Chapter 3
eHealth Saskatchewan—Mitigating Vendor Influence and Related Conflicts of Interest

1.0 MAIN POINTS

Conflicts of interest, whether apparent, potential, or real, bring into question the integrity and fairness of decisions made by public servants. Sound policies should assist in mitigating risks associated with conflicts of interest, and vendor influence.

This chapter reports on eHealth Saskatchewan's policies and processes to mitigate vendor influence and related conflicts of interest. eHealth needs to:

➢ Develop and use an approved policy outlining permitted vendor-sponsored travel

We identified eight instances where eHealth's vendors paid for eHealth employee travel and training expenses but the contract with the vendor did not include specific provisions to pay for these costs. For three of these instances, the business reason for eHealth employees attending conferences outside of Canada was unclear (which were paid for by two eHealth vendors). Two eHealth employees on these trips were also involved in the procurement process for the two vendors.

Having a clear and robust policy will promote a consistent and fair approach across the organization in accepting vendor-sponsored travel.

➢ Have staff complete written conflict of interest declarations annually, and actively track employees with declared conflicts of interest

Sixteen of 22 employees we tested did not have a completed conflict of interest declaration form in their personnel files. We identified five employees (former and current) with undeclared conflicts.

Requiring mandatory annual written declarations promotes a culture of actively identifying, declaring, and mitigating conflicts.

➢ Document reasons for sole-source purchases and formally document declarations of conflict by staff involved in vendor selection

None of the 10 sole-sourced purchases that we tested had any written justification. As of March 2019, employees involved in vendor selections were not formally declaring conflicts of interest.

Without formal documentation of potential conflicts or justification for sole-sourcing, eHealth is not facilitating equitable treatment of vendors, and may not have obtained the best value when making purchases.

2.0 INTRODUCTION

2.1 Focus of Audit Work

This chapter contains the results of specified auditing procedures over eHealth's policies and processes to mitigate vendor influence and related conflicts of interest used during the period April 1, 2017 to January 31, 2019.[1] **Section 4.0** sets out our approach, and lines of inquiry.

We decided to do this work because, at times, as part of its vendor contracts (explicitly or implicitly), eHealth accepts vendor-paid training and development opportunities from vendors. In addition, in April 2018, eHealth determined that two of its staff and one individual seconded to eHealth accepted (from an eHealth vendor) flights, hotels, and tickets to events at no cost to the staff or to eHealth. Two of these individuals had decision-making responsibilities over eHealth's procurement of goods and services.

Furthermore, since 2017, eHealth provides IT services to all Saskatchewan government healthcare organizations and their 40,000 health care workers. This consolidation of IT services includes a single approach to the procurement of IT hardware, software, and security for this sector.[2]

At March 2019, eHealth employed nearly 350 employees in full-time equivalent positions.

For the year ended March 31, 2018, eHealth Saskatchewan had total revenues of $97.5 million and total expenses of $95.8 million (including software and hardware maintenance expenses of $27.2 million and payroll of $31.4 million). eHealth's 2018-19 budget anticipated total revenues of $142.9 million and total expenses of $145.4 million.

At March 31, 2018, eHealth had $96 million worth of contractual obligations from March 31, 2018 to March 31, 2024, comprised of 137 contracts with 43 different vendors.[3,4] The majority of these vendors are providing eHealth IT goods and services.

2.2 Managing Conflicts of Interest

Conflicts of interest, whether apparent, potential, or real, bring into question the integrity and fairness of decisions made by public servants. If not properly addressed, conflicts of interest can increase the level of distrust and cynicism toward government, and over time, impact the legitimacy and effectiveness of government actions.[5]

Conflicts of interest exist on a spectrum of severity. In public services, they can take many forms. For example, accepting hospitality or gifts from private sector companies during a

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[1] By Order-in-Council 734/2010, on December 14, 2010, Cabinet created eHealth Saskatchewan under *The Crown Corporations Act, 1993*. Its purpose is to procure, implement, own, operate and manage the Saskatchewan electronic health record, and other health information technology (e.g., hospital and radiology systems) for the province of Saskatchewan. eHealth Saskatchewan, *2017-18 Annual Report* (p. 9): www.ehealthsask.ca/about/Pages/annual-reports.aspx. (25 October 2018).

[2] In 2017, the Government mandated eHealth to consolidate IT services across the health system. eHealth Saskatchewan, *2017-18 Annual Report*, pp 13 and 44.

[3] eHealth Saskatchewan, *2017-18 Annual Report*, pp. 52, 58, and 60.

[4] Information provided by eHealth Saskatchewan management.

[5] Auditor General of Canada, *2010 Fall Report of the Auditor General of Canada*, Chapter 4 – *Managing Conflict of Interest*, p. 3.

procurement exercise; awarding contracts to suppliers in which the decision-maker has a personal or financial interest; or providing policy advice to government while also working, or consulting, for industry.[6]

Appropriate organizational policies and procedures give staff clarity about accountability or activities of critical importance to an organization including clarity on managing conflicts of interest (see **Figure 1**). In addition, policies promote transparency and accountability.

Figure 1—Key Steps to Manage Conflicts of Interest

Source: Australian National Audit Office, *Managing Conflicts of Interest in FMA Agencies*, (2013-14).

Key policies include those about conflict of interest, code of conduct, and/or integrity policies that outline expected behaviour of board members, management, staff, and vendors from which an organization purchases goods and services. In addition, procurement policies and procedures should assist in managing and mitigating risks associated with conflicts of interest, and vendor influence.

3.0   KEY FINDINGS AND RECOMMENDATIONS

3.1   Code of Conduct Generally Aligns with Good Practice

eHealth's Code of Conduct aligns with good practice for employees not involved in making purchasing decisions. But as discussed in **Section 3.3**, neither the Code nor other policies include sufficient guidance about code of conduct and conflict of interest considerations for employees involved in making purchasing decisions.

