

## CONFLICT OF INTEREST & CONFIDENTIALITY CERTIFICATION

### ***Conflict of Interest***

- I hereby affirm that, to the best of my knowledge, no conflict of interest either real or potential exists as to any matter which will be entrusted in my job or assignment.
  - I hereby affirm that neither I nor any member of my family has relationships of an official, professional, financial or personal nature that might cause me to limit the extent of inquiry, to limit disclosure, or fail to objectively complete my job or assignments in any way. Examples of potential conflicts include, but are not limited to:
    - A family member employed by a firm competing in a selection.
    - Ownership (through stock shares, etc.) in a competing firm.
    - A family member or the employee providing sub-contracted services to one of the competing firms (whether on this project or not).
    - The employee or a family member currently in discussions with a competing firm concerning future employment.
    - Any other circumstance where success of a competing firm would result in a personal benefit to me or, if known by others, would give the appearance of such benefit.
  - I further certify that no other relationship or bias exists that will impair or restrict my independence in performing assigned duties and responsibilities or prevent me from objectively evaluating any proposals entrusted to me as part of my job or assignments, based solely on their merits.
  - If I have any relationship with or prejudice toward any individuals, groups, organizations, or programs with which I am or will be involved, or any relationship or prejudice that may create the perception of partiality or favoritism, I will immediately make a written disclosure by attaching said disclosure to this signed form, and a determination will be made of the appropriateness of the capacity of my current job or assignment.
  - It is the responsibility of the employee to ensure that they are not or will not become involved in conflict of interest situations or activities relevant to this project. If during the course of the project, a potential conflict arises, it must be immediately disclosed.
- I have attached a written disclosure to this signed form. (check if applicable)

### ***Confidentiality***

- I will maintain the confidentiality of all related information to which I gain access as a result of my job or assignment, including but not limited to any written documents, electronic documents, discussions, comments, or meetings that are of a sensitive or confidential nature.
- I will refer anyone requesting information relevant to this project to the appropriate division.
- I will discuss with my supervisor any activities which could interfere with the ethical performance of my duties.
- I will read the attached UDOT Policy 05-30 on Rules of Conduct and Code of Ethics.

Please review and sign in the space provided. If you have any questions, please contact the division or individual requesting this form. Your signature below indicates that you have read and understood UDOT Policy 05-30 and that you understand you are to disclose any conflict of interest. Your signature also indicates that you will maintain and/or adhere to the confidentiality of any protected, private, confidential or other sensitive data. Employees who fail to comply with this signed statement may be disciplined, up to and including termination in accordance with DHRM Rule R477-11. Consultants / Contractors who fail to comply with this signed statement may cause cancellation of their firm's contracts.

Name (Please print.)	Signature	Date

Project Information (If Applicable)

PIN No. / Project No.	Description

# Code of Ethics and Conflict of Interest

Effective: January 23, 1968

UDOT 05-30

Revised: July 8, 2014

## Purpose

To outline the Utah Department of Transportation (Department) expectations of employee conduct with regard to conflicts of interest, private business activities of officers and employees, and rules with which employees are expected to comply. The ethical conduct of public employees is a primary concern of the Department. The citizens of Utah rightfully demand ethical and responsible behavior from their public servants.

## Policy

This policy is not intended to be all encompassing and does not replace or supersede common sense, good business practice, state or federal statutes, rules, or regulations such as those issued by the Utah Department of Human Resource Management or the Federal Highway Administration. Department employees will comply with all those standards and will be held accountable for failure to meet them. Other misconduct may result in corrective and or disciplinary action up to and including termination at the employer's sole discretion.

Department employees will protect their integrity and reputation as well as that of the Department, the State of Utah, and their associates by complying with this policy. All leaders and managers will uphold this policy.

The Department and employees will treat each other and customers with whom they come into contact with honesty, courtesy, and respect. The Department wants to be worthy of the highest trust of those with whom we interact.

