



WILLIAM & MARY

CHARTERED 1693

University Faculty or Staff with University Vendor Affiliation/Conflict of Interest (COI)

Code of Virginia COI Statutes and Options for Requesting a Waiver

STEP 1: EMPLOYEES, PLEASE READ ALL OF THE FOLLOWING:

PROHIBITED CONTRACTS BY OFFICERS AND EMPLOYEES OF STATE GOVERNMENT:

No officer or employee of any governmental agency of state government shall have a personal interest in a contract **with the governmental agency of which they are an officer or employee**, other than their own contract of employment.

No officer or employee of any governmental agency of state government shall have a personal interest in a contract **with any other governmental agency of state government** unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in the *Rules Governing Procurement of Goods, Services, Insurance & Construction by a Public Institution of Higher Education of the Commonwealth of Virginia* or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

EXCEPTIONS THAT CAN BE GRANTED:

When the governmental agency is a public institution of higher education, an officer or employee whose personal interest, or that of an immediate family member, in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$5,000 per year, provided that:

- (i) the officer or employee's ownership interest, or ownership and income interest and that of any immediate family member in the contracting firm is disclosed in writing to the president of the university or their designee, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution,
- (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interest of the institution,
- (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies themselves as a matter of public record, and

- (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract.

Reference: Code of Virginia, Title 2.2 Administration of Government, Chapter 31, State and Local Government Conflict of Interest Act:

OPTIONS FOR EMPLOYEES WITH COI: William & Mary employees who wish to exercise the administrative process outlined in Item (2) above may complete the [Request to Petition](#) form for consideration by the university president to determine that continuing to do business with the vendor/company that the employee has a personal interest in or a personal interest in by an immediate family member is **in the best interest of the university**. This document will be routed for consideration by the William & Mary Associate Vice President of Business Affairs via the AVP of Supply Chain Services.

The AVP of Supply Chain Services will review and submit the petition for consideration by the Associate Vice President and if approved by the Associate Vice President, the employee will receive a completed and approved form. The Associate Vice President's approval signifies the company may still engage in business with the university as it is determined to be in the best interest of the university. Requesting a review and petitioning the Associate Vice President guarantees no positive determination and will be considered case by case.

DEFINITIONS:

CONTRACT: any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

EMPLOYEE: means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

IMMEDIATE FAMILY: means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

PERSONAL INTEREST: means a financial benefit or liability accruing to an officer or employer or to a member of his immediate family. Such interest shall exist by reason of

- (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
- (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;

- (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed \$5,000 annually;
- (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income or salary, other compensation, fringe benefits or benefits from the use of property;
- (v) personal liability incurred or assume on behalf of a business if the liability exceeds three percent of the asset value of the business; or
- (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

PERSONAL INTEREST IN A CONTRACT: means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.