

Contact: Andrea Anania

CONFLICT OF INTEREST VENDORS

Action Requested: Consider approval of the following vendors with a potential conflict of interest:

UNIVERSITY OF IOWA

- ◆ En Theos, Inc. DBA 1M4JC
- ◆ Pondslowa

IOWA STATE UNIVERSITY

- ◆ Marstat, L.C.

Executive Summary: Vendors at the Regent institutions and the Board Office with a potential conflict of interest are required by statute to be approved by the Board of Regents. These vendors will no longer require Board approval after March 30, 2011. See page 3 for details.

UNIVERSITY OF IOWA

En Theos, Inc. DBA 1M4JC (1M4JC) is a Christian apparel company with a secondary marketing and consulting business. Robert Gettemy owns both, which are located in Marion, Iowa.

Robert Gettemy is employed on a 30% basis as an Adjunct lecturer in the Department of Management and Organizations (DMO), Tippie College of Business, at the University of Iowa.

The University reports that:

- ◆ Robert Gettemy does not have any authority to issue purchase orders or to approve payments for his department, nor has he been issued a procurement card;
- ◆ Robert Gettemy will not participate in any discussions, decisions, business transactions, or correspondence involving 1M4JC and the University of Iowa; and
- ◆ DMO will solicit competitive bids whenever 1M4JC is involved.

Pondslowa provides pond maintenance services. Don Farley owns the business, which is located in North Liberty, Iowa.

Don Farley's wife, Donna Farley, is employed on a 70% basis as a Research Assistant in the Institute for Clinical and Translational Service (ICTS) at the University of Iowa.

The University reports that:

- ◆ Donna Farley does not have any authority to issue purchase orders or to approve payments for her department;
- ◆ Donna Farley has been issued a procurement card; the Associate Professor of Pharmaceuticals and the Nurse Manager of the Clinical Research Center reviews and approves Donna Farley's procurement card transactions;
- ◆ Donna Farley will not participate in any discussions, decisions, business transactions, or correspondence involving Pondslowa and the University of Iowa; and
- ◆ ICTS will solicit competitive bids whenever Pondslowa is involved.

IOWA STATE UNIVERSITY

Marstat, L.C., a survey research services company located in Ames, Iowa, was approved by the Board as a conflict of interest vendor at its December 2010 meeting.

The conflict was approved for Martha M. Stewart, a full-time employee at Iowa State University and 60% co-owner of the company. Subsequent to this approval, Martha M. Stewart's husband, Russell Hoffman, who owns the remaining 40% in Marstat, was hired as a full-time Teaching Lab Coordinator in the Department of Agricultural and Biosystems Engineering (DABE), College of Agriculture and Life Sciences (CALs), at Iowa State University.

The University reports that:

- ◆ Russell Hoffman has been issued a procurement card; the DABE account specialist as well as Russell Hoffman's direct supervisor reviews and approves his procurement card transactions;
- ◆ Russell Hoffman will not participate in any discussions, decisions, business transactions, or correspondence involving Marstat and Iowa State University, nor will he have any authority to make any University purchasing or payment decisions associated with his business;
- ◆ DABE and the CALs Dean acknowledge awareness of Russell Hoffman's request to do business as a conflict of interest vendor and will permit these efforts as long as they are conducted outside the workplace and on his own time;
- ◆ Marstat's services will not be sold to the department in which Russell Hoffman is employed;
- ◆ CALs agrees that Russell Hoffman would have no influence in awarding a University contract, nor will he be permitted to serve on any university-related committees for this type of work; and
- ◆ ISU will solicit competitive bids whenever a conflict exists.

Background:

The Iowa Code [68B]:

- ◆ Does not alleviate the requirement for institutions to obtain competitive bids and provide public notice.
- ◆ Prohibits an official or employee of a regulatory agency from selling, either directly or indirectly, goods or services to the agency of which the individual is an official or employee, except when certain conditions are met.
- ◆ Requires all regulatory agencies to adopt rules specifying the method by which employees may obtain agency consent for exception.
- ◆ Requires the person making a permissible sale under this statute to file a report with the Iowa Ethics and Campaign Disclosure Board disclosing the transaction.

The Iowa Administrative Code [681-8.9]:

- ◆ Precludes individuals with potential conflicts from being directly involved in the purchasing decisions or authorizing of any such contracts making material changes to such contracts.
- ◆ Requires Board authorization when a single purchase from a conflict of interest vendor (Regent employee) exceeds \$2,000 unless the sale is made after public notice and competitive bidding.

Once a vendor with a potential conflict of interest is approved by the Board, any Regent institution is authorized to purchase from that vendor.

At its February 2011 meeting, the Board of Regents adopted an amendment to its Administrative Rules thereby making the Regents conflict of interest vendor policy consistent with that of state government as outlined in Iowa Code §68B.3. That policy states that employees making a permissible sale under §68B.3 shall file a report with the Iowa Ethics and Campaign Disclosure Board within 20 days of making the sale. As such, potential vendors with conflicts of interest at the Regents institutions will no longer be required to obtain Board of Regents approval.

Below is the timeline of the approval process to effect this change:

- ◆ October 28, 2010 – The Board of Regents was presented with revisions to its Administrative Rules [681-8.9] on conflict of interest vendors.
http://www.regents.iowa.gov/Meetings/DocketMemos/10Memos/October2010/1010_ITEM06n.pdf
- ◆ December 1, 2010 – The proposed changes were published in the Iowa Administrative Bulletin.
<http://www.legis.state.ia.us/asp/ACODOCS/DOCS/12-01-2010.Bulletin.pdf>
- ◆ February 3, 2011 – The Board adopted the amendments.
http://www.regents.iowa.gov/Meetings/DocketMemos/11Memos/February2011/0211_ITEM06h.pdf
- ◆ February 23, 2011 – The adopted version was published in the Iowa Administrative Bulletin with a March 30, 2011 effective date. <http://www.legis.state.ia.us/asp/BulletinSupplement/bulletinListing.aspx>