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**Materiel Management
Part 7: Employee-Vendor Relationships**

Refer all general questions to:
Strategic Sourcing, (510) 987-0470

Refer all campus questions to:

Business 43, Part 7 sets forth special limitations and requirements covering acquisition of goods or services by the University, including independent consultant and independent contractor services, *when the transaction involves an employee-vendor relationship, as opposed to an employer-employee relationship*. Employer-employee relationships are governed by appropriate personnel rules, including [Personnel Policy 82](#), Conflict of Interest.

I. DEFINITIONS

Employee - any individual who is presently employed by the University.

Employee with Teaching or Research Responsibilities – an academic appointee who is engaged in teaching and/or research activities, and certain staff employees (e.g., Staff Research Associates) who may participate in teaching or research activities.

Former employee – an individual who has retired or separated from the University, was dismissed, or was otherwise formerly employed by the University

Near Relative – the spouse, child, parent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of a University employee, and step-relatives in the same relationship. *Near relative* also includes the domestic partner of a University employee and a relative of the domestic partner in one of the foregoing relationships.

Employee-Vendor Relationship - a relationship in which:

- An employee, acting alone, proposes for a consideration to lease or sell goods or to provide services to a University department; or
- An employee owns or controls more than a 10% interest in any business which proposes for a consideration to lease or sell goods or to provide services to a University department; or
- A former employee, acting alone, proposes for a consideration to lease or sell goods or to provide services to a University department; or

- The near relative of an employee, acting alone, proposes for a consideration to lease or sell goods or to provide services to a University department, when the employee has, in any connection with his or her University employment, any responsibility for or will be involved in any manner in the department's decision to accomplish or approve the transactions; or
- The near relative of an employee owns or controls more than a 10% interest in a business, which proposes for a consideration to lease or sell goods or to provide services to a University department, when the employee has, in any connection with his or her University employment, any responsibility for or will be involved in any manner in the department's decision to accomplish or approve the transactions.

Responsible Official - the Chancellor of a campus or the Director of a Laboratory, or designee.

II. BASIC POLICIES

- A. Separation of Interests - It is the policy of the University to keep separate an employee's University and private interests, and to safeguard the University and its employees from charges of favoritism in the acquisition of goods and services.
- B. Conflict of Interest - The State of California Political Reform Act prohibits an employee from making or participating in the making of a decision if there is a financial conflict of interest. Requirements governing such decision making are set forth in the University's Conflict of Interest Code and must be observed when the University purchases goods and services.
- C. Restrictions on Purchases/Leases/Contracts. The following rules apply to any purchase or lease of goods or contract for services made with a University employee, former employee, or the near relative of an employee:
 1. Employee - No purchase or lease of goods or contract for services may be made with a University employee who has an employee-vendor relationship, as defined in Section I. However, the University may enter into a contract for goods or services with an employee who has teaching or research responsibilities, provided that the Materiel Manager or designee has made a specific determination that the goods or services are not available either from commercial sources or from within the University.
 2. Former Employee - The University may not purchase or lease goods from or contract for services with any former employee who has an employee-vendor relationship as defined in Section I, including one who has had teaching or research responsibilities, when:
 - a. Less than two years' time has elapsed since the individual separated from University employment, and the individual had been engaged in any of the negotiations, transactions, planning, arrangements, or any part of the

decision-making process relevant to the contract during the period of employment; or

- b. Less than one year's time has elapsed since the individual separated from University employment, and the individual had been employed by a department in a policy-making position in the same general subject area as the proposed contract.

Notwithstanding the foregoing provisions of paragraphs a. and b., the University may enter into a contract for *services* with a *retiree* immediately following retirement if the retiree did not participate in any way while serving as an employee in the making of the contract for services. The post-employment restrictions in paragraphs a. and b., however, apply to any former University employee, including a retiree, who proposes to sell or lease goods to the University.

3. Near Relative - The University may purchase or lease goods from or contract for services with the near relative of *any* employee, provided that the Materiel Manager or designee has made a specific determination that the goods and services are not available either from commercial sources or from within the University.
- D. Inspection and Verification of Vendor Status - Whenever it becomes necessary to ensure an understanding of the facts presented, the Responsible Official or designee must inspect the business premises and records of a prospective employee-vendor or a near-relative vendor.
 - E. Exceptions - Within constraints imposed by the Political Reform Act and Public Contract Code Sections 10515 et seq., each Responsible Official or designee is delegated authority to approve exceptions to this policy under unusual or extenuating circumstances.

III. CERTIFICATION REQUIREMENT

- A. Circumstances Requiring Certification - A University employee, former employee, or the near relative of an employee must submit a written and signed certification conforming to the requirements of Section III B. and C. with any quotation or proposal to the University.
- B. Contents - The certification statement must:
 1. Indicate the University department(s) and position(s) of the employee-vendor. In addition, a former employee must state the date of his or her separation from the University.
 2. Disclose the employee's, former employee's, or employee's near-relative's financial interest in the proposal.

3. Specify the employee's and/or near relative's relationship to or financial interest in any business entity involved in making the quotation or proposal.
 4. Indicate whether the employee has any responsibility for or will be involved in any manner in the departmental decision to accomplish or approve the transaction. In the case of a former employee, indicate whether the employee had any responsibility for or was involved in any manner in the departmental decision to accomplish or approve the transaction.
 5. Certify that no University time, material, equipment, or facilities have been or will be used in connection with any resulting purchase order or contract.
- C. Approvals - The required certification must be submitted to the location's Responsible Official or designee. When the work involves an intercampus or Laboratory transaction, the certification must be submitted to the Responsible Official at the location where the requirement originates. In addition, a recertification is to be submitted prior to the extension/renewal of the terms of a contract. The Materiel Manager is responsible for notifying the submitting department of approvals or denials of requests involving employee-vendor relationships.
