

0510.47 Purchasing Code of Professional Ethics

Issued February 17, 2011

SUBJECT: Purchasing Code of Professional Ethics for all Michigan Executive Branch employees involved in the purchasing process

APPLICATION: Executive branch departments and sub-units.

PURPOSE: To define the responsibilities and obligations of Executive Branch employees involved in the purchasing, grant, or payment process relative to ethical conduct.

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SUMMARY: An employee of the Executive Branch, involved directly or indirectly in the purchasing, grant or payment process at any level, is subject to this Purchasing Code of Professional Ethics and the authority cited below.

A special stewardship is accepted by all persons entrusted with the disposition of the state's funds. Therefore any persons, so entrusted, must adhere to the highest standards of professional ethics and personal integrity.

The citizenry has the right to expect and have confidence that the private interest of those involved with purchasing will not and does not conflict with the public interest. In order to remain completely fair and impartial, it is critical that all involved function independently of coercion and pressure and free of obligations that may impede, or be perceived to impede, a fair and open process.

In the spotlight of public procurement there has to be openness and honesty. Even the impression of misconduct can be as damaging as an actual violation. Therefore, this requires a clear set of guidelines of rules and responsibilities to regulate those involved.

AUTHORITY: Public Act 431 of 1984 as amended, The Management & Budget Act
Public Act 196 of 1973, Standards of Conduct for Public Officers and Employees
Civil Service Rule Chapter 2, Employment Provisions
The Administrative Guide to State Government
Executive Directive 2003-1, Standards of Ethical Conduct
DTMB Organizational Services Advisory Memorandum 2003-7, Ethical Standards and Conduct
DTMB Purchasing Operations Training; Ethics and Integrity in Public Procurement

CODE OF CONDUCT: It is not the intention of this Administrative Guide procedure to recite every obligation and responsibility imposed upon the parties within the text of the "Authority" cited in this procedure. It is the responsibility of each party to be familiar with and comply with those obligations as part of this Purchasing Code of

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Professional Ethics. However, unique and special requirements that relate to the purchasing process will be cited in this procedure.

RESPONSIBILITY:

Employees:

Follow the published policy of the State as outlined in the "Authority" cited above and within this procedure.

Review and try to understand the published policy of the State and the "Authority" sources listed above.

Avoid activities that would violate, or give the perception of violating this procedure or any of the "Authority" cited in this procedure.

Work to reduce the actual or perceived violations by practicing fair and open procurement policies.

Do not accept anything of value with the intent to improperly influence our process or judgment (employees should review their department policy and Civil Service Rule 2-8 for a definition of exceptions).

Employees should report legitimate violations or perceived violations of this Purchasing Code of Professional - Ethics to the proper authority.

Work to avoid any activities that may result in a conflict of interest. Report any actual or perceived conflicts of interest.

Do not divulge confidential information to unauthorized persons.

Do not represent personal opinion as that of the State. Do not represent that your authority exceeds that as defined by law and/or Department policy.

Maintain and practice the highest ethical and professional relationship with colleagues, vendors, consultants, associations and the public.

Maximize the benefit received from the use of State resources by striving to improve his/her knowledge, methods and techniques.

To the extent possible compel vendors to review, try to understand and comply with the published policy of the State and the "Authority" sources listed in this procedure.

Expect vendors to avoid activities that would violate, or give the perception of violating, this procedure or any of the "Authority" cited above.

Insist that vendors maintain and practice the highest ethical and professional relationship with State employees, other vendors, consultants, associations and the public.

Obligate the vendor community to maximize the benefit received from the use of State resources by performing timely, efficiently and completely all the contractor requirements of their contract.

Report any vendor to the appointing authority if approached with the intent to cause a violation of any of these ethical standards.

Annual Disclosure:

Civil Service Rule 2-8.3 (a) (1) states that agencies are to require that *“at least annually, an employee shall disclose to the employee’s appointing authority all personal or financial interests of the employee or members of the employee’s immediate family in any business or entity with which the employee has direct contact while performing official duties as a classified employee.”*

In accord with CS Rule 2-8.3 (a) (1), it is the agency’s responsibility that all employees with responsibilities, as described below, are required to complete an Annual Disclosure Statement. **

- Employees who have authority to award purchase orders or contracts. This would include, but is not limited to the following position titles: Buyer Specialist, Buyer Managers, Buyers, Procurement Technicians, and similar.
- Employees who, as a part of their primary official duties, (a) develop specifications for contracts or (b) recommend the purchase or award of contracts.
- Immediate supervisors of the above state employees.

** It is required that the annual disclosure statement includes disclosures for the employee or their immediate family similar to the DTMB-498 (*State of Michigan Annual Procurement Disclosure Statement*) which requires disclosure if:

- They have a direct personal or financial interest in a business or entity with which the state employee has direct contact while performing official duties as a state employee. Such interest includes:
 - Part-owner, partner, officer or director
 - Own stock
 - Receive income from during the last year or the coming year
 - Owe money to them or they owe money to you
 - Interest in real property
 - In the past year accepted anything of value exceeding \$20.00, a three month aggregate of \$80.00, or any amount including a loan

Training:

It is the agency’s responsibility to ensure that the following groups of employees take the Purchasing Operations classroom training entitled “Ethics and Integrity in the Public Procurement Process” at least once. The class is offered in a classroom setting annually. Also a web-based version of the training should be reviewed annually after attending the classroom program. The web-based version is available on the DTMB Intranet.

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Record Retention:

Agencies shall adhere to State Retention and Disposal Schedules and DTMB Purchasing Operations guidelines surrounding the storing, archiving and retrieving of purchasing records, including electronic records to fully comply with and respond to Freedom of Information Act requests, audit, and litigation interests.

Reporting Violations:

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Employees should report actual or perceived violations of this Purchasing Code of Professional Ethics according to the directives of the DTMB Advisory Memorandum and Civil Service Rules cited in this procedure. The DTMB Advisory Memorandum states: "An employee who becomes aware of any alleged violation of a standard of ethical conduct must report the alleged violation to their supervisor, the Human Resources Office, or the department's internal auditor." The agency shall notify the DTMB Chief Procurement Officer, in writing, that it is investigating an alleged violation of the Purchasing Code of Professional Ethics. A written statement should be taken from the person involved as part of the investigation.

If an actual violation has occurred, the matter should be reported to the DTMB Chief Procurement Officer. The Chief Procurement Officer will review the violation and decide if it should be reported to other parties such as the Civil Service State Ethics Committee.

An Agency shall not engage in reprisal against an employee for disclosing a violation or suspected violation of any aspect of this Purchasing Code of Professional Ethics. Except for reports that are known to have been false, persons who report actual or perceived violations shall be granted all the rights as described in Civil Service Rule 2-10 Whistle Blower Protection.

Discipline:

If an actual violation occurs, an employee may be disciplined pursuant to Civil Service Rule 2-6. Vendors and consultants who commit violations may be barred from receiving future contracts and/or have existing contracts canceled.

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