Consistent with good practice, eHealth's Code of Conduct applies to the members of its Board of Directors, senior management, and employees of eHealth along with staff on contract and student learners.

Periodically, eHealth reviews its Code of Conduct to keep it relevant and up to date. eHealth's Board of Directors approved an updated Code of Conduct in September 2018.[7]

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[6] United Kingdom National Audit Office, *Conflicts of Interest*, 2015, p. 6.
[7] Cabinet appointed new members to eHealth's Board of Directors under Order-In-Council 35/2018 in January 2018. It renewed the appointment of only one member of the prior Board.

Its previous version of the Code was last updated in 2016. The next planned review of the Code of Conduct is in September 2019.

We found that the September 2018 Code of Conduct did not differ significantly from the previous 2016 version. The updated Code includes some additional examples of conflict of interest situations, and more detail about the use of drugs and alcohol at the workplace. It appropriately continues to require Board members, management, and staff to indicate, in writing, that they have read and understood the Code of Conduct and eHealth policies. See **Figure 2** for a brief summary of the Code.

Figure 2—Brief Summary of eHealth Code of Conduct (September 2018)

Sets out expected and acceptable behaviour for the following topics:
  ➢ Conflict of Interest
  ➢ Conditions when representing eHealth
  ➢ Attendance at Work
  ➢ Professionalism
  ➢ Safe Environment; Drugs and Alcohol
  ➢ Protection of Information; Acceptable use of Technology and Information Security, and Corporate Property
  ➢ Accounting and Auditing
  ➢ Public Interest Disclosure Act; Reporting Violations; Investigation Guidelines; Retaliation
  ➢ Related policies (e.g., conflict of interest, procurement, corrective discipline, etc.)

Requires employees and Board members to acknowledge, each year in writing, the following. They read, understand, and comply with eHealth's Code of Conduct, the corporate policies referenced in the Code, and any other corporate policies that apply to their employment.

With respect to Conflict of Interest: employees are not supposed to engage in activities that are a conflict of interest, could result in a conflict of interest, or could be perceived as a conflict of interest. Conflict of interest situations include:
  ➢ Dealings with family, friends, business associates, and former business associates
  ➢ Outside employment, directorship, and volunteer activities
  ➢ Giving or receiving gifts or entertainment
  ➢ Use of corporate information or property for personal gain

Reporting Violations gives employees three options to report a violation of the Code of Conduct including:
  ➢ Talk to a manager.
  ➢ Make a report to the Vice President of Strategy, Quality, and Risk Management
  ➢ Make an anonymous report to a third-party reporting agency (i.e., 24/7 anonymous hotline, or online tool) The Vice President of Strategy, Quality and Risk Management receives all anonymous reports for assessment, unless the report is flagged as "sensitive," in which case the Chair and the Vice-Chair of the Board receive the report for assessment.

Source: eHealth Code of Conduct Policy.

Our comparison of the content of the updated Code of Conduct against good practice found it comprehensive and aligned for employees not involved in making purchasing decisions.[8] However, eHealth's Code does not include considerations about identifying and managing potential conflicts when involved in making purchasing decisions. Specifically, those decisions to determine the need to purchase goods or services, as well as initiating, evaluating and approving those purchases. See **Recommendation 2** about providing explicit guidance about identifying and handling vendor conflicts of interest.

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[8] We found the Code of Conduct and Conflict of Interest Policy for employees of Saskatchewan ministries (Public Service Commission) and commercial crown corporations (CIC) reflected good practice.

3.2 More Robust Staff Conflict of Interest Policy Needed

eHealth's conflict of interest guidelines for its Board members align with good practice; conversely, its policy for staff misses some key aspects.

eHealth maintains two conflict of interest policies—the Board of Directors Conflict of Interest Guidelines, applicable to members of its Board of Directors and some senior management positions, and Staff Conflict of Interest Policy, applicable to the remaining senior management positions, employees, consultants, and students.[9] The applicability of these policies are consistent with good practice.

eHealth periodically reviews its conflict of interest policies to keep them relevant and up-to-date. eHealth's Board approved the new Board of Directors Conflict of Interest Guidelines in June 2018 and an updated Staff Conflict of Interest Policy in September 2018. The previous version of the policy was updated in 2014. The next planned review is in June and September 2019, respectively.

The Board Guidelines outline that Board members, and some senior management positions, are required to complete a conflict of interest disclosure form annually. Key changes in the September 2018 Staff Conflict of Interest Policy included adding a conflict of interest declaration form, and clarifying to whom the Policy applies (e.g., to consultants).

Our comparison of the Board of Directors Conflict of Interest Guidelines to good practice found that it aligned. It clearly described the types of information to disclose (e.g., personal interests), and the process to disclose them. It required, at minimum, written mandatory disclosures of conflicts of interest upon acceptance of the appointment, when they arise, and on an annual basis. To ensure appropriate parties are aware of a disclosure, it required the confidential distribution of disclosures to all Board members, and applicable senior management positions (i.e., Chief Executive Officer, Corporate Secretary, and Vice President of Finance and Administration).

Our comparison of the Staff Conflict of Interest Policy to good practice found that it did not align in the following key areas.

➢ It did not include sufficient examples of real, perceived, and potential conflicts of interest; good practice finds inclusion of varied examples help staff identify conflicts.

It did not include any guidance with respect to identifying potential conflicts with vendors or potential vendors. See **Recommendation 6** about requiring staff involved in purchasing activities to make mandatory declarations about conflicts of interest.

