

December 10, 2019

Business Forum

HRTC 141 - 145

Business Forum Agenda

- Welcome
- Facilities
- Benefits Advisory Council
- Procure to Pay
- Key Announcements

Facilities Partner Group Charge

The Facilities Partner Group is charged with developing solutions to improve processes and communications between planning units and the University's Facilities Management.

The Facilities Partner Group will gather, review, and assist in the prioritization of issues related to custodial, grounds, and building maintenance and operations.

Facilities Representation

Planning Unit or Department	Representative
Business Service Center	Marjorie Mora
Campus Recreation	Mark Ferguson
College of Business	Phil Taylor
College of Fine Arts	Kari Saunier
Division of Student Affairs	Dustin Kilgour
Facilities Management and Safety	Steve Mack
	Jay North
Heritage College of Osteopathic Medicine	Dean Dupler
Housing	Adam Dannaer
Intercollegiate Athletics	Jason Farmer
Patton College of Education	Jennifer Martin
Scripps College of Communication	Chris Stewart
Undergraduate Admissions	Kevin Witham

FY20 Facilities Partner Group Strategic GOALS

- Continuation of SLA development and implementation for all three FMS areas
- Continuation of building coordinators initiative
- Improve usage of “reservable” interior space
 - Align with President/SIO strategic initiative for effective use of space
- Continue to study customer feedback and implement improvements in communications

BUILDING COORDINATOR INITIATIVE

- Have not made progress on this initiative
- Emphasis on implementation in Spring Semester
- Way-Ahead:
 - Maintain updated list of contacts for all buildings
 - Communicate purpose and goals to all contacts
 - Ask for feedback and suggestions
 - Schedule building contact training
 - Best practices for work orders
 - Report Generation
 - FMS ongoing Initiatives and KPI

IMPROVE USAGE OF “RESERVABLE” INTERIOR SPACE

- FPG Subgroup met with Registrar’s office
 - Purpose: See if we could engender energy/operational savings by shutting down HVAC systems for buildings, or specific spaces, over the summer
- We were unable to implement changes during summer of calendar year 2019. However, generated ideas for implementation next year
- Way-Ahead Use data from actions to inform decisions for summer 2020

RECENT FOCUS

- Improved Communications
- Evaluating ability to enhance messaging associated with “closed” work orders
- Shared recent Association Physical Plant Administrators (APPA) customer survey responses and trends
- “Closing the loop”
 - FMS managerial engagement with customers on difficult or poorly rated work orders

QUESTIONS??

- Steve Wood
740-593-2726
woods1@ohio.edu

- Beth Lydic
740-593-4401
lydic@ohio.edu

December 10, 2019

Benefits Advisory Council

Benefits Advisory Council

Co-chairs: Colleen Bendl & Susan Williams

- The Benefits Advisory Committee (BAC) charge: Analyze and make recommendations regarding university benefits and to consider financial sustainability, competitiveness, and fairness in recommendations.
- 14 Members include representatives from Faculty Senate (Co Chair), Administrative Senate, Classified Senate, AFSCME Union, as well as a Dean, an Executive Dean, a Vice President, an Academic Chair/Director, an Associate Provost, and the Chief HR Officer
- Guiding Principles
 - Eliminate structural deficits
 - Avoid Affordable Care Act Cadillac Plan Tax (required by state law)
 - Establish a maximum university contribution to the annual inflationary cost of benefits (no more than 5%)

Benefits Update

Budget Projections and impact on BAC discussions:

	FY20	FY21	FY22	FY23
Claims (Medical, Rx, Dental)	63,677,131	67,817,796	72,281,875	77,666,764
Fees/Other Ins	7,579,012	7,198,788	7,549,140	7,960,544
Total	71,256,143	75,016,584	79,831,015	85,627,308
Use of Reserves	-	-	-	-
Premiums	<u>(14,971,649)</u>	<u>(15,829,850)</u>	<u>(16,766,085)</u>	<u>(17,822,022)</u>
Claims + Fees Net Premiums	56,284,494	59,186,734	63,064,930	67,805,286
Percent Increase		5.16%	6.55%	7.52%
Savings needed to reach 5% goal*		(88,015)	(918,860)	(1,587,110)
*Dependent on preliminary changes discussed at BAC				

Benefits Update

Recommendations for FY21, FY22, FY23 include:

- Insurance Plans: (See chart)
 - Increases in percent of health plan premiums paid by faculty and staff,
 - Increases in deductibles and out-of-pocket maximums
 - Savings from Disability and Life Insurance IUC group contracts
- Educational Benefits:
 - Add Online Pearson programs to educational benefit for employees only (not dependents)
 - No other changes recommended at this time.