The Department respects the lives of employees and is becoming increasingly aware of the potential for conflicts of interest and appearance of impropriety or claims of favoritism. Personal relationships are addressed in this policy in order to protect the agency and its employees. The Department commits to working with employees involved to determine whether it is appropriate and possible to adjust reporting or working relationships or whether other changes or actions are necessary.

Employees who are subject to a lawsuit resulting from violations of this policy or other acts that are illegal or out of the scope of State employment duties may not be indemnified under the Governmental Immunity Act.

Any violation of this policy can result in disciplinary, administrative, or other action against an employee though action may be taken against employees for causes other than those listed. Refer to policy 01-04 if there is a potential of fraud.

## **Conflict of Interest Standards**

1. By reading this policy, I am affirming that, to the best of my knowledge, no conflict of interest either real or potential exists as to any matter which will be entrusted in my job or assignment.
2. I affirm that neither I, nor any member of my family, has relationships of an official, professional, financial or personal nature that might cause me to limit the extent of inquiry, to limit disclosure, or to objectively complete my job or assignments in any way.
3. I further affirm that no other current or former personal relationship as defined in this policy, or bias exist that will impair or restrict my independence in performing assigned duties and responsibilities or prevent me from objectively evaluating any proposals entrusted to me as part of my job or assignments based solely on their merits.
4. I also affirm that I am not involved in outside work or voluntary activities that would tend to impair or restrict my impartiality in performing my assigned tasks or prevent me from objectively evaluating work-related issues based upon their merits. If I have outside work or voluntary activities, I will address those in conformance with this policy.
5. If I have any personal relationship or prejudice toward any individuals, groups, organizations, or programs, with who I am or will be involved, or any personal relationship or prejudice that may create the perception of partiality or favoritism, or involved in any work or voluntary activity that poses a conflict or the perception of a conflict, I will immediately make a written disclosure to my supervisor. A determination will then be made of the appropriateness of the capacity of my current job or assignment. The signed disclosure will be in the form of a memorandum and will contain the nature of the personal relationship and the extent to which I believe a conflict exists.
6. It is my responsibility to ensure that I am not or will not become involved in conflict of interest situation or activities. If during the course of employment, a potential conflict arises, it must be immediately disclosed to my supervisor, who may then review the situation with the appropriate individual(s).

## **Confidentiality**

7. I will maintain the confidentiality of all related information to which I gain access as a result of my job or assignment, including but not limited to any written documents, electronic documents, discussions, comments or meetings that are of a sensitive or confidential nature.
8. I will discuss with my supervisor in the event there are any activities which could interfere with the ethical performance of my duties.

9. I will read, in its entirety, this policy and will ensure my supervisor is aware of any outside employment by completing the Department's conflict of Interest Declaration found at the end of this policy.

Employees who fail to comply with this signed statement may be disciplined, up to and including termination in accordance with DHRM Rule R477-11.

Employees will:

1. Conduct themselves in a manner that is above reproach.
2. Be honest in all work settings.
3. Not be insubordinate or disloyal to the orders of a leader.
4. Not knowingly alter, falsify, or omit necessary information when required or requested by the Department to keep records, make measurements, or calculate quantities.
5. Report any person who has requested that they engage in any work, including inaccurate record keeping or activity which is either contrary to the law, Department rule, or Department policy. Report inappropriate behavior or action to a person in the Department who is over the individual who requested the behavior or action or the region or group leader or higher as necessary. Reports made by employees will be held in confidence and will not jeopardize the reporting employees' position. The employee may also report the incident to the Department Internal Auditor or the State Auditor if he or she believes fraud or waste of public funds is involved.
6. Abide by all civil or criminal laws, regulations, State administrative rules governing their work or professional activities, work place rules, policies and procedures of the Department. The Department will not condone the activities of employees who achieve results through violation of law or unethical business dealings.
7. Follow the federal and State laws when involved in political activity.
8. Not engage in activities that are incompatible or in conflict with their duties as an employee.
9. Not cause damage to public property or waste public resources, supplies, or funds or use public property for personal or private advantage through negligence or willful misconduct.
10. Make prudent and frugal use of State funds, equipment, buildings, and supplies.
11. Not intimidate, use physical harm, or threats of physical harm against co-workers, management, or the public at any time.

