

CITY OF SANTA CLARITA

PURCHASING STANDARDS OF CONDUCT

Standards of Conduct Background for Purchasing Staff

In recognition of the special trust inherent in Purchasing Staff positions charged with guiding the expenditure of public funds, the highest standards of conduct are considered essential.

These expectations are reflected in the Standards of Conduct established by this policy and are applicable to all city employees assigned to Purchasing under the supervision of the Purchasing Agent.

The California Code of Regulations and State Government Code provide basic guidance regarding financial conflicts of interest. The intent of this policy is to supplement the financial conflict of interest regulations with broader standards of conduct and cover procurements involving federal funds.

POLICY

All conflict of interest regulations as stated in the California Code of Regulations and Government Code are considered an integral part of this policy. No part of this policy will alter or supersede any portion of the City or State guidance on conflict of interest. All requirements of this policy are additive to the City and State guidance.

In order to prevent the perception of favoritism, all administrative processes will be followed diligently, consistently and openly.

One of the primary responsibilities of public servants is the protection of public confidence and trust in the integrity of governmental processes. Any conduct which may detract from this trust is prohibited. The mere "appearance" of a conflict of interest may result in the same damage to public trust in government as actual wrongdoing. Action or inaction that results in the "appearance" of conduct prohibited by this policy is also prohibited.

DEFINITIONS

Financial interest – *Financial interest will be the same as defined in the Statement of Economic Interest Form 700.*

Immediate family member – *Parents, siblings, spouse or partner, parents and siblings of spouse or partner and children.*

Organizational conflict of interest – *Organizational conflicts may result in bias or unfair competitive advantage. An organizational conflict of interest occurs where - because of other activities, financial interests, relationships, or contracts – an employee or contractor is unable, or potentially unable, to render impartial assistance or advice to the City; the employee or contractor's objectivity in performing work is or might be impaired; or a contractor has an unfair competitive advantage.*^{1 2}

¹ - Generally, an organizational conflict arises because a person or entity has or appears to have loyalties to, or a financial interest in, two organizations that may have competing or differing interests from each other -- one of them being the grantee. For example, an organizational conflict would arise if an employee or a consultant serves as a member of a public or quasi-public body with regulatory authority over a project or has a stake in its outcome. This arises most often where architects sit on design review or zoning boards.

² - Federal transit law requires grantees to award contracts through a process of full and open competition. Organizational conflicts of interest that give any party an unfair competitive advantage impede full and open competition, and thus are considered "restrictive of competition" under Paragraph VI.2.a(4)(h) of FTA Circular 4220.1F.

Personal conflict of interest - *A personal conflict of interest arises when an employee or immediate family member has a financial interest in a firm selected, or competing, for a contract. A personal conflict of interest also arises where any employee solicits or accepts gifts, gratuities, favors, or anything of monetary value from a firm under contract or potentially seeking a contract. In addition, a personal conflict of interest arises where any such person uses his position, or non-public information gained during his work for the City, for personal gain, including gain inuring to an immediate family member.*

Personal gain – *includes gain inuring to immediate family members unless otherwise stated.*

Purchasing staff – *The Purchasing Agent and any employee under the supervision of the Purchasing Agent.*

STANDARDS OF CONDUCT

Purchasing staff will:

- A. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- B. Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.
- C. Immediately report any potential conflicts of interest to their supervisor.
- D. Avoid soliciting or accepting money, loans, credits, or preferential discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence, procurement recommendations or decisions.
- E. Refrain from the use of City property or resources for personal advantage.
- F. Avoid inequitable treatment of vendors to include, favoritism, unnecessary use of brand names and organizational conflicts.
- G. Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.

1. PERCEIVED IMPROPRIETY

Purchasing staff will avoid the intent and appearance of unethical or compromising conduct in relationships, actions, and communications.

The consequences of a perceived impropriety can be the same as consequences of an actual impropriety. Therefore, it is essential that any activity or involvement between Purchasing staff and active or potential suppliers which in any way diminishes, or even appears to diminish, open and fair treatment of suppliers shall be strictly avoided. Those who do not understand the circumstances will judge based on appearances. Purchasing staff must consider this and act accordingly.

