

## 2.004 Standards of Conduct

Hawaii Revised Statutes (HRS) Chapter 84, Standards of Conduct, applies to all RCUH employees. Any questions regarding applicability or conflicts of interest during employment or post-employment should be directed to the [Hawaii State Ethics Commission](#).

### I. Responsibilities

#### A. Principal Investigator

Ensures compliance with policies and regulations regarding standards of conduct and conflicts of interest.

#### B. Fiscal Administrator

Ensures that Projects comply with policies and regulations regarding standards of conduct and conflicts of interest.

### II. Standards of Conduct

All RCUH employees shall abide by the following **standards of conduct**:

- A. **Gifts** – No employee shall solicit, accept, or receive, directly or indirectly, any gift, favor, or anything of monetary value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the employee in the performance of the employee's official duties, or is intended as a reward for any official action on the employee's part.
- B. **Confidential Information** – No employee shall disclose information which by law or practice is not available to the public and which the employee acquires in the course of the employee's official duties, or use the information for the employee's personal gain or for the benefit of anyone.
- C. **Fair Treatment** – No employee shall use or attempt to use the employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for oneself or others including, but not limited to, the following:
  - 1. Seeking other employment or contract for services for oneself by the use or attempted use of the employee's office or position;

2. Accepting, receiving, or soliciting compensation or other consideration for the performance of the employee's official duties or responsibilities except as provided by law;
3. Using state time, equipment, or other facilities for private business purposes; and
4. Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business that the employee inspects or supervises in the employee's official capacity.

#### **D. Conflicts of Interest**

1. No employee shall take any official action directly affecting any of the following:
  - a. A business or other undertaking in which the employee has a substantial financial interest; or
  - b. A private undertaking in which the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.
2. No employee shall acquire financial interests in any business or other undertaking which the employee has reason to believe may be directly involved in official action to be taken by the employee.
3. No employee shall assist any person or business or act in a representative capacity before any State or county agency for a contingent compensation in any transaction involving the State.
4. No employee shall assist any person or business or act in a representative capacity for a fee or other compensation to obtain a contract, claim, or other transaction or proposal in which the employee has participated or will participate as an employee, nor shall the employee assist any person or business or act in a representative capacity for a fee or other compensation on such contract, claim, or other transaction or proposal before UH or RCUH.
5. No employee shall participate in the selection, award, or administration of a contract if the employee (or any member of his/her immediate family, his/her partner, or an organization that employs or will employ the employee or his/her immediate family or partner) has a financial or other interest in, or will receive or has received a tangible personal benefit from, a business or other undertaking considered for a contract.

**E. Disclosure** – HRS Chapter 84, **Standards of Conduct**, requires certain State officials to submit Disclosure of Financial Interest forms to the Hawaii State Ethics Commission. Those so required will be advised by the Hawaii State Ethics Commission and/or RCUH or UH.

#### **F. Contracts**

1. RCUH, as a State agency, shall not enter into any contract to procure goods or services, or for construction, with a legislator, an employee of the State, or a

business in which a legislator or an employee of the State has a controlling interest, involving services or property of a value in excess of \$10,000, unless the contract is awarded by competitive sealed bidding or competitive sealed proposal, or a notice of intent to award the contract is posted and a copy is filed with the Hawaii State Ethics Commission at least ten (10) days before the contract is awarded. The **Hawaii State Ethics Commission (HSEC) (808-587-0460)** should be contacted prior to entering into any contract with a legislator or with a UH, RCUH, or State of Hawai'i employee. Additionally, the UH Office of Research Compliance (ORC), [COI@hawaii.edu](mailto:COI@hawaii.edu), should also be contacted prior to entering into a contract with a UH employee or RCUH employee (working under a UH project). All correspondence (oral or written) with the HSEC and ORC should be noted in the procurement file.

