors and Contractors.

- (1) A procurement professional shall 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 an procurement professional participates in a social activity prohibited under Subsection R33-24-104(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.

R33-24-105. 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) In order 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 his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the procurement, contracting or administration matter. The employee must also comply with all disclosure requirements in Title 67 Chapter 16, Utah Public Officers' and Employees' Ethics Act.

R33-24-106. 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, RFP or other solicitation. This provision shall 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 shall 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.

R33-24-107. Professional Relationships and Social Acquaintances Not Prohibited.

(1) 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 Section R33-24-105, Section R33-24-106, the Utah Public Officers' and Employees' Ethics Act, The Governor's Executive Order (EO 002 2014) "Establishing an Ethics Policy for Executive Branch Agencies and Employees," and other applicable State laws.

R33-24-108. Ethical Standards for an Employee of a Procurement Unit Involved in the Procurement Process.

(1) 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

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