Impact of Recommendations:

- Total Compensation Impact:
 - FY21 increases to premiums impact pay by 0.25% to 0.60% for individuals enrolled in employee only coverage, and by 0.58% to 1.44% for individuals enrolled in family coverage. (See chart)
 - Deductible and out-of-pocket increases impact total compensation as well
- Benchmarking Impact: PPO plan may begin to exceed benchmarks in some areas such as the annual deductible.
 - IUC is currently conducting a new plan benchmarking survey

Benefits Update

BAC – Recommendations for FY21, FY22, FY23

Options	Current	FY21	FY22	FY23
Premium	15% - 17.5% - 20%	17% - 19% - 21%		18% - 20% - 22%
Deductible	\$500 / \$1,000		\$800 / \$1,600	\$1,000 / \$2,000
Co-Insurance	80% Plan		70%	
Co-Insurance Maximum	\$2,000 / \$4,000			
Out of Pocket Maximum	\$2,500 / \$5,000		\$3,500 / \$7,000	\$4,000 / \$8,000
Office Visit Copays	\$25			
Rx Retail Copays	\$20 / \$30 / \$40			
Rx Mail Copays	\$25 / \$40 / \$55			
Other		IUC Life/Disability RFP Rate Reduction		

Benefits Update

Premium Change Impact for FY21

Bracket Sal Range Avg Salary	Bracket 1 0-34.4K \$32,851	Bracket 2 34.4K-46.7K \$43,128	Bracket 3 46.7K-52.8K \$49,914	Bracket 4 54.8K-60.5K \$56,381	Bracket 5 60.5K-67.9K \$64,166	Bracket 6 67.9K-77.2K \$72,351	Bracket 7 77.2K-88.7K \$82,591	Bracket 8 88.7K-108K \$97,431	Bracket 9 108K+ \$145,166
Percent Increase									
Single	22%	22%	22%	22%	22%	22%	22%	22%	22%
Single+1	17%	17%	17%	17%	17%	17%	17%	17%	17%
Family	13%	13%	13%	13%	13%	13%	13%	13%	13%
Current Premium									
Single	\$77.33	\$84.85	\$92.36	\$99.88	\$107.40	\$114.92	\$122.44	\$129.95	\$137.47
Single+1	\$180.43	\$197.97	\$215.52	\$233.06	\$250.60	\$268.14	\$285.68	\$303.23	\$320.77
Family	\$309.46	\$339.54	\$369.63	\$399.71	\$429.80	\$459.89	\$489.97	\$520.06	\$550.14
FY21 New Premium									
Single	\$94.12	\$103.27	\$112.42	\$121.58	\$130.73	\$139.88	\$149.03	\$158.18	\$167.33
Single+1	\$210.39	\$230.85	\$251.30	\$271.76	\$292.21	\$312.67	\$333.12	\$353.58	\$374.03
Family	\$348.81	\$382.72	\$416.63	\$450.55	\$484.46	\$518.37	\$552.28	\$586.19	\$620.11
Monthly Increase									
Single	\$16.80	\$18.43	\$20.06	\$21.69	\$23.33	\$24.96	\$26.59	\$28.23	\$29.86
Single+1	\$29.96	\$32.88	\$35.79	\$38.70	\$41.61	\$44.53	\$47.44	\$50.35	\$53.27
Family	\$39.35	\$43.18	\$47.01	\$50.83	\$54.66	\$58.48	\$62.31	\$66.14	\$69.96
Annual Increase									
Single	\$201.54	\$221.14	\$240.73	\$260.32	\$279.92	\$299.51	\$319.11	\$338.70	\$358.30
Single+1	\$359.55	\$394.50	\$429.46	\$464.42	\$499.37	\$534.33	\$569.28	\$604.24	\$639.20
Family	\$472.24	\$518.15	\$564.06	\$609.98	\$655.89	\$701.80	\$747.71	\$793.63	\$839.54

