

The Ohio Ethics Law and Sales to Public Agencies E-Course Transcript

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The Ohio Ethics Law and Sales to Public Agencies

Thank you for participating in this e-course, created and presented by the Ohio Ethics Commission.

This brief course will not cover the entire Ethics Law, but rather focus specifically on the prohibitions related to sales to public agencies. We begin with an example.

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This is John Wagner. He is a respected vocational teacher at an Educational Service Center in Ohio.

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The high school students at the ESC fondly refer to Mr. Wagner as "Wood-Shop Wagner."

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Mr. Wagner loves his job educating his students on how to work with wood for useful items like furniture, as well as decorative ones.

He prides himself on working closely with his students, advising them on safety procedures and the tricks of the trade.

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In addition to his work at the vocational high school, Mr. Wagner also owns a local hardware store. He really enjoys interacting with customers and sharing his woodworking expertise.

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The school is about to begin, and Mr. Wagner is busy ordering wood supplies and tools for the students. The school treasurer, however, noticed that the invoices Mr. Wagner is submitting to the school are from his own hardware store.

The treasurer knows Mr. Wagner is a good person and his hardware store a beloved fixture in the community. But she can't help thinking that this could be an issue. Is she right?

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Imagine that you also owned a hardware store in town. How would you feel about Mr. Wagner selling supplies to his own school?

Select your reaction



What is your reaction? Imagine that you also owned a hardware store in town. How would you feel about Mr. Wagner selling supplies to his own school?

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Wood-Shop Wagner seems like a decent guy, doesn't he? His students love him, and he is obviously passionate about wood-working.

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But hats off to the school district treasurer, though! She is obviously on target in having concerns about Mr. Wagner's invoices to the school.

Not because he isn't a good person, but because the Ethics Law specifically addresses the issue of selling goods and services to our own public entities.

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Selling to Public Agencies

ORC 2921.42(A)(4) prohibits:

- Having an interest
- In a public contract
- Any connected agency

Obviously, it's not uncommon for people in public service to have outside jobs or outside businesses. But we need to be aware that the Ethics Law prohibits us from having a financial interest in the contracts of our own public agencies.

Generally speaking, public officials and employees can have outside businesses, but they can't sell goods or services to their own public entities.

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If you are taking this e-course right now and you own or co-own a business in your private life, that's great!

We hope it's a productive and meaningful journey and we'd be happy to help answer any questions you ever have about your business and the Ethics Law.

But you also need to assume that the public entity you serve will never be one of your clients. In fact, don't even attempt to serve as a vendor to your own public entity and you'll always be safe under the law.

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It's important to note here that in this situation, recusal doesn't solve the problem.

Yes, it is possible for a member of your family, for example, to get a contract with your public agency if you are able to recuse yourself from any aspect of the process. We covered that in the last part of this e-course.

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[Recusal is not enough when it comes to being a vendor to our own public entities.](#)

But that isn't the solution for this part of the law. As public officials and employees, we cannot sell goods or services to our own public entities, even if we play no role in approving or securing the public contract.

In other words, it's illegal for public employees and officials to serve as vendors to their own public entities, even if they did not actually authorize the contract.

Any businesses that we own or co-own should not be considered a potential vendor to our own agencies.

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The only way it could be possible to sell goods or services to your own public agency would be to meet very specific exceptions under the Ohio Ethics Law.

These restrictions apply to everyone in public service - both in state and local governments - but be aware that the restrictions are especially stringent for state employees and officials.

Please contact the Ohio Ethics Commission if you would like additional information on the exceptions and whether or not you may meet them.

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Be aware that city, county, or township employees work for that entire governmental body - not just a specific department or office.

For example, if you work for Franklin County, you could not be a vendor to ANY Franklin County government office, not just the department where you work.

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For all the state employees hanging out with us today on this e-course, it is possible to sell goods or services to state agencies other than your own.

But there is a form you must first complete which can be found on the Ohio Ethics Commission's web site. So, visit our website or contact us with any questions.

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Okay, that part of the law should seem fairly clear by now. But let's add another layer.

We know we can't directly sell goods and services to our own public entities, but what about sub-contracting? Does that make a difference? Hmm. Let's talk about that!

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Carlos: Yeah, I think it's great the county finally set aside some money to rehab the Chadwick Building.

Susan: I love when counties preserve historic buildings! It's like a happy ending for an old friend!

Carlos: Well, congratulations mi amigo! I'm glad you got the contract; you guys always do a great job.

Susan: So, Carlos is a full-time county employee and he's talking with the contractor who's apparently going to do the work on that historic building.

But I noticed that Carlos used the phrase "mi amigo" - that's "my friend" in Spanish, right? I mean, doesn't it sound like they might know each other, already?

Carlos: Absolutely. I'm always happy to do the plumbing sub-contracting for you.

Susan: Okay, so wait now...it sounds like Carlos has a plumbing business on the side in addition to being a county employee. I'm okay with that part, but is anybody else getting a little nervous here?

Carlos: When are you going to start? I can start setting aside my weekends and evenings for this project.

Susan: Now I'm definitely getting concerned. It really does sound like Carlos is going to be performing sub-contracting work for a company that just got a county contract. The very county that Carlos works for.

Carlos: No, no, I don't think that will be a problem. I mean, I always work with you guys and I am not the main contractor here. I'm not the one who submitted the bid to the county - you did.

Carlos: Mira, I know this is the first time your company has had a county project, but I really don't think it is an issue since I'm just a sub-contractor.

True, I understand, if I had been the person with the county to make the decisions or recommendations on the project, I suppose that would be a problem. But that's not the case here, so I'm ready to get to work!

Susan: I guess maybe it's time for an Ohio Ethics Law training for Carlos and his county friends, huh?

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Imagine that you are a contractor in this county. How would you feel about the contractor that hires this county employee for subcontracting work being the contractor chosen for this project?

Select your reaction



What is your reaction? Imagine that you are a contractor in this county. How would you feel about the contractor that hires this county employee for subcontracting work being the contractor chosen for this project?

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Carlos' argument is more common than you might think. People often argue that because they weren't the primary contractor with their public agency that it shouldn't be a problem.

But, as you probably picked up from my reaction in the video, it definitely is!

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The Ohio Ethics Commission has stated in previous Advisory Opinions that even a subcontract with a public agency is still a public contract.

So, if we know that it's illegal to have a public contract with our own public agencies, that would be equally true for subcontracts, as well.

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So even if Carlos is not the contractor who actually sought and obtained the contract with his own county, he can't provide subcontracting to the general contractor who did get the contract.

It might feel indirect, but even as a subcontractor, Carlos would still benefit from that public contract. Therefore, it would still be a violation of the Ohio Ethics Law.

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For those of you who have questions regarding potential exemptions to this part of the statute, please contact the Ethics Commission before taking any action.

In short, however, it's just safest to assume that the business you own or co-own in your private life will not be a vendor to your own public entity.

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Ohio Ethics Commission

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www.ethics.ohio.gov

Congratulations! You have completed The Ohio Ethics Law and Sales to Public Agencies

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[Ohio Ethics Law Overview \(PDF\)](#)