

Conflicts of Interest: Compliance Disclosure Requirements

Date
12/15

Item
F.38

SCOPE OF REQUIREMENTS

Indiana law (IC-35-44.1-1-4) states that a public servant commits conflict of interest, a Level 6 felony, if the public servant knowingly or intentionally has a pecuniary (financial) interest in, or derives a profit from, a contract or purchase connected with an action by the governmental entity served by the public servant.

“Governmental entity” and “public servant” are defined (IC 35-31.5-2-144, IC 35-31.5-2-145, and IC 35-31.5-2-261) to include public universities and their employees and trustees.

Note that if the public servant’s spouse or dependent has the pecuniary interest or derives the profit, then the public servant may be considered to have committed the conflict of interest.

However, the law provides a mechanism by which public servants can avoid the criminal aspects of the conflict of interest law by filing a disclosure statement with the Board of Trustees. (IC 35-44.1-1-4(c)(6)).

The Board reviews each potential conflict of interest and files all approved disclosures with the State Board of Accounts. (IC-35-44.1-1-4(d)).

WHO IS COVERED?

This disclosure requirement applies to all employees and trustees, but especially to those who have the authority to make purchases or sign contracts for the University of Southern Indiana. This includes anyone who initiates or signs or approves a requisition or purchase order or has the form signed on his or her behalf.

INTERESTS TO BE DISCLOSED

The statute defines the term “pecuniary interest” as an interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:

- a. The public servant; or
- b. A dependent of the public servant who:
 - i. is under the direct or indirect administrative control of the public servant; or
 - ii. Receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant.

If there is any doubt, a disclosure statement should be filed. Examples of possible conflict include but are not limited to:

- a. Any ownership interest in a business or corporation, where a contract or sale to the University of Southern Indiana would be expected to have some direct effect on the owner's interest, is a pecuniary interest and disclosure must be made.
- b. The term "pecuniary interest" could also mean "creditor's interest". If the public servant has made a loan to, or guaranteed an obligation of, a person or corporation who is doing business or seeking to do business, with the University of Southern Indiana, disclosure of such interest must be made.
- c. A person who is a paid officer, director, employee, or consultant of a corporation, whether it be large or small, and knows of business being done by the corporation with the University of Southern Indiana, would be considered to have a pecuniary interest in the particular contract or purchase, by reason of the salary or fees from the corporation. A disclosure of all such interest must be made.
- d. Selection of any vendor, contractor, subcontractor, or consultant who is a relative of the individual making the selection must be disclosed under this policy.
- e. The mere ownership of stock in corporations with which the University of Southern Indiana does business is not considered to be a pecuniary interest, and no disclosure is required. However, if any employee, or his/her spouse, does own stock in such a corporation, and if the employee is aware that the corporation makes sales to or does business with that department or area of the University within which he or she has contracting or purchasing duties, he/she may opt to make a disclosure voluntarily.

TIMING OF DISCLOSURES

Two types of disclosures may be submitted:

- a. A single disclosure is used when a specific single transaction (contract or purchase) is proposed. In this case, final action on the contract or purchase must be delayed until the Board of Trustees has approved the disclosure. If approved, the University must submit the disclosure to the State Board of Accounts within 15 days of the final action on the contract or purchase.

Because of the challenges associated with timely approval by the Board of Trustees of single disclosures, employees are advised, when possible, to seek advance approval through the annual disclosure process described below.

- b. An annual disclosure is used when transactions occur on a regular recurring basis throughout the year. In this case, the disclosure is made on an annual basis, typically in time for action at the Board of Trustees' January meeting.

PROCEDURES TO BE FOLLOWED

Responsibility for the filing of disclosure statements rests on the person or persons described in the "conflicts of interest" law, although the University will attempt to remind employees through annual announcements.

The trustees, president, vice presidents, associate and assistant vice presidents, deans, director of athletics, and director of procurement services are expected to file annual disclosure statements, stating "none" if there are no relationships to disclose.

Other employees should file disclosure statements only if there is something to disclose. Vice presidents, deans, directors, and department heads/chairs are responsible for compliance with these disclosure requirements by staff members within their areas of administrative jurisdiction.

Administration of the “conflicts of interest” filing is handled by the vice president for Finance and Administration. Copies of the conflicts of interest disclosure statements may be obtained from that office or downloaded from the Finance and Administration website at www.usi.edu/finance-and-administration/.

TRUSTEE APPROVAL

IC 35-44.1-1-4 provides for the review of all potential conflicts of interest by the University of Southern Indiana Board of Trustees, which accordingly will evaluate specific situations disclosed. If the Board of Trustees finds that the situation involves a conflict of interest which, in its opinion, would be inappropriate, the public servant involved will be required to discontinue or divest himself or herself of the outside interest creating the conflict.

Completed disclosure forms are to be returned to the Office of Vice President for Finance and Administration through the organizational structure for the approval required at each level. Completed and approved forms will be submitted to the Board of Trustees for final approval and transmission to the State Board of Accounts as required by statute. Typically, the Board will act at its January meeting.

Additionally, note that a person with a potential conflict of interest on a matter should not exercise influence or participate in the decision making and related deliberations on that matter, even if the disclosure has been filed and approved.

Questions concerning conflicts of interest and the statutory requirement should be referred to the vice president for Finance and Administration.