Benefits Update

Other factors under BAC review

- RFP for Anthem/Express Scripts agreements.
- AFSCME contract negotiations and any impact on the overall benefits budget
- Affordable Care Act Cadillac Plan Tax
 - Tax currently scheduled to be applied to plans starting in 2022
 - State of Ohio law precludes public employers (including universities) from offering plans that hit the tax threshold.
 - This may require more changes to cost sharing such as deductibles, out-of-pocket maximums, copays, and etc.
- Expand types of plans offered (in addition to or instead of the current PPO Plan)
 - Example: High Deductible Plan

Benefits Update

Questions?

December 10, 2019

Procure to Pay (P2P) Partner Group

Procure to Pay (P2P) Partner Group Charge

- Develop solutions to improve policies, processes, and communications between planning units and the Purchasing & Payments department of the Division of Finance
- Gather feedback, review recommendations, and assist in the prioritization of issues related to university operations centered on purchasing and payments, including contract and insurance services, travel, PCard, and suppliers

P2P Partner Group Representation

Julie Allison, Finance and Administration, Co-Chair

Kelly Broughton, University Libraries, Co-Chair

Emily Chapman, Scripps College of Communication

Diane Cahill, Office of Global Affairs & International Studies

Wayne Chiasson, Physics and Astronomy (Arts & Sciences)

Kelly Coates, Heritage College of Osteopathic Medicine

Kim Hayden, Regional Campuses and Instructional Innovation

David Ingram, Physics and Astronomy (Arts & Sciences)

Keith Leffler, Research and Sponsored Programs

Becky Maccombs, Russ College of Engineering & Technology

Bo Richardson, Foundation

Erin Robb, Culinary Services (Auxiliaries)

Beth Tragert, Health Sciences & Professions

P2P Partner Group 2019 Goals

- Review and update University policies and procedures to align with best practices as well as state & federal regulations for:
 - Travel
 - Purchasing
 - Competitive bidding
 - PCard
- Advise and provide feedback on the development of training and communication strategies for university faculty and staff on policy and procedures within the scope of the partner group

Progress on P2P 2019 Goals

Travel - Policy 41.121: Reimbursement for Official Travel and Entertainment

- ✓ Effective March 19, 2019
- ✓ Training and procedures updated at <https://www.ohio.edu/finance/travel>

Purchasing - Policy 55.030: Purchasing

- ✓ Effective June 27, 2019
- ✓ Training and procedures continuously updated at <https://www.ohio.edu/finance/purchasing>

PCard - Policy 55.074: Payment Card Program

- ✓ Policy revision in final draft
- Accompanying procedures in early draft

Competitive Bidding - 55.007: Purchasing - Competitive Bidding

- ✓ Policy revision in final draft – present to EPSC in December
- Policy expected to be presented to Executive Staff Policy Committee in December 2019

Contract Terms & Conditions – Business Necessity

- Ohio University is required to follow the “essential terms” in accordance with Attorney General regulations/state law:
 - <https://www.ohioattorneygeneral.gov/Business/Commercialization/Essential-Terms>
- Process for negotiating University terms & conditions in contracts
 - Step 1 – Purchasing works with vendors to get contract language into compliance with Essential Terms
 - Step 2 – If vendor is willing to work with Legal Affairs, Legal Affairs works with vendor attorney(s) to revise language to meet Essential Terms in contract (but vendors are not always willing to engage with Legal Affairs either)
 - Step 3 – Business Necessity process – LAST RESORT and sometimes is still not possible to get to yes