➢ It only requires declarations when hired, and on an ongoing basis as potential conflicts arise—instead of annually like the Board of Directors Conflict of Interest Guidelines.

For the six employees we tested with signed declarations in their personnel files, almost all employees signed the declaration upon hiring with one form being nearly 10 years old.

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[9] eHealth's Board of Directors Conflict of Interest Guidelines apply to the Chief Executive Officer, Corporate Secretary, and Vice President of Finance and Administration.

➢ While the updated policy appropriately includes a conflict of interest declaration form, instructions on when to complete the form are confusing and seem contrary to the wording of the policy.

The instructions tell staff to complete the form only if they identify a real, perceived, or potential conflict of interest; whereas the policy suggests the form be completed, regardless if a conflict is identified.

We found that, in practice, most staff do not complete the form. Sixteen of 22 employees we tested for completion of forms did not have a completed conflict of interest declaration form in their personnel file. Six of these 16 employees are, or were, in senior management positions at eHealth. The six employees with completed forms did not declare a conflict.

➢ It did not require documentation as to how to mitigate declared conflicts, and by whom. See **Recommendation 4** about tracking declared conflicts and actions taken to manage them.

Without written declarations on file, eHealth does not have any documented evidence substantiating that an employee has no conflicts of interest.

Requiring mandatory annual written declarations promotes a culture of actively identifying and declaring conflicts. It actively reminds staff of the content and expectations of the policies, and results in more complete, timely, formal declarations of conflicts of interest.

1. **We recommend that eHealth Saskatchewan require all staff complete written conflict of interest declarations annually.**

3.3 Comprehensive Procurement Policy Needed

eHealth's Procurement Policy does not align with good practice in a number of key areas.

Consistent with good practice, eHealth's Procurement Policy applies to all eHealth staff purchasing goods and services on eHealth's or eHealth's clients behalf.[10]

eHealth's Board appropriately approved the Procurement Policy in September 2018. Its previous version was last updated in 2010.

The September 2018 update included a number of key changes that formalized past practices and introduced standard forms to better document various procurement decisions. For example, it requires the use of vendor evaluation committees; and the completion of a form to document staff declarations of conflicts of interest with potential vendors by staff involved in a procurement process; and another form to formally

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[10] eHealth provides IT services to Saskatchewan health organizations and their 40,000 health care workers (the Ministry of Health, the Saskatchewan Health Authority, Saskatchewan Cancer Agency, 3sHealth and other healthcare organizations).

document sole source decisions. In addition, it outlines purchasing requirements of applicable external trade agreements (i.e., *New West Partnership Trade Agreement* and *Canadian Free Trade Agreement*).[11,12]

Figure 3 highlights areas where the Procurement Policy content was consistent with good practice.

Figure 3—Highlights of eHealth Procurement Policy (September 2018)

Has the following purchasing requirements:

➢ Purchases less than $5,000 do not require a competitive bid

➢ Purchases between $5,000 and $75,000 require a Request for Quotation—a Request for Quotation is a competitive bid document that may be used to purchase products, materials or services up to $75,000 that are considered high-value purchases and, therefore, require a minimum of three written quotations from qualified vendors / suppliers

➢ Purchases greater than $75,000 require a Request for Proposal— a Request for Proposal is a binding competitive bid document that is used to purchase products, materials, and services that have a value that is equal to or greater than the value thresholds under the *New West Partnership Trade Agreement* or *Canadian Free Trade Agreement*

Expects vendors to disclose any conflicts of interest at the time of bid submission. This is reinforced in the standard Request For Proposal template.

Expects the use of a vendor evaluation committee to evaluate vendor submissions for purchases over specific thresholds. The committee is to be comprised of eHealth employees from legal and risk branches, contracts branch, and subject matter experts from the procuring business unit.

Requires participants in the procurement, including members of the vendor evaluation committee, to complete individual conflict of interest declarations with respect to the specific procurement.

Permits use of sole source arrangements in certain prescribed situations; and requires documenting reasons for its use.[A] The Chief Executive Office must approve the award of all sole source procurements.

Source: eHealth Procurement Policy, Request for Proposal Template
[A] The Chartered Institute of Procurement and Supply defines single source as purposely choosing a single supplier even though others are available (e.g., small purchases, emergency purchases). Sole source is when only one supplier for the required item is available. www.cips.org/en/knowledge/procurement-topics-and-skills/strategy-policy/models-sc-sourcing--procurement-costs/single-sourcing-vs-sole-sourcing/(27 March 2019). eHealth's policy uses the term sole source to capture both single and sole source arrangements.

However, unlike good practices (including policies from SaskBuilds, Crown Investments Corporation of Saskatchewan, and the Ministry of Trade and Export Development), eHealth's Procurement Policy did not contain sufficient guidance on the following four areas:[13,14]

➢ **It does not set out what constitutes vendor conflict of interest, what is acceptable/prohibited vendor conduct, and how to respond to identified vendor conflicts**

For example, SaskBuilds' Procurement Code of Conduct clearly outlines procurement behaviour expectations of vendors (see **Figure 4**).

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[11] *The New West Partnership Trade Agreement* is an accord between the Governments of British Columbia, Alberta, Manitoba, and Saskatchewan that creates Canada's largest, barrier-free, interprovincial market. www.newwestpartnershiptrade.ca/the_agreement.asp (10 April 2019).

[12] *The Canadian Free Trade Agreement* is an intergovernmental trade agreement signed by Canadian Ministers that came into force on July 1, 2017. Its purpose is to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investments within Canada to establish an open, efficient, and stable domestic market. www.cfta-alec.ca (10 April 2019).