The following are recommended guidelines in dealing with perception:

- Situations may occur in which, through unanticipated circumstances, a business relationship transpires with a personal friend. The perception (as well as the potential) of a conflict of interest should be discussed with management, and a reassignment of procurement responsibility should be considered.
- Business meeting locations should be carefully chosen. Environments other than the office may be perceived as inappropriate by the business community or by co-workers.
- Displays of personal preference may give an impression of impropriety and should be avoided. Conversation that delves excessively into personal affairs should be avoided.
- Positive action should be taken by management to alleviate suspicion of impropriety.

This does not mean you or your immediate family cannot have friends in the business community or even ones that do business with the City. What it does mean is that when they become involved with a purchase or contract, you must notify your supervisor.

2. CONFLICT OF INTEREST

Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.

Purchasing Staff must not use their positions in any way to induce another person to provide any benefit to themselves, or persons with whom they have family, business, personal, or financial relationships. Even though a conflict may not technically exist, staff must avoid the appearance of such a conflict. Whenever a potential conflict of interest arises, the employee should notify the appropriate supervisor for guidance or resolution.

The following are recommended guidelines to avoid conflicts of interest:

Conduct to be Avoided

- Engaging in outside business, or employment by an outside organization, which may encroach upon the supply professional's primary responsibility of loyalty to the goals of the City.
- Engaging in improper personal business with, or employment by, an organization which has or may conduct business with the City. Examples include but are not limited to:
 - a) Owning or leasing any property with knowledge that the employer has an active or potential interest therein.
 - b) Having a direct or indirect interest in or relationship with a non-employee that is inherently unethical or that might be implied or construed to be unethical, or make possible personal gain due to the employee's ability to influence dealings; render the employee partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the employee's business judgment; place the employee or the City in an ambiguous, embarrassing or ethically questionable position; or reflect on the integrity of the City.
 - c) Taking personal advantage of an opportunity that properly belongs to the City or using City property or resources for personal gain.
 - d) Using the City's name (unless authorized) to lend weight or prestige to sponsorship of a political party or cause, or endorsing the product or service of another organization.
- Taking personal advantage of an opportunity that properly belongs to the City or using City property or resources for personal gain.
- Willfully or unlawfully concealing, removing, mutilating, falsifying or destroying any government document or record, nor will he or she make any false or fictitious statements in connection with any official matter, document or record.

Personal Investment

Ownership of stock in a supplier or potential supplier of goods or services should be reported to the supervisor for review and guidance to avoid the potential for impropriety. Interests by members of the professional's immediate family are considered to be of the same significance as direct ownership.

Outside Activities

Purchasing Staff must not use their position with their employer when participating in outside educational, professional, political, philanthropic, social, or recreational activities, which might be detrimental to their employer's business or reputation.

3. ISSUES OF INFLUENCE

Avoid soliciting or accepting money, loans, credits, or preferential discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence, supply management decisions.

Those in a position to influence the supply process must be dedicated to the best interests of the City. It is essential, for all in a position to influence a purchasing decision, to avoid any activity which may diminish, or even appear to diminish, the objectivity of the decision making process.

In some circumstances, items which could be considered an issue of influence may be a bona fide business activity. In such cases, extreme care should be taken to evaluate the intent and the perception of acceptance of such an offer to ensure:

- It is legal.
- It is in the best interests of the City.
- It will not influence the purchasing decision.
- It will not be perceived by peers or others to be unethical.

Sources of influence include:

- Management Policies
- Gifts, Gratuities, and Entertainment
- Product Samples
- Business Meals
- Personal Relationships
- Political Considerations
- Advertising
- Specifications and Standards

The following are recommended guidelines when dealing with issues of influence:

Gifts, Gratuities, and Entertainment

Gifts, gratuities, and entertainment include material goods, services, or activities offered with the intent of, or providing the potential for, influencing a buying decision. As such, these may be offered to a supply professional or to other persons involved in the procurement process (or members of their immediate families). They may be offered in various forms.

- Extreme caution must be used in evaluating the acceptance of gifts, gratuities, or entertainment, even if of nominal value, and the frequency of such actions (the collective impact) to ensure that one is abiding by the letter and the spirit of these guidelines.
- Soliciting gifts, gratuities, or entertainment in any form for yourself, other staff or the City is unacceptable.
- Avoid accepting monies, credits, and prejudicial discounts.
- Comply with the nominal value established by the City Manager memo to address supplier offerings of nominal value as a gesture of goodwill, or for public relations purposes.
- Refuse gifts exceeding nominal value, and return them with a polite explanation, or if perishable, either return the gifts or donate them to a local charity in the name of the supplier.
- Seek direction of management if concerned that a business relationship may be impaired by refusal of a gift, gratuity, or entertainment.