Contract Terms & Conditions – Business Necessity

- Business Necessity Considerations
 - MUST meet a true business need! This process cannot and does not cater to “preference”
 - MUST identify how this is directly related to an institutional mission, what that mission is, and how the good/service fulfills that mission
 - No reasonable alternative exists and the university MUST show reasonable diligence on finding an alternative source that can meet the essential terms in a contract
 - Cannot be a medium or high risk activity based on the review process – this will only be used in cases where risk is determined to be low by the decision makers involved in the approval process
 - Cost is not a business necessity but can be considered in weighing the totality of facts and circumstances (Free software is not necessarily OK)
 - This is a process of last resort but - IT DEPENDS on the contract term or condition and is based on the totality of facts. There will still be cases where the answer is no and you must find an alternative good/service

Discussion Questions

- Ideas for communicating upcoming PCARD changes?
 - Reduction in the number of Pcards
 - Introduction of significantly more travel cards in lieu of Pcards
 - Potential new provider as part of banking RFP process
- Priorities for 2020 goals?

Questions?

Julie Allison, Associate Vice President of Finance

allison@ohio.edu

Kelly Broughton, Assistant Dean, University Libraries

brought@ohio.edu

December 10, 2019

Key Announcements

PDP Certificate Update

December 9, 2019

- **Over 1,200 employees** have enrolled in at least one PDP course since May, 2018.
- **HR Operations Certificate launched 10/2019.**
- **Peer Learning Network launched 10/2019** - currently recruiting Content Leaders to provide workshops and informal 1:1 assistance in building Excel skills.
- **Participation in Peer Learning covered by Professional Development Policy.**
- **Relationship-Building Certificate launched 12/2019** – collaborative effort with several instructor led and Skillsoft courses.
- **Two new certificates, Personal Effectiveness and Leadership,** are being designed.

	Accounting		Purchasing		# Courses	
Phase 1, Pilot - 2018			Completed	Being Developed	Not Started	
Phase 3, Y1 2019	HR Operations		Relationships		Effectiveness	
Phase 3, Y2 2020	Leadership		Supervision		Customer Service	
Phase 3, Y3 2021	Dept. Chairs		Administration		Estimated completion date 9/30/2021	

Questions?

Lewis Mangen,

Director of Organizational and Talent Development

mangen@ohio.edu

Finance Agenda

- Supplier Fair
- Holiday Expense Guidelines
- GASB No. 87 – Lease Accounting
- JET Reminders
- Travel Updates

Join Us for the 4th Ohio University Annual Supplier Fair

- Don we now our ugly sweaters!
- When: Wednesday, December 11th from 10AM-1PM in Baker Ballrooms

❄ Academic Programs International ❄ Airgas ❄ American Education Supply ❄ Ansell Healthcare, LLC ❄ Bio-Rad ❄ Blackboard ❄ **CDWG** ❄ **Christopherson Business Travel** ❄ Classic Solutions ❄ ComDoc Inc. ❄ Complete Book & Media Supply, LLC ❄ **Concur** ❄ **Consolidus** ❄ E&I Cooperative Services, Inc. ❄ Enterprise ❄ Fastenal ❄ GE Healthcare ❄ Gordon Food Service ❄ Grainger ❄ Hansen Distribution Agency (HAD) ❄ Hunt Optics & Imaging, Inc. (BB Microscopes) ❄ Iron City Pipe & Supply ❄ iVdeo ❄ **King Business Interiors** ❄ Kona Ice ❄ Lenovo ❄ Loth, Inc. ❄ Lowe's ❄ **McKesson** ❄ Medline Industries, Inc. ❄ MedSupply Partners ❄ Mettler Toledo ❄ Office Depot ❄ Ohio University Inn ❄ Omnia Partners ❄ Pepsi ❄ Red Tail Design Co. ❄ Robertson Heating & Cooling ❄ **Ron Foth Advertising** ❄ Rubbermaid Commercial Products ❄ Schoolhouse Electronics ❄ **SHI International Corporation** ❄ Southwest Airlines ❄ Staples ❄ State Electric ❄ Thermo Fischer Scientific ❄ **VWR** ❄ **Whelan Event Services**