[13] SaskBuilds' procurement-related policies apply to certain Treasury Board agencies such as ministries. SaskBuilds' policies are publicly available on its website (www.saskbuilds.ca). Crown Investments Corporation of Saskatchewan's procurement-related policies apply to its subsidiary crown corporation such as SaskPower, SaskTel, and SGI. Its procurement-related policies are similar to SaskBuilds.

[14] SaskBuilds is a Treasury Board crown corporation whose mandate is to lead infrastructure projects, long-term integrated capital planning, and procurement practices across government.

Figure 4—Excerpt of SaskBuilds' Procurement Code of Conduct

Just as there are standards for public entity employees who conduct procurement activities, certain behaviours are also expected from vendors. In particular, vendors are expected to:

➢ Avoid unethical or compromising actions and behaviours or the appearance of unethical or compromising actions and behaviours in the conduct of business relationships with public entities

➢ Avoid conflicts of interest or situations that may be perceived to be conflicts of interest

➢ Not engage in any activity that compromises the public entity's ability to run a fair procurement process, including:
   o attempting to influence an employee of a public entity or any public official to act in an improper manner or to improperly influence an evaluation process
   o participate in any prohibited communications during a procurement process
   o submitting inaccurate or misleading information in response to a procurement opportunity

➢ Act in accordance with the law

➢ Fulfill all resulting contractual obligations in a professional and competent manner and in accordance with the terms and conditions of the contract

➢ Be respectful in their dealings with the public entity

Source:www.saskbuilds.ca/PrioritySK/Files/Policy%20Documents/Item%201%20Procurement%20Code%20of%20Conduct.pdf (23 November 2018).

➢ **It does not provide guidance on evaluating bid submissions of vendors, nor require the evaluation committee responsible for evaluating the submissions to document their evaluation work**

For example, SaskBuilds' Guide to Preparing a Request for Proposal on its website outlines the vendor evaluation process (see **Figure 5**). This guidance includes aligning the evaluation criteria with the Request for Proposal, creating the evaluation document before the competition closes, informing evaluation team members of their role, and prescribes rules for interviewing vendors and checking references.

Figure 5—Excerpt of SaskBuilds' Guide to Preparing a Request for Proposal

➢ Creating the Evaluation Document – The evaluation document should be created by members of the evaluation committee and is to be finalized prior to competition closing or proposals being distributed to evaluation team members. This prevents the evaluation team from being influenced by any proposal or potential proposal. The criteria must be based on the content of the Request for Proposal document. Nothing new can be added, therefore it is important to consider all evaluation criteria and ensure the evaluation document is in alignment with the stated requirements when drafting the Request for Proposal.

➢ Evaluation – During the evaluation process, committee members must treat all suppliers fairly and equally, and evaluate their proposals in accordance with the process described in the Request for Proposal document. Care must be taken throughout the process not to take any actions or make any decisions that could be construed as providing an unfair advantage to any supplier(s). As committee members are entrusted with or have access to information governed by *the Freedom of Information and Protection of Privacy Act*, they must ensure the necessary confidentiality of public entity and third party information. Evaluation committee members will be expected to:
   o Keep the proposals, and any notes they might make relating to them, in a secure place where others will not have access to them
   o Not discuss the proposals or disclose their contents to anyone other than fellow committee members and officials specifically authorized to have access to such materials
   o Retain copies of all notes and memoranda
   o Keep all notes, discussions, and point ratings confidential and not disclose its substance or details to anyone
   o Evaluate the proposals strictly in accordance with the evaluation criteria stated in the Request for Proposal
   o Evaluate proposals solely on information contained therein, not on the committee's previous knowledge of the supplier or its business

> - o Score proposals strictly in accordance with the methodology and point ranges established in the Request for Proposal
>   - o Ensure proposals are not compared against each other (the only exception is when evaluating total cost)
> ➢ Interviews/Presentations – Shortlisted suppliers may be given an opportunity to present their proposals where evaluation committee members have an opportunity to ask questions. This step must be mentioned in the Request for Proposal and cannot be added after the competition closes.
> ➢ Checking References – The timing of, and approach to, checking references is to be indicated in the Request for Proposal document. Regardless of the approach chosen to check references, questions asked should relate directly to the evaluation criteria and the same questions should be asked of all references. Reference questions should be objective, such as "How did you find the supplier's ability to respond to customer complaints?" Both the questions asked and the answers received must be recorded.

Source: www.saskbuilds.ca/PrioritySK/Files/2018/Procurement%20Guide%20Jan2018.pdf (23 November 2018).

By not including guidance on how to evaluate the vendor proposal in the Procurement Policy, eHealth's employees may not evaluate all vendors fairly and equitably.

➢ **It does not explain how or which positions should conduct the contract negotiation with the selected vendor through a competitive bid or sole source purchase[15]**

eHealth's Procurement Policy allows for negotiating through a consecutive process or a concurrent process.[16]

SaskBuilds' Procurement Guide outlines the contract negotiation process (see **Figure 6**). The Guide outlines negotiating through a consecutive process or a concurrent process. The guidance provides details on how to conduct a contract negotiation so that it is effective and efficient.

Figure 6—Excerpt of SaskBuilds' Procurement Guide

> ➢ Planning for Negotiations – Advanced planning is required for an effective and efficient negotiation process. Prior to entering into negotiations, the public entity should:
>   - o Establish the negotiation team and roles and responsibilities of the team members
>   - o Ensure the negotiation team has the authority to negotiate and understand any limits on that authority
>   - o Confirm the availability of expert advisors, including legal, financial and technical, as necessary
>   - o Ensure all team members have a clear understanding of the project requirements and objectives and, in the case of a competitive process, have thoroughly reviewed the Request for Proposal document and the proponent's proposal
>   - o Compile a list of all issues that need to be addressed in the negotiations, including any questions or concerns about the proposal
>   - o Identify and prioritize the objectives of the negotiations
>   - o Identify any non-negotiable items
>   - o Prepare a "bargaining binder" that consolidates all of the documents you will need to refer to during the negotiations (Request for Proposal, proposal, issues list, etc.)
> ➢ Initiating Negotiations – When inviting bidders or suppliers to enter into negotiations, it should be clearly communicated that entering into negotiations does not create any obligation to proceed with an agreement. It may be helpful to have the bidder(s) or supplier submit a list of the issues they want to address in the negotiations prior to the first meeting.