12. Support a work environment that is safe from all forms of violence including domestic violence perpetrated within the workplace.
13. At all times operate state vehicles and state equipment in a safe manner, not violate traffic laws, drive intoxicated, or be under the influence of drugs that affect their performance.
14. Not drink alcoholic beverages of any type or be under the influence of alcohol or controlled substance during duty hours including on-call hours or be in possession of such on State property or in State equipment at any time.
15. Pay or make reasonable provisions for the future payment of their debts to the Department.
16. Obtain and maintain any license or certificate required to perform the essential functions of their position including a proper driver's license. Report any revocation or suspension immediately to their leader.
17. Perform their assigned duties during the full schedule for which they are being compensated.
18. Be competent and efficient in the performance of their duties.
19. Not be wantonly careless or negligent in the performance of their duties.
20. Have the physical and mental ability to perform essential functions of the position either with or without an accommodation.
21. Meet the standards established in their individual performance plans and report to their leader conditions, circumstances, unclear instructions, or procedures that will prevent them from performing their job effectively and safely.
22. Not abuse sick leave, rest periods, excess hours, or arrive late for their assigned shift nor work overtime hours without prior approval.
23. Not disclose confidential, private, or protected information acquired in the course of their work except to those with a legitimate business reason for obtaining the information unless legally obligated to do so. This applies to employees with access to financial and personal information about employees, contractors, consultants, or others doing business with the Department.
24. Not be involved in personal relationships with another Department employee with whom he or she shares either a direct or indirect supervisory role without promptly disclosing such a relationship to his or her immediate supervisor. The employee should err on the side of disclosure as openness helps to avoid future misunderstandings. A personal relationship is defined for purposes of this policy, as a relationship of a romantic or intimate nature or of a character that could result in an allegation of conflict of interest or inappropriate behavior.

25. Not be involved in personal relationships with any individuals, contractors, groups, organizations, or programs with whom the employee or the Department is involved or currently conducting business without promptly disclosing such a relationship to his or her immediate supervisor.
26. Not circulate rumors degrading the Department or its officers and employees in writing or verbally. Employees are encouraged to follow the procedure specified in Procedure 05-42.1, "Grievance Procedures" if they have a complaint regarding other employees or the Department.

### **Conflict Of Interest**

Employees may not use their State position, or any influence, power, authority, or confidential information received in that position for private gain.

Employees may not use any State owned equipment, property or supplies for private gain.

Employees may not engage in any business such as selling goods, materials, or rendering services to the Department on a contractual or fee basis, or to contractors or consultants working for the State, where there may exist a potential conflict of interest.

Employees should not place themselves in a position of indebtedness or obligation to people or companies doing business with the Department.

The State statutes and rules regarding ethical conduct and the acceptance of gratuities are complicated and depend on the particular circumstances of each case. Employees who have questions should contact the Department's Human Resource Office.

Employees will consult with their leader and obtain Department approval before engaging in activities where a potential conflict of interest exists.

### **Ethics Policy for Procurement Professionals**

A procurement professional or their family member may not request or accept any gratuity or kickback from a person who has or is seeking a contract with or a grant from the Department.

1. As used in this policy, procurement professional means:
  - a. A Department employee who:
    - 1) by title or primary responsibility has procurement decision making authority, and;
    - 2) is assigned to be engaged in the procurement process or the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments.
  - b. A Department employee who is employed within the Procurement Division or Consultant Services Division.