Holiday Expense Guidelines

- **PARTIES**: Holiday parties and other office celebratory meals cannot be paid for with University or Foundation funds. If departments choose to host a carry-in “pot luck” meal on campus they must comply with University Policy 47.010: On-Campus Temporary Food Service Practices
- **GIFTS**: Holiday gifts cannot be purchased with University or Foundation funds unless the Vice President for University Advancement approves an exception for development purposes in writing. Any gift approved as an exception must be paid for with Foundation funds and comply with IRS guidelines
- **CARDS**: The use of e-cards is encouraged in order to promote the University’s sustainability efforts as well as reduce costs. University funds cannot be used to purchase holiday cards. Foundation funds can be used only if the cards are being sent to individuals or entities external to Ohio University, who have a business relationship to the University (including donors and prospective donors). To further reduce costs, departments should coordinate plans to send cards with Advancement so that these efforts are aligned with ongoing development activities
- **DECORATIONS**: Decorations cannot be purchased with either University or Foundation funds



GASB Statement No. 87 - Leases

- GASB 87 will be effective for FY21 beginning 7/1/20.
 - A lease is defined as a contract that conveys control of the right to use another entity's nonfinancial asset for a period of time in an exchange transaction. It includes buildings, land, vehicles, and equipment.
 - It applies to both leases as the lessee and the lessor.
 - It establishes a single model for lease accounting based on the principle that leases are financings of a right to use an underlying asset.
 - Accounting for long term leases will include recording an asset and a liability on the financial statement. Short term leases will continue to be recorded as outflows and inflows of resources.

GASB Statement No. 87 - Leases

- We are beginning now to prepare our records to allow for the change in accounting rules which includes:
 - Completing a master list of all long term leases (lessee and lessor) along with contracts and needed information.
 - Developing a list of items needed to be included in future lease contracts and/or questions to be asked during the contract process.
 - Creating new object codes and changing existing object codes for better tracking.
- Modifications to leases may trigger changes to the accounting so continued communication between departments and general accounting will be important throughout the life of the lease.

GASB Statement No. 87 - Leases

- The following object codes should now be used for recording lease expense. The detailed long description can also be found in the segment object look-up in OBI.
 - 732110 - RENTAL AND LEASE – EQUIPMENT AND VEHICLES – SHORT TERM.
 - This includes rental and lease of equipment and/or vehicles with a SHORT term contract. The lease term is the period during which a lessee has a NONCANCELLABLE right to use an underlying asset plus any periods included in options to extend. Periods for which BOTH the lessee and the lessor have the option to terminate the lease without permission from the other party or if both parties have to agree to extend are CANCELLABLE periods and are EXCLUDED from the calculation of the length of the lease term. A SHORT term lease is a lease that, at the commencement of the lease term, has a maximum possible term, including extensions, under the lease contract of 12 months or less. The lease may contain an OPTION to purchase.
 - 732115 - RENTAL AND LEASE – EQUIPMENT AND VEHICLES – LONG TERM.
 - This includes rental and lease of equipment and/or vehicles with a LONG term contract. The lease term is the period during which a lessee has a NONCANCELLABLE right to use an underlying asset plus any periods included in options to extend. Periods for which BOTH the lessee and the lessor have the option to terminate the lease without permission from the other party or if both parties have to agree to extend are CANCELLABLE periods and are EXCLUDED from the calculation of the length of the lease term. A LONG term lease is a lease that, at the commencement of the lease term, has a maximum possible term, including extensions, under the lease contract of over 12 months. The lease may contain an OPTION to purchase.

