

THE UNIVERSITY OF TEXAS

MDAnderson  
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FY14



# Responsibilities Under State Ethics Rules

# State Statutes Govern Employee and Vendor Behaviors

## State Statutes



<i>Employee</i>	<i>Vendor</i>	<i>Employee</i>
<b>Standards of Conduct Statute</b>	<b>Bribery Statute</b>	<b>Gift to Public Servant Statute</b>
<i>TEX.GOV'T CODE § 572.051(a)(1)</i>	<i>TEX.PEN.CODE §36.02(A)</i>	<i>TEX.PEN.CODE §36.08(d)</i>
A state officer or employee should not . . . accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct. . . .	A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another . . . any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant. . . .	A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

As state agents, MD Anderson employees' transactions with vendors are generally governed by three different statutes.

## State Statutes

- A “benefit” under these statutes can be nearly anything of pecuniary (monetary) value.
- When you give a benefit to a state employee, the employee is forced to consider whether any of these statutes – or MD Anderson’s own ethics policies – apply.
- Benefits aren’t necessary to get the job done. The employee doesn’t want them or expect them.



Why put the employee or yourself as a vendor in the position of potentially violating State law?

## State Statutes

*In some circumstances, the improper offering of benefits can get vendors in trouble too! See Tex.Pen.Code §36.09.*

### **Sec. 36.09. OFFERING GIFT TO PUBLIC SERVANT.**

- A. A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.
  
- B. An offense under this section is a Class A misdemeanor.

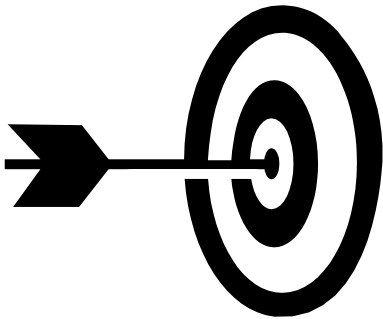


Why put yourself as a vendor or the employee in the position of potentially violating State law?

## Institutional Policies

MD Anderson's Ethics Policy (UTMDACC Institutional Policy # ADM0337) applies to every MD Anderson workforce member:

- It prohibits the acceptance of improper benefits.
- It cautions against the appearance of impropriety.
- It subjects MD Anderson employees to disciplinary action for violations of the policy, which may include termination of the employee.



MD Anderson's Ethics Policy incorporates the State statutes.

# Appearance Matters

“In ethics advisory opinions the Ethics Commission has answered opinion requests on the basis of what is permitted or prohibited by law. This practice should not be taken as expressing a view on the part of the commission that everything that is legally permissible is appropriate. State officers and employees should always ask themselves whether it is appropriate for a public servant to accept something from a person who wants, or may want, or may be seen to want, an official favor within the public servant’s authority.”



# Appearance Matters

Vendors should always ask themselves whether it is appropriate to offer or for a public servant to accept something from a person who wants, or may want, or may be seen to want, an official favor within the public servant's authority.



# Appearance Matters

Food or drink (e.g., bagels or donuts dropped off at the office) can be a problem.

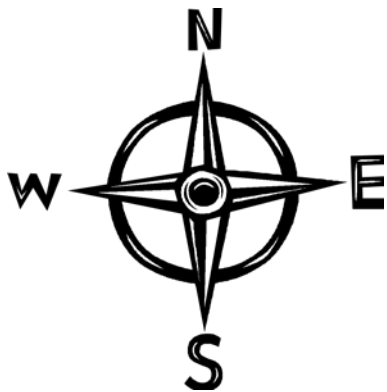
Even food or drink intended “for the whole department” can be problematic – MD Anderson can only accept benefits that further our institutional mission. Bagels, donuts, food baskets, etc., don’t really do that.



OP TEX. ETHICS COMM'N No. 130 (citing the predecessor to the Standards of Conduct Statute).



## Appearance Matters



- These rules don't prohibit personal friendships between employees and vendors.
- Certain modest benefits offered to an employee when an employee is a guest of the vendor are not improper.
- But the employee and the vendor always has to worry about the Bribery Statute and the appearance of impropriety.

But they do apply to everything the employee does as an employee.

# Contracting Period



“All communication with potential respondents should be made through the Purchasing Department or other designated staff. The program staff should not have contact with potential respondents outside of solicitation conferences. Likewise, a respondent that contacts someone other than authorized staff in regards to a solicitation may be disqualified. While the Purchasing Staff or other designated staff may not be able to answer all of the technical questions asked by potential respondents, they will ensure that the information is provided to all potential respondents. The solicitation document should only provide a purchasing point of contact with all applicable forms of communication such as telephone, email, etc. Should a potential respondent contact program staff, program staff must politely decline to discuss the procurement and forward the inquiry to the appropriate purchaser.”

State of Texas Contract Management Guide (p. 40).

MDA staff involved in RFPs sign non-disclosure forms that are more restrictive than those recommended in the Guide.

# Reporting Compliance Concerns



MD Anderson expects violations or potential violations to be reported.

To discuss or report compliance concerns, contact:

The Chief Compliance Officer via the page operator at:

**713-792-7090**

The Institutional Compliance Office at:

**713-745-6636**

The Fraud & Abuse Hotline at:

**800-789-4448**

The Privacy Hotline at:

**888-337-7497**

To report suspected fraud, waste, and abuse involving state resources, call the State Auditor's Office Hotline at: **1-800-892-8348.**