2. As used in the Ethics Policy for Procurement Professionals, “family member” means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
3. “Gratuity” means anything of value given without anything provided in exchange or in excess of market value of that which is provided in exchange, including:
  - a. A gift or favor
  - b. Money
  - c. A loan at an interest rate below the market rate or with terms that are more advantageous to the person receiving the loan than terms offered generally on the market.
  - d. Employment
  - e. Admittance to an event or entertainment for which a charge is normally made, including sporting events or golf fees.
  - f. Entertainment for which a charge is normally made.
  - g. Recreational activities with consumables, such as trap shooting, etc.
  - h. Lodging
  - i. Travel
  - j. Meals, regardless of value, including sandwiches, pizza, etc.
  - k. Materials of any type including those that are planned to be demolished or transported to a waste management facility.
  - l. Clothing, including t-shirts, vests, jackets, hats, etc.
  - m. A raffle, drawing for a prize, or lottery.
  - o. A gift card regardless of value.
  - p. Other gifts such as multi-tools, etc.
4. A “gratuity” does not include:
  - a. An item, including a meal, in association with a training seminar, that is included in a contract or grant, or provided in the proper performance of a requirement of a contract or grant.
  - b. An item requested to properly evaluate the award of a contract or grant.
  - c. A rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item.
  - d. A product sample submitted to a public entity to assist the public entity to evaluate a solicitation.
  - e. A political campaign contribution.
  - f. An item generally available to the public.
  - g. Anything of value that one public agency provides to another public agency.
  - h. A raffle, drawing for a prize, or lottery that is open to the general public and is not offered by a person who has or is seeking a contract with or a grant from the Department. Raffle, drawing for a price, or lottery is not considered open to the general public if the raffle, drawing for a prize, or lottery is offered at an event or conference at which a registration fee or other fee is normally charged to participate in the event or conference.
5. “Kickback” means a gift given in exchange for favorable treatment in a pending

- procurement or the administration of a contract.
- 6. Procurement professionals that receive a gift must return the item.
- 7. Procurement professionals that accept a perishable item on behalf of the Department may donate the item to charity or share the item at large with co-workers or the public, including food gift baskets, candy, etc.

Procurement professionals may accept a hospitality gift to the State from a person who has or is seeking a contract with or grant from the Department, subject to the following restrictions:

1. "Hospitality gift" means a token gift of minimal value given for promotional or hospitality purposes, including:
  - a. Pen, pencil, stationery, toy, pin or trinket, such as a golf tee or a golf ball.
  - b. Nonalcoholic beverage such as water, soda, or juice.
  - c. Snack or appetizer, such as cookies, donuts, or chips.
2. Hospitality gifts may be accepted with a value of less than \$10 and a total, cumulative value of less than \$50 in a calendar year from any individual or combination of individuals from a single business or firm

Procurement professionals may not accept any meal from a person who has or is seeking a contract with or grant from the Department. However, procurement professionals may accept a meal offered by a person who is *not* seeking a contract with or grant from the Department if any of the following conditions are met:

1. The meal is part of a conference or event in which:
  - a. The cost of the meal is included in the normal registration fee paid by the State on behalf of the employee, or;
  - b. The employee has been invited by another entity to participate in the conference or event, such as receiving a plaque for meritorious public contribution or presenting a speech or other presentation.
2. The meal is offered as part of a normal business meeting or event between the State and the following entities and is generally made available to all participants:
  - a. A government entity, such as municipal, county or state government.
  - b. An organization or association, including a professional or educational association, or an association of vendors, such as a Chamber of Commerce or trade association.
  - c. An association composed of public agencies or public entities that does not as an organization or association respond to solicitations.
3. Meals paid by the State for which prior approval has been given by the Deputy Director.

Procurement professionals may accept on behalf of the Department and with no intent to influence a procurement decision or take action relating to the administration of a contract or grant, a voluntary gift or donation of money, service or anything else of value to the Department for the Department's use and not for the primary use of an individual employed by the Department, including:

1. Admission to a seminar, conference, vendor fair, charitable event, fundraising event or similar event that directly relates to the function of the State.