2. Contact the **HSEC (808-587-0460)** for guidance in the following situations:
  - a. If the contractor has been represented or assisted personally on matters related to the subject contract, by an individual who has been an employee of RCUH, UH, or a Direct Project (if the Direct Project is a State agency) within the preceding two years, and who participated while so employed in the matter with which the subject contract is directly concerned. (HRS § 84-15(b)).
  - b. If the contractor has been assisted or represented by a legislator or employee of the State of Hawai'i for a fee or other compensation to obtain the subject contract, or will be assisted or represented by a legislator or employee of the State of Hawai'i for a fee or other compensation in the performance of the subject contract, if the legislator or employee of the State of Hawai'i was involved in the development or award of the subject contract. (HRS § 84-14(d)).
  - c. If the contractor has been assisted or represented by an employee of RCUH, UH, or a Direct Project (if the Direct Project is a State agency) for a fee or other compensation.
  - d. If the contractor has been represented on matters related to the subject contract, for a fee or other consideration by an individual who, within the past twelve (12) months, served as a legislator or employee of the State of Hawai'i, and participated while a legislator or employee of the State of Hawai'i on matters related to the subject contract. (HRS §§ 84-18(b) and (c)).
  - e. If the contractor has been represented by an individual for a fee or other compensation and that individual, within the past twelve (12) months, served as an employee of RCUH, UH, or a Direct Project (if the Direct Project is a State agency).

All correspondence (oral or written) with the HSEC should be noted in the procurement file.

3. When expending federal funds, RCUH is required to comply with the Anti-Kickback Act of 1986, which prohibits the making or accepting of payments for the purpose

of improperly obtaining or rewarding favorable treatment. The following procedures have been established to comply with the requirements of the law:

a. *Definitions*

- i. Kickback: Any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to RCUH or its employees, contractors or contractor employees for the purpose of improperly obtaining or rewarding favorable treatment.
- ii. Contractor: Any person who offers to furnish or furnishes any supplies, materials, equipment, or service of any kind under a contract with RCUH.
- iii. Person: A corporation, partnership, business, association of any kind, trust, joint-stock company, or individual.

b. *Responsibility* – No person shall perform the following:

- i. Provide, attempt to provide, or offer to provide any kickback;
- ii. Solicit, accept, or attempt to accept any kickback; or
- iii. Charge the federal government or the University, directly or indirectly, the amount of any kickback.

c. *Penalties*

- i. Any person who knowingly and willfully engages in the conduct described in subparagraph 6.c.ii, above, may be subject to criminal penalties.
- ii. Civil penalties may be recovered from any person who knowingly engages in such prohibited conduct.

d. *Audit Procedures* – RCUH requires Fiscal Administrators and other RCUH personnel engaged in procurement, contracting, or related activities to submit an [Attachment 9 Annual Declaration of Receipt of Gifts and Gratuities Compliance with Standards of Conduct](#).

e. *Procedures for Reporting Kickbacks*

- i. When any person has reasonable grounds to believe that a violation of the Anti-Kickback Act has occurred, he/she shall promptly report in writing the possible violation to the RCUH Procurement & Disbursing manager.
- ii. RCUH personnel shall cooperate fully with any federal agency investigating a possible violation of the Anti-Kickback Act.

f. *Procedures to Offset Kickbacks* - The Federal Contracting Officer may perform any of the following:

- i. Offset the amount of any kickback against any monies owed under the contract with RCUH; and/or
- ii. Direct that RCUH withhold from sums owed a contractor the amount of any kickback; and
- iii. Order that monies withheld under subparagraph 6.c.vi.2., above, be paid over to the federal government unless it has already offset those monies under subparagraph 6.c.vi.1., above. In either case, RCUH is required to notify the Federal Contracting Officer whenever monies are withheld.

### **III. Relevant Documents**

[HRS Chapter 84, Standards of Conduct](#)

[Attachment 9 Annual Declaration of Receipt of Gifts and Gratuities Compliance with Standards of Conduct](#)

[UH AP 8.220 General Principles](#)

[Hawaii Administrative Rules Title 21](#)

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