Business Meals

Occasionally, during the course of business, it may be appropriate to conduct business during meals.

- Such meals shall be for a specific business purpose.
- Frequent meals with the same supplier should be avoided.
- Purchasing Staff must pay for their share of the meal expenses.

Personal Relationships

Personal relationships are an inherent aspect of supply management. Purchasing staff interact extensively with suppliers' representatives. Individuals in many other functional areas in both the buying and supplying organizations also interact extensively with each other. The development of personal relationships from such interactions is both expected and desirable as it leads to relationships based on understanding and trust. It must also be recognized that the purchasing

decision must not be influenced by anything other than what is in the best interest of the organization, and that personal relationships that develop beyond what is necessary to ensure understanding and trust may be inappropriate. It is important, therefore, for staff to closely monitor the nature of relationships with suppliers' representatives to ensure that personal friendships do not develop that would result in decisions not in the organization's best interest.

Political Considerations

All organizations are subject to internal and external forces and pressures. Internal forces and pressures result from an organization's culture. External forces and pressures consist of economic conditions, laws, regulations, public opinion, special interest groups, and political entities. The negative influence of internal and external forces and pressures on supply management can be minimized when the organization adopts practices based on ethical principles and standards.

Advertising

Care should be exercised when accepting promotional items or participating in activities which tend to promote one supplier over another, or could be perceived as favoritism for a supplier by staff. Purchasing Staff will be sensitive to the appearance of numerous promotional items when meeting with representatives of other suppliers.

Specifications and Standards

Purchasing Staff must ensure that specifications and standards are objectively written in a manner that encourages competition when appropriate, excludes unnecessary restrictive requirements, and appropriately defines quality.

4. CONFIDENTIAL AND PROPRIETARY INFORMATION

Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations. Companies must appropriately mark as confidential only that information meeting the criteria.

Proprietary and confidential information requires protection to the extent permitted by the state's Public Records Act. Such information may or may not be upheld by patent, copyright, or non-disclosure agreement. Proprietary and confidential information should be released to other staff only as necessary in the performance of their duties. It is the responsibility of the individual sharing confidential or proprietary information to ensure that the recipient understands his or her obligation to protect such information.

Examples of information which may be considered confidential or proprietary include:

- Pricing
- Bid or quotation information
- Cost sheets
- Formulas and/or process information
- Design information
- Organizational plans, goals, and strategies
- Profit information
- Asset information
- Wage and salary scales
- Personal information about employees, officers, and directors
- Supply sources or supplier information
- Computer software programs

Requests for confidential information will be referred to the City Clerk as a Public Records request. Such requests for confidential information will normally be reviewed by the City Attorney.

5. SUPPLIER RELATIONSHIPS

Fairness and impartiality should be extended to all legitimate business concerns. While it may be desirable to build long-term relationships with selected suppliers, such relationships should not eliminate opportunities for new suppliers or deter the potential of establishing similar working relationships with other suppliers.

6. RECIPROCITY

Avoid improper reciprocal agreements.

If Purchasing Staff influences a supplier to be a customer, the professional or the organization is engaging in a practice known as reciprocity. These purchasing actions are illegal if they tend to restrict competition or trade or if they are coerced, since such acts may be construed as "restraint of trade" in violation of Sections 1 and 2 of the Sherman Act.

Purchasing Staff must be able to recognize reciprocity and its ethical and legal implications.

Reciprocity is both a legal and an ethical issue that may result in legal sanctions against the City, its management, and/or its procurement staff.

The following are recommended guidelines in dealing with reciprocity:

- Procurement strategy must include a positive effort to oppose any corporate or organizational commitment to, or pursuit of, any form of improper reciprocity.
- Purchasing staff should become sufficiently knowledgeable of the provisions in antitrust laws to recognize a potential legal problem and to know when to seek legal counsel.
- If a supply management professional believes the potential for improper reciprocity exists, or is being encouraged by marketing or management to engage in reciprocity, legal counsel should be sought.

INFRACTIONS

Failure to comply with the standards of conduct may result in administrative action in accordance with the City's Human Resource policies and procedures.