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[15] eHealth describes sole sourcing as procuring goods or services from a single vendor without using a competitive process (eHealth Procurement Policy). Good procurement practice distinguishes non-competitive methods between sole and single source. Single source purchasing refers to purchases from one selected supplier, even though there are other suppliers that provide similar products, and sole source is when only one supplier for the required item is available.
[16] In the consecutive negotiation process, the top-ranked vendor is invited to enter into negotiations to finalize the agreement. In the concurrent negotiations and best and final offer process, a short list of top-ranked vendors are invited to enter into concurrent negotiations.

> ➢ Interviews/Presentations – Shortlisted suppliers may be given an opportunity to present their proposals where evaluation committee members have an opportunity to ask questions. This step must be mentioned in the Request for Proposal and cannot be added after the competition closes.
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> ➢ Conducting Negotiations – When conducting negotiations, it is important to:
>   o Identify key issues at the outset of the negotiation process
>   o Ensure that everyone involved in the negotiations are aware that any agreements which are reached are subject to approval and no legally binding commitments are made until the final agreement is signed
>   o Ensure that information given in confidence by bidders or suppliers is not revealed to others
>   o Take a collaborative approach and avoid being defensive or aggressive
>   o Take time to consider all information presented and verify and confirm information as necessary
>   o Clearly document areas of agreement as the negotiations progress to avoid revisiting issues multiple times
>
> ➢ Record Keeping – It is critical that a record of all negotiations be kept for audit purposes. If negotiations are conducted through written correspondence, copies of all such correspondence must be kept in the file. Clear and concise minutes of any in-person or telephone meetings, including date, time, persons present, topics discussed and outcomes, must be kept.

Source: www.saskbuilds.ca/PrioritySK/Files/2018/Procurement%20Guide%20Jan2018.pdf (23 November 2018).

Negotiations are an opportunity to clarify requirements and proposal details to ensure the vendor understands the project and eHealth understands what the vendor is proposing. Having a well-defined process for negotiating contracts will support eHealth in making contract decisions in a fair and unbiased manner.

> ➢ **It has not established the minimum time for vendor submission of a tender**
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> The Ministry of Trade and Export Development issued Procurement Guidelines in September 2018, which outline potential suppliers should be given 25 to 35 days to respond to a competitive bid.[17]
>
> For all three purchases made through Request for Quotes we tested, eHealth gave potential suppliers less than 10 business days to submit quotes. For two, it required vendors to submit a quote within five business days; for one, it required vendors to submit a quote within 10 business days. These purchases ranged from $30,000 to $103,000.
>
> Not giving vendors sufficient time to prepare responses to requests for quotes increases the likelihood that some may not see the request or choose not to respond because of the short timeframe. Fewer responses result in fewer options to acquire goods or services at the best price.

Having a comprehensive policy supports consistent and fair procurement. A comprehensive policy aids staff in documenting procurement steps, showing they followed a transparent process to make procurement decisions.

> 2. **We recommend that eHealth Saskatchewan update its policies over buying goods and services to provide explicit guidance on:**
>   ➢ **Identifying and managing vendor conflicts of interest**
>   ➢ **Evaluating vendor proposals**
>   ➢ **Negotiating contracts with selected vendors**
>   ➢ **Standard tendering time**

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[17] Adapted from information provided by the Saskatchewan Ministry of Trade and Export Development.

3.4 More Clarity Required Around Acceptable Vendor-Sponsored Travel

eHealth does not give staff sufficient written guidance on what it considers acceptable vendor-sponsored travel.

As shown in **Figure 7**, eHealth's Staff Conflict of Interest Policy clearly does not permit accepting travel (e.g., flights) from vendors. However, its pre-approval travel/training form expects other parties may help pay for travel.[18] Not providing explicit guidance on where it is acceptable for other parties to pay for travel—such as when items are specifically identified in a contract or purchase order with a vendor—may cause confusion.

Figure 7—Excerpt of eHealth's Staff Conflict of Interest Guidelines

Staff must not accept from an individual, corporation, or organization, directly or indirectly, a personal gift or benefit that arises out of employment with eHealth, other than:

➢ The exchange of hospitality between persons doing business together
➢ Tokens exchanged as part of protocol
➢ The normal presentation of gifts to persons participating in public functions
➢ The normal exchange of gifts between friends

Staff must not accept gifts, donations, or free services for work-related leisure activities other than in situations outlined above.

The following criteria, when taken together, are intended to guide the judgment of staff who are considering the acceptance of a gift:

➢ The benefit is of nominal value
➢ The exchange creates no obligation
➢ Reciprocation is easy
➢ It occurs infrequently
➢ Should the receipt of such gift become public it would not impact the reputation of eHealth

Staff must not solicit a gift, benefit, or service on behalf of themselves or other employees. **Examples of gifts that should be declined include:**

➢ Gifts or entertainment that could influence, or appear to influence, business decisions
➢ **Flights and/or registration to events**
➢ **All expense paid trips**
➢ Cash gifts

Source: eHealth Staff Conflict of Interest Policy – Appendix C.
Bold emphasis added by Provincial Auditor Saskatchewan.