GASB Statement No. 87 - Leases

- 732520 - RENTAL AND LEASE – FACILITIES, LAND AND BUILDINGS – SHORT TERM.
 - This includes rental and lease of facilities, land, and/or buildings with a SHORT term contract. The lease term is the period during which a lessee has a NONCANCELLABLE right to use an underlying asset plus any periods included in options to extend. Periods for which BOTH the lessee and the lessor have the option to terminate the lease without permission from the other party or if both parties have to agree to extend are CANCELLABLE periods and are EXCLUDED from the calculation of the length of the lease term. A SHORT term lease is a lease that, at the commencement of the lease term, has a maximum possible term, including extensions, under the lease contract of 12 months or less. The lease may contain an OPTION to purchase.
- 732515 - RENTAL AND LEASE – FACILITIES, LAND AND BUILDINGS – LONG TERM.
 - This includes rental and lease of facilities, land, and/or buildings with a LONG term contract. The lease term is the period during which a lessee has a NONCANCELLABLE right to use an underlying asset plus any periods included in options to extend. Periods for which BOTH the lessee and the lessor have the option to terminate the lease without permission from the other party or if both parties have to agree to extend are CANCELLABLE periods and are EXCLUDED from the calculation of the length of the lease term. A LONG term lease is a lease that, at the commencement of the lease term, has a maximum possible term, including extensions, under the lease contract of over 12 months. The lease may contain an OPTION to purchase.

GASB Statement No. 87 - Leases

- 732120 – LEASE – FINANCED PURCHASE.
 - This includes a lease contract that transfers ownership of the underlying asset by the end of the contract and does NOT contain termination options.
- The object codes for recording lease revenue will also be reviewed and updated and communicated as soon as completed.

JET Reminders

- Select the correct Journal Category
 - Object Codes 48XXXX and 78XXXX – Journal Category “Internal Billing”
 - Corrections to Internal Billing – Journal Category “Corrections – Internal Bill”
 - Correcting ‘Transfer’ entries with both debits and credits using either object code 6xxxxx or 8xxxxx - Journal Category “Transfer-Funding/Investment”
 - If a journal entry uses any deferred/prepaid/accrual object code (starts with a 22XXXX) as either the debit or credit - Journal Category “Deferral/Prepaid” or “Accrual”
- Do not book any entry to object codes 300200 or 300100 – used by back office only to keep fund balances in balance
- Other Tips & Tricks When Using JET
 - Do not combine internal billings and other corrections in one journal entry. These need to be separate entries using the correct journal categories
 - If correcting charges to an account, make sure the debits or credits are made to the account where the original transactions were booked
 - For corrections, make sure to include in the line description details of the original transaction that is being corrected, for example, invoice #, invoice description, vendor name, etc.
 - For transactions 60 days or older include in the line description the unusual circumstances for corrections. Sixty days is measured from the original transaction date in Oracle
 - Journal Header Long Description need to explain why the entry is necessary, what the journal entry is doing, or what is its purpose. You must also include contact information such as name, number, email

	Increase	Decrease
Asset	Debit	Credit
Liability	Credit	Debit
Income/Revenue	Credit	Debit
Expense	Debit	Credit
Equity/Capital	Credit	Debit

Holiday Travel Reminders



- #1 – Monitor your flight details
- #2 – Reserve parking early
- #3 – Help is always available
 - Phone: 866.266.8806
 - For individual travel assistance, press 1
 - For group travel assistance, press 2
 - For technical and navigational assist, press 3
 - For assistance while traveling internationally, call: 682.233.1914
 - Email: ohio@cbtravel.com



Hertz

- New provider in Concur and available through CBT
- Hertz rates only available by booking through Concur or by calling CBT agent
- Contract pricing, in some cases, Hertz is the better deal
- Insurance is included if traveling domestically so don't purchase additional coverage for business travel. If traveling internationally refer to the insurance requirements on the Risk Management webpage below
 - <https://www.ohio.edu/hr/additional-resources/vehicle-rental>



December 10, 2019

ETHICS WHEN CONTRACTING

How to Ensure Compliance

Employees have a personal responsibility:

- to know and follow university policies;
- to know and follow the law;
- to exercise prudent business judgement;
- to act in the best interests of the university.

University Policies 41.002 and 55.030

- Should the additional compensation be treated as an overload or a contract for the purchase of goods or services?
 - Policy 41.002 governs the various types of additional compensation, limits on payment amounts, criteria to determine when appropriate, and the HR process to follow.
 - Policy 55.030 discusses conflicts of interest and public contracts. Employees are obligated to receive the approval of Legal Affairs if a university employee or employee's family member wants to enter into a contract to sell the university goods or services.
 - Employee v. Independent Contractor

Definitions

- A “public official or employee” is any person who is employed by a public agency.
- A “public contract” is any purchase or acquisition of goods or services by the university.
- An interest includes a direct or indirect financial benefit from a public contract.