2. Purchase of a booth or other display space at an event sponsored by the State or a group of which the State is a member, such as a payment for a vendor booth at the annual UDOT Transportation Conference.
3. Sponsorship of an event that is organized by the State.
4. Philanthropic donations.
5. An item given on behalf of a foreign government that becomes the property of the State.

Procurement professionals may accept, with no intent to influence a procurement decision, a plaque or a memento of no value for meritorious public contribution.

### **Ethics Policy for Employees, Excluding Procurement Professionals**

An employee may not accept a gift or other compensation, including a gift card regardless of value, either directly or indirectly, that might be intended to influence or reward the individual in the performance of official state business.

For the purposes of this policy, “gift” does not include:

1. The following items with a total, cumulative value of less than \$50 in a calendar year from any individual or combination of individuals from a single business or firm:
  - a. Food, refreshments, or meals of limited value.
  - b. Trinkets or mementos of nominal value.
2. Opportunities, discounts, rewards, and prizes open to the general public or all employees of the State of Utah. Opportunities, discounts, rewards, and prizes are not considered open to the general public or all employees of the State of Utah if the opportunities, discounts, rewards, and prizes are offered at an event or conference at which a registration fee or other fee is normally charged to participate in the event or conference.
3. Plaques or mementos recognizing service.
4. Gifts from family members, extended family members, or other employees of the State of Utah.
5. Gifts from personal friends where it is clear that the gift is motivated by personal friendship and not by the employee’s position in the State.
6. Small efforts of common courtesy or other services of nominal monetary value.
7. Funeral flowers or memorials.
8. Bequests, inheritances, and other transfers at death.

9. Attendance or participation at a widely attended event that are related to governmental duties.
10. Travel to and from widely attended events related to governmental duties where acceptance of such travel would result in financial savings to the State of Utah.
11. Items of limited value presented to all participants at an event as part of the event if the employee is a participant in the event.
12. Campaign contributions received in accordance with Title 20A, Chapter 11, Utah Code.
13. An item presented on behalf of a foreign government that becomes the property of the State.

The employee may return the gift, pay its market value, or donate the gift to the State of Utah if that employee receives a gift, either directly or indirectly, that cannot be accepted. The gift may, with approval of the Department Executive Director if the gift is perishable or not practical to return, be shared with co-workers or given to charity.

### **Outside Employment**

State employment will be the principal vocation of full-time employees governed by these rules. It is the responsibility of all Department employees to ensure that they are not or will not become involved in conflict of interest situations or activities.

No employee of the Department will perform any work as an employee or a contractor for any individual or organization (public or private), nor perform voluntary activities where there is a conflict, the potential for a conflict, or the appearance of a conflict with the Department.

The Department reserves the right to require an employee whose outside work is deemed to be incompatible with the interests of the Department to terminate their secondary job. Failure to do so may result in discipline, up to and including termination.

All Department employees with secondary employment or performing voluntary activities where conflicts may arise must have a completed Conflict of Interest Form that reflects the current status of their outside work activities placed in their personnel file (form attached). Employees must complete these forms annually or sooner if their secondary employment status changes in any way.

Employees engaging in outside employment are subject to the following conditions:

1. Employees anticipating doing work for a consultant, contractor, or vendor of the Department or contemplating setting up a private business venture, company, or consultant as a principal or part owner, must notify agency management using the Conflict of Interest Declaration and Certification form and receiving approval from the agency leaders before accepting work with any of these organizations.

2. Employees will not have outside employment nor voluntary activities that interfere with efficient performance of their State position; or which conflict with the interests of UDOT or the State of Utah; or gives rise to criticism or suspicion of conflicting interests or duties; or that interferes in any way with their availability during emergencies.
3. For employees who need “last-minute” authorization to perform outside work, it is incumbent upon that employee to verbally notify his/her supervisor or other hierarchical leader of his/her intent to perform outside work. It will then be the responsibility of the supervisor and/or other leader to ascertain whether there exists a conflict and may make a decision at that point. The incumbent will then complete a Declaration Form as soon as is reasonable in order to record written authorization of the secondary employment.