We identified 37 instances between April 2017 to January 2019 where a preapproved travel/training form indicated someone other than eHealth or the staff member would pay for the travel. We found eHealth employees do not use or fill out the forms consistently.

For 28 forms, eHealth's partners (e.g., Canada Health Infoway) paid for the travel. eHealth employees attended partnership conferences, jurisdiction discussion forums, and various meetings to discuss the national licence for the Electronic Health Record at Canada Health Infoway's request.

Nine other forms indicated eHealth vendors paid for the costs between September 2017 and September 2018.

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[18] All employees are supposed to complete a form for pre-approval of out-of-province/country training and travel for eHealth-related business, whether eHealth or a vendor pays for it. The travel/training form includes a section that outlines who is funding the expenses to be incurred. The travel/training form includes three funding options: eHealth, self, and other. Selecting the other funding category implies a vendor or someone other than eHealth or the employee paid for the travel.

In eight of the nine forms, eHealth's agreement (e.g., contract, purchase order) with the vendor did not include specific provisions to pay for these additional costs. These eight instances included:

➢ For seven travel forms, three of eHealth's vendors paid for registration costs and related travel costs

For three forms, the business reason for attending IT conferences outside of Canada was unclear (paid for by two eHealth vendors). Two employees on these trips were also involved in the procurement process for the two vendors.

A third vendor paid for the four remaining trips, and the trips related to IT software specific meetings in Canada.

➢ One vendor providing online technical training to eHealth employees with no travel required

At times, vendors may offer their clients gifts to court favour and/or build relationships. Good practice does not permit public sector employees to accept gifts from vendors because of real and perceived risks associated with influencing employees to promote or select that vendor for future contracts.

Good practice also sets out the rules and principles to guide employees and Board members on how to conduct themselves when working with vendors. It provides them with specific guidance and examples (see **Section 5.0** for an example of good practice—Winnipeg Regional Health Authority's Conflict of Interest Policy). Having a clear and robust policy will also promote a consistent and fair approach across the organization in accepting vendor-sponsored travel and improve compliance.

> 3. **We recommend that eHealth Saskatchewan develop an approved policy outlining permitted vendor-sponsored travel.**

3.5 Better Enforcement of Code of Conduct and Staff Conflict of Interest Policies Needed

eHealth does not do enough to enforce the consistent application of its Code of Conduct and Conflict of Interest Policies.

With respect to its Code of Conduct, three staff refused to acknowledge, in writing, that they had read, understood, and complied with eHealth's Code of Conduct, the corporate policies referenced in the Code, and any other corporate policies that apply to their employment in the May 2018 annual sign-off for staff.

eHealth's management did not place any consequences on the three staff for not acknowledging their understanding or compliance with the Code of Conduct. Rather, they advised us that they could not force staff to sign the declaration form. As of March 2019, one employee did not complete the annual sign-off from May 2018. One other signed during our audit work, and the other individual sought employment elsewhere since May 2018. Consequences for employees refusing to declare they understand and are following the Code of Conduct, have yet to be determined by eHealth.

As of March 2019, May 2018 was eHealth's last request for annual declarations from staff; 2016 was the last sign-off for Board members. eHealth expects to ask the January 2018 appointed Board members to sign the acknowledgement after they receive training in May 2019.

With respect to conflicts of interest, we found that staff are not reporting real, perceived or potential conflicts.

We identified, through discussions with eHealth staff, and internet searches, five employees with undeclared conflicts. These individuals had personal relationships with other staff or with eHealth vendors, or had past work history with eHealth vendors. As of March 2019, some of these individuals are no longer on staff.

We also found that staff aware of real, potential, or perceived conflicts of other staff are not reporting them. We noted that from April 2017 to March 2019, eHealth's third party agency (see **Figure 2**) received three reports anonymously, none of which pertained to concerns with conflicts of interest.

In addition, managers and staff (who are aware of employee conflicts) told us that they are not made aware of whether an employee has declared real, perceived, or potential conflicts. Management was unable to recall a particular employee who had declared a conflict. eHealth does not know the number of employees that have reported conflicts in the organization or how the conflicts were mitigated. eHealth has a staff of about 350 full-time equivalents.

eHealth does not have a mechanism for tracking employees who have declared conflicts of interest, and recording how the declared conflicts are managed. It does not consistently make appropriate management and staff aware of declarations of conflicts along with steps to resolve the declared conflicts (e.g., not be involved in certain eHealth activities or with certain aspects of its operations).

Not having a systematic approach for tracking declared conflicts of interest and not documenting actions taken to manage them increases the risk of failing to put policies into practice. In addition, it increases the risk of ineffectively identifying and managing individual conflicts. Not putting policy into practice can adversely affect an organization's culture and attitude of staff towards adherence with corporate policies.

4. **We recommend that eHealth Saskatchewan actively track employees with declared conflicts of interest, and the actions taken to manage them.**

eHealth's Board members are required to sign a conflict of interest declaration on an annual basis. We found all Board members signed a conflict of interest declaration for 2018.

3.6 Formalizing Documentation of Procurement Decisions Delayed

As of March 2019, eHealth has not put into practice new documentation requirements resulting from its September 2018 policy updates. The September 2018 Procurement Policy updates require the completion of two new forms to better document key procurement decisions.

For competitive procurements, individual employee participants involved with a procurement, including members of the applicable vendor evaluation committee, are to complete a form for each procurement to document their declaration of a possible conflict of interest, or state they have no conflict of interest with respect to that procurement. In March 2019, eHealth finished developing a new conflict of interest declaration form for employees involved in procurement processes.

For sole-sourced procurements, the updated Policy requires staff complete a Sole Source Procurement Justification form for purchases over $5,000. This form standardizes documentation of reasons for using the sole sourcing method, how it determines eHealth is obtaining best value for purchases, and how approval of its use and vendor are selected. It continues to require the approval of the Chief Financial Officer for the use of this method and vendor selection.