Definitions Continued...

- Business associate includes any individuals, companies, or organization with which the official is acting together to pursue a common business purpose.
 - i.e. partners, co-owners, outside employee, co-members of an LLC, band mates
- Family members include:
 - Spouse, parents or grandparents, children or grandchildren, siblings, and step-children or step-parents, regardless of whether they live in the same household.
 - Uncles and aunts, cousins, nieces and nephews, in-laws and anyone else related to the official or employee by blood or marriage if they live in the same household.

Having an unlawful interest in a public contract ORC 2921.42

(A) No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest;

Authorization and Nepotism

- Authorized if public official:
 - Voted to award the contract;
 - Signed the contract;
 - Recommended the contract to other officials or employees; or
 - Took any other official action on the contract.
- When the university hires an employee, that employment is a public contract. This also applies when a public official authorizes a family member's hire = nepotism.

Interest in a Public Contract

ORC 2921.42 (A)(4)–(5)

- (A) No public official shall knowingly do any of the following:
- (4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected;
 - (5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars.

ORC 2921.42(C)(1)–(4) Exception Test:

- (C) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates has an interest, **when all of the following apply:**
 - (1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;

Necessary

- This is evaluated on a case by case basis.
- It is the responsibility of the department to document in writing that entering into the contract is necessary.

Exception Test Continued...

(C)(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved;

Unobtainable Elsewhere or Continuing Course of Dealing

- Are supplies or services obtainable elsewhere? You must research and document it.
- To bid or not to bid?
- Is the service available from another source within a geographical area?
- If the university already has a contract, what is changing? Just the term? Or is the financial deal or scope changing?
- Is the employee involved with making the decision?

Exception Test Continued...

(C)(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;

No Preferential Treatment

- Is the cost charged to the university the same as charged to any other similar customer?
- Same product or services for same cost?
- Did the university set the price or did the employee?

Exception Test Continued...

(C)(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

Arm's Length with Full Knowledge

- Is the employee in a decision-making position with the university?
- The university has written documentation of the process taken to choose the employee.
- Is the employee negotiating on behalf of him/herself or of a family member?
- Is the employee on a board, council, etc. that votes on the contract?

ORC 2921.42(2)

(2) Authorize, or employ the authority or influence of the public official's office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which the public official, a member of the public official's family, or any of the public official's business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees;

- A university employee cannot authorize an investment of public funds in which a family member or business associate has an interest or from which a family member or business associate receives a fee.

ORC 2921.42(3)

(3) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission, or board of which the public official was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder;

- This restriction prohibits a public official or employee from occupying a position of profit in the any public contract that he/she authorized.
- A public official cannot receive a definite and direct financial benefit from any contract that was authorized: by the official; or by any board or commission on which he/she served (even if the official didn't vote on the authorization).
- This restriction applies to the employee during public service and for one year after leaving public service.
- The restriction does not apply to competitively bid contracts awarded to the lower and best bidder.

ORC 102.03(E)

- No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official with respect to that person's duties.
 - “Anything of value” – money, gifts, meals, travel, golf outings, future employment.
 - “Substantial and improper influence” – a situation or an opportunity that presents an incentive to act in your personal interest to the detriment of the university.

Consequences

- Immunity
 - Employees have personal liability only if:
 - Actions manifestly outside the scope of employment or official responsibilities; or
 - Acted with malicious purpose, in bad faith, or in a wanton or reckless manner.
 - If didn't follow a university policy then may not be in the course and scope of employment.
- Criminal Penalties
 - A violation of 2241.42(3), (4) or (5) = 1st degree misdemeanor
 - A violation of 2241.42(1) or (2) = 4th degree felony

Suggestions?

If you have suggestions for Business Forum topics, please share them via email to finadmin@ohio.edu. Your input is welcome!

Next Business Forum

Wednesday, February 19

10 am -12 pm

Baker University Center 241 - 242