### **Conflict of Interest Criteria**

There are several criteria that determine if outside employment or voluntary work are a conflict of interest, has the potential for creating a conflict of interest, or results in the appearance of a conflict of interest. Any one of these criteria by itself may constitute a conflict of interest or the potential for a conflict of interest. These are examples and are not intended to include every possible scenario.

1. Being engaged in work or voluntary activities for an individual or organization other than the department during the same hours the employee is scheduled to be working for the department.
2. Performing work or voluntary activities for an individual or organization other than the department that would impair or appear to have the potential to impair the employee’s independence of judgment in the performance of his/her department duties.
3. Performing work or voluntary activities that would render the employee incapable of performing at full capacity in his/her department position because of fatigue, anxiety or other impairments.
4. Performing work or voluntary activities for an individual or organization whose purpose or activities are deemed to be or have the appearance of being incompatible or in conflict with the interests of the State.
5. Outside volunteer or paid work that may induce an employee to improperly disclose controlled information that he/she has gained by reason of Department employment.
6. Outside volunteer or paid work that might interfere with the ethical performance of the employee’s public duties.
7. Receiving compensation for assisting an outside organization or individual in a transaction involving the Department without first filing a disclosure statement in

accordance with the requirements found in Section 67-16-6 of the Utah State Code Annotated.

8. Utilizing the Department's resources and/or materials for purposes other than those required in the position held with the Department.

## **Background**

This policy and procedure is in compliance with the Department of Human Resource Management rules, the Utah Public Officers' and Employees' Ethics Act (67-16, Utah Code), the Utah State Personnel Management Act (67-19, Utah Code), the Utah Department of Transportation Policies and Procedures, and good business practices.

## **Definitions**

Nonpecuniary gift: For the purpose of this policy is defined as a non-cash gift.

## **Procedures**

### **Outside Employment**

**UDOT 05-30.1**

All employees with outside employment are required to submit a Conflict of Interest Declaration Form and Certification form to their immediate supervisor, who will then forward the forms to the region/group leader or designee to gain approval to continue such employment.

Employees who contemplate beginning outside work are encouraged to complete a Conflict of Interest Declaration Form and forward to their supervisor as far in advance of their planned start date as possible so that the required reviews can be completed before they actually start work.

If the nature of the employee's outside work is significantly changed, a new Conflict of Interest Form must be completed and submitted to their supervisor.

In the case of a consultant or other contractual work, a new Conflict of Interest Form must be completed, submitted, and approved by their supervisor and region/group leader before he/she begins performing work for the new client.

**Responsibility:** Employee

### **Actions**

1. Submit a Conflict of Interest Declaration Form and Certification form to the immediate supervisor or designee describing the nature of the outside employment, whether or not the outside employer contracts with the State, the number of hours involved, and which specifically details how conflicts of interest will be avoided.
2. Submit a statement each time there is a change in outside employment.

3. Failure to notify and gain approval is grounds for disciplinary action if the secondary employment is found to be a conflict of interest.

**Responsibility:** Supervisor or Designee

4. Determine approval, denial, or referral. The supervisor, if the request is denied, must provide an explanation detailing the reasons for not allowing the employee to work a secondary job.

**Responsibility:** Region/Group Leader or Designee

5. Determine approval, denial, or conditional approval. The Region/Group Leader or Designee, if the request is denied, must provide an explanation for the disapproval of secondary employment. Conditions, if approval is given with conditions, must be clearly outlined so there is no confusion as to what the employee must do to avoid a conflict of interest to continue his/her secondary employment. The Region/Group Leader or Designee must then make a copy for the employee and forward the forms to Human Resources for placement to the employee's personnel file. The region/group leader or designee's decision may be grieved to the Executive Director.