As of March 2019, eHealth had not asked employees in the procurement processes to complete the conflict of interest declaration form included in its Staff Conflict of Interest Policy (until it had finished developing its new form).

In addition, it had not required staff to complete the Sole Source Justification form. We identified a sole-sourced purchase made after the September 2018 update, where eHealth staff did not complete the Sole Source Procurement Justification form.

Despite the September 2018 update, eHealth continued to follow its prior processes where it expected staff to justify the use of sole sourcing procurement decisions in their preferred way, and staff involved in procurement activities to verbally declare any conflicts. Management advised us it was unaware of any instances where eHealth employees involved in vendor evaluation verbally declared a conflict since September 2018 (the date the policy was updated).

However, as noted in **Section 3.5,** we found eHealth staff are not always declaring conflicts of interest. We identified three vendors that eHealth awarded vendor contracts where the employees involved in selecting the vendor received vendor-sponsored trips from the selected vendors.

We also found that staff did not often document any justification for their decisions to sole source the purchase of goods and services.[19] None of the 10 sole-sourced purchases (made between April 2017 and March 2019) we tested had any written justification. As a result, eHealth was unable to show us it obtained the best value when making these purchases.

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[19] eHealth detailed the need for the purchase of specific IT goods (e.g., hardware, and software) and services (e.g., upgrades, licenses) in its annual budgets. We found the Board appropriately approved eHealth's annual budget.

For 8 of those 10 sole-sourced purchases we found the use of the sole-source method questionable, as the goods/services may have been available from other vendors. The eight purchases ranged from $15,000 to $163,000.

Without documented justification of sole-sourced purchases, eHealth is not facilitating fair and equitable treatment of vendors and may not have obtained the best value when making purchases.

5. **We recommend that eHealth Saskatchewan follow its policy that requires all sole-sourced procurement decisions have a completed and approved justification form.**

Without formally documenting declarations of conflict by staff involved in vendor selection, eHealth cannot show that it has treated potential vendors equitably and fairly.

In addition, by not putting policies into practice promptly, particularly those where past breaches occurred, increases the risk of staff not respecting the importance of complying with them.

6. **We recommend that eHealth Saskatchewan follow its policy that requires all individuals involved in making vendor selection decisions complete a standardized conflict of interest form for each procurement.**

Management noted it plans to implement the new conflict of interest declaration form related to procurement activities in April 2019.

3.7 Ongoing Training on Key Policies Needed

eHealth needs to give staff more frequent training on key policies like the code of conduct and conflict of interest policies, or sensitive policies such as on vendor-sponsored travel.

eHealth only trains new employees on key policies as part of their new hire orientation. It does not provide ongoing or refresher training to employees, or actively educate staff on changes to key policies.

Rather, eHealth takes more of a passive approach. It makes its policies readily available to all staff on its intranet. It posts staff communications on its intranet when it changes its policies. It requires staff to declare annually that they read, understand, and comply with eHealth's Code of Conduct on a disclosure form, and any other corporate policies that apply to their employment. However, as noted in **Section 3.5**, for staff refusing to sign this declaration, it does not take any specific action.

As of March 2019, eHealth was working on updating its code of conduct and conflict of interest training with the aim to provide it to staff beginning in May 2019, and having staff complete the training annually.

Changes to policies in a work environment has the potential to be disruptive or misunderstood. By incorporating good communication and a strong training plan, eHealth can make the transition smoother for employees and improve compliance with the revised policies. Training provides an opportunity to increase staff awareness of obligations and

expectations policies place upon them. It also provides an opportunity to reinforce the importance of compliance, and to understand the consequences of non-compliance.

7. **We recommend that eHealth Saskatchewan provide each of its employees with ongoing training on its key policies (such as its code of conduct and conflict of interest policies).**

3.8 Value-Added Items Provided in Vendor Contracts Not Tracked

eHealth does not track the value-added clauses or have a method for monitoring whether it received the value-added items included in contracts. Value-added items include staff training, travel, or other incentives related to the goods or services being procured (e.g. IT software).

We found, at times, eHealth considers value-added items as part of its vendor selection weighted criteria. eHealth expects that certain vendors may offer, and include value-added items, such as staff training and the related travel in their contract bid proposals.

We found one contract that included covering attendance at a customer education conference. eHealth could not show us whether it received the stated services from that vendor. We noted one travel form where a vendor, consistent with the contract, covered training registration costs.

By not tracking or monitoring the receipt of value-added items promised, eHealth may miss receiving benefits that it is paying for as part of contracts, and were a factor used to award the vendor the contract.

8. **We recommend that eHealth Saskatchewan track value-added items expected and received through vendor contracts.**

3.9 Consistent Compliance with Policies Needed

Staff are inconsistently following eHealth's policies and expected processes.

For example, two of 20 of the purchases (made between January 2017 and July 2018) we tested had support (e.g., contracts, quotes) signed and dated after the vendor started providing services. For one purchase, the vendor was providing services before eHealth issued the purchase order. eHealth appropriately uses purchase orders to outline the services they expect the vendor to supply and at what price. The value of these purchases ranged from $30,000 to $80,000.

eHealth's Procurement Policy expects the vendor to be selected and the contract awarded and signed prior to services being provided.

If vendors provide goods or services before finalizing a contract or purchase order, vendors may not fully understand their responsibilities and/or may not fully meet eHealth's needs.

