

ATTACHMENT B

PROCUREMENT AND CONTRACT PROCESS INTEGRITY AND CONFLICT OF INTEREST GUIDELINES

SECTION 1. PURPOSE

- 1.1 The purpose of these Guidelines is to ensure integrity in the City's procurement and contract processes, to educate City employees, consultants, uncompensated outside parties and any person involved in the decision to award a contract about potential Conflicts of Interest, and to establish guidelines for procedural screening of Conflicts of Interest.
- 1.2 The City desires to provide a fair opportunity to participants in competitive processes for the award of City contracts by promulgating integrity and removal of Conflicts of Interest in all competitive solicitations.

SECTION 2. DEFINITIONS

- 2.1 **"Purchasing Manager"** is the City employee designated by the City Manager to be responsible for the City's procurement process.
- 2.2 **"Elected Official"** means the Mayor, Council Members, City Clerk, and Chief of Police.
- 2.3 **"Council Appointees"** means the City Manager, City Attorney, and City Auditor.
- 2.4 **"Solicitation"** means, but is not limited to, specification development, preparation and issuance of requests for proposals, quotes, qualifications or bids, evaluation of responses and submissions, and other evaluations which lead to an award of a City contract.

SECTION 3. COMMUNICATION PROTOCOL

- 3.1 **Prior to Issuance of Solicitations:** Prior to the issuance of Solicitations, contact between prospective respondents and City staff, elected officials or consultants is permissible.
- 3.2 **After Issuance of Solicitations and Prior to Submission Deadline for Solicitations:** After issuance of Solicitations, all contact between prospective respondents and the City must be directed to the Procurement Contact designated in the Solicitation. City staff, elected officials and consultants will refer all inquiries to the Procurement Contact. All requests for clarification, objections to the structure, content, or distribution of a Solicitation, or other inquiries must be made in writing and the City shall answer to these clarifications, objections, and inquiries in writing via addenda to the Solicitation.
- 3.3 **After Submission Deadline of Solicitations and Prior to Issuance of a Notice of Intended Award:** After the submission deadline of Solicitations, all contact regarding the procurement between respondents and the City and participants in the evaluation process,

who are not City employees, must be directed to the Procurement Contact designated in the Solicitation. City staff, elected officials and consultants will refer all inquiries to the Procurement Contact.

- 3.4 After Issuance of a Notice of Intended Award:** The City will issue a notice of intended award to all respondents including the basis for selection. All respondents shall follow the procedures for protest as indicated in the Solicitation document. During the protest period, City staff, elected officials and consultants will refer all inquiries to the protest hearing officer identified in the Solicitation document.
- 3.5 After Completion of Protest Period:** After completion of the protest period contact between prospective respondents and City staff, elected officials, or consultants is permissible.

SECTION 4. RESPONDENT'S CODE OF CONDUCT

By submitting a response to a City Solicitation, respondents are individually and solely responsible for ensuring compliance with these Guidelines on behalf of the respondent's employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a response. In addition to adhering to these Guidelines, respondents may not collude, directly or indirectly among themselves in regard to the amount, terms or conditions of a Solicitation; influence any City staff member or evaluation team member throughout the solicitation process, including the development of specifications, and submit incorrect information in the response to a Solicitation or misrepresent or fail to disclose material facts during the evaluation process. Any evidence that indicates that a respondent has failed to adhere with any section of these Guidelines may result in the respondent's disqualification from the procurement as well as possible debarment.

SECTION 5. CONFIDENTIALITY DURING EVALUATION PROCESS

City staff, consultants, and outside evaluators who are participants in the evaluation process are required to sign a confidentiality agreement which binds the participants not to share any information about responses received and the evaluation process until the City issues a notice of intended award.

SECTION 6. CONFLICT OF INTEREST

- 6.1** City elected officials, appointed officials, their staffs, and City employees are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner. In general, Council Appointees shall take measures to ensure that the City avoid any conflict of interests in procurement processes of City contracts. Specifically, these measures include that:

- 6.1.1** Persons who may not be regularly involved in City procurements review these Guidelines and other ethical standards and elicit such information from them to

enable the City to determine if the person's participation would create a conflict of interest. Such persons shall include, but are not limited to:

6.1.1.1 authors of specifications

6.1.1.2 paid and unpaid evaluators

6.1.1.3 paid and unpaid consultants who assist in the procurement process

6.1.2 The Purchasing Manager shall discuss any potential conflict of interest identified with the City Attorney's Office and document the resulting determination, and take appropriate action including, but not limited to, removal of an employee, consultant, or outside uncompensated party from the procurement activity or cancellation of a Solicitation.

SECTION 7. ALLEGATIONS OF CONFLICT OF INTEREST

Prior to the Solicitation release up to award of contract, any allegations of conflict of interest by a City employee, consultant, or other participant in the pre- Solicitation and Solicitation process shall be reported to the Purchasing Manager. The Purchasing Manager shall investigate the alleged conflict of interest in consultation with the City Attorney's Office and document the resulting determination.

SECTION 8. ALLEGATIONS OF MISCONDUCT

At any time during a Solicitation process, any misconduct by a City employee, consultant, or other participant in the pre-Solicitation and Solicitation process, shall be reported to the City's Purchasing Manager. The Purchasing Manager shall investigate the alleged misconduct, in consultation with the City Attorney's Office and others as appropriate. Nothing in these guidelines is intended to prohibit anyone from communicating with the City Manager's Office, the City Attorney's Office, or the Mayor or any City Council Member about any alleged misconduct.