9. **We recommend that eHealth Saskatchewan properly approve purchases before it receives the related goods and services.**

We also identified staff who did not follow eHealth's travel policy when another party paid for travel expenses for eHealth staff. We identified 37 travel/training forms dated between April 2017 and January 2019 where the form indicated another party would pay for eHealth employee travel. Its travel policy requires staff obtain approval for out-of-province or country training or travel before travelling regardless who pays for the trip. The form outlines who will pay for the travel expenses.

We found two of the 37 forms we tested lacked appropriate approval—that is, the Chief Executive Officer did not approve them—as the travel/training policy requires. In addition, three of 37 forms we tested lacked dates or were dated after the travel took place.

Obtaining prior approvals for travel and training helps to ensure employees plan to attend business-related events at a reasonable cost.

10. **We recommend that eHealth Saskatchewan properly approve all vendor-sponsored travel and training in advance of the event.**

4.0 SCOPE OF WORK AND APPROACH

This chapter is based on specified auditing procedures. Such procedures do not constitute an audit engagement in that they are not designed to enable concluding on the overall effectiveness of eHealth's policies and processes about mitigating conflicts of interest or vendor influence.

Rather, the specified auditing procedures, at minimum, covered work necessary to answer the lines of inquiry in **Figure 8**. We based the lines of inquiry on good practice identified from reviews of literature. eHealth management agreed they were reasonable.

In addition, we assessed eHealth's related policies and processes in place between April 2017 and January 2019 against relevant good practice. We interviewed employees responsible for administering Codes of Conduct, Conflicts of Interest, and Procurement Policies and processes. We tested samples of purchases and associated support, and travel/training forms for the period from April 2017 to January 2019. See **Section 6.0 Selected References** for key sources and basis for good practice throughout this chapter.

Figure 8—Lines of Inquiry

> 1. Is code of conduct and conflict of interest framework sound? Consider:
>   - training and awareness
>   - ongoing mechanisms to disclose potential conflict of interest
>   - means to report potential conflict of interest violations confidentially and anonymously
>   - processes to identify and discipline violators
>
> 2. Are policies and processes for vendor-sponsored travel and training appropriate to avoid vendor influence in procurement decisions?

3. Do procurement policies and processes sufficiently promote vendor evaluations and contract decisions in a fair and unbiased manner? Consider:
   ➢ policy communication to staff and suppliers (i.e., vendors)
   ➢ documented basis for, and approval, of procurement approach (e.g., sole source)
   ➢ rationalized and supported evaluations and selections of vendors
   ➢ monitoring and reporting on non-compliance

5.0 EXAMPLE OF GOOD PRACTICE FOR VENDOR CONFLICT OF INTEREST GUIDANCE

We found the Conflict of Interest Policy of the Winnipeg Regional Health Authority provided good guidance in a number of key areas. It explicitly recommends vendors not pay for travel costs unless the items are specifically identified in the Authority's contract or purchase order with the vendor. It also provides examples of allowable services and supports.

Figure 9—Excerpts from Winnipeg Regional Health Authority's Conflict of Interest Policy – Frequently Asked Questions

#	Question	Answer
27	Our program has awarded a contract to a vendor which outlines specific education components including education sessions and support for out of province conferences and training. Are we all right in allowing this type of industry support under this policy? In addition, can this vendor showcase any products not on contract or bring in outside speakers to educate "over and above" the educational components outlined in the contract?	**Services and support provided by a vendor in accordance with the provisions of a contract are allowable, as only approved educational requirements form part of WRHA contracts.** The rationale is that this type of industry support has been vetted through a contract tendering process, which enables fair and equitable opportunity for vendors to be awarded a contract. The showcasing of products not on contract or bringing external speakers to the WRHA outside the provisions of the contract is problematic in terms of unfairly allowing the potential for vendor influence.
34	What is the policy on education and training provided by vendors for devices not yet purchased by the WRHA? Earlier this year, a physician attended and observed a case out of town. After attending, the physician now feels comfortable in the ordering and potential usage of such a device. If the WRHA was to have purchased a device prior to attending the case, we not only would be guessing on the size requirements, but would have potentially spent significant funds for a device that could be useless.	**The intent of this policy is to not interfere with or discourage staff from making informed decisions as long as it is done in a manner that does not open us up to concerns about unfair vendor influence. In this case, it would be acceptable for certain staff to go out of town and observe the use of a device prior to making a purchasing decision but only if this is part of the requirements of a Request for Proposal.** The issue of inappropriate vendor influence occurs when a vendor partially or fully pays for one or more WRHA representatives to observe their products outside of any Request for Proposal process.

#	Question	Answer
36	Our program recently purchased a new piece of clinical equipment and it is essential that one of our staff members attend a vendor's training session. The vendor pays all expenses, including travel, for clients to attend these sessions. Can we send one of our staff?	**Yes, provided the expenses are reasonable. It is recommended that the training sessions and expenses be incorporated into any purchase contracts with the vendor.**
37	I am a participant in the Logistics Product Review Evaluation Standardization process as a work group member. We are currently reviewing bids. One of the bidders has asked me to attend a focus group meeting in Victoria B.C. They are offering to pay for all my expenses. This would be a great opportunity to network with colleagues from across Canada. Can I go?	Accepting this offer will put you in a conflict of interest situation. **Others may view this as a means to influence your decision on the tender even though your intentions are good. You should respectfully decline the invitation stating the reason why is it not acceptable.** Anyone involved in the contract development process with Logistics should avoid these situations. When in doubt, contact the Regional Manager-Contracting Services for advice. If a Product Review Evaluation Standardization or Work Group member accepts such an offer they may be asked to step down from participating in a contract initiative.

Source: Winnipeg Regional Health Authority Conflict of Interest Policy. www.wrha.mb.ca/about/policy/files/20.10.011.pdf
(08 April 2019).
Bold emphasis added by Provincial Auditor Saskatchewan.

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