



ADMINISTRATIVE MEMORANDUM POLICIES AND PROCEDURES

County of Jefferson Board of Legislators Office of the County Administrator

Section: PURCHASING

Issued: 12/2018

Subsection: 4.04 Procurement Conflict of Interest

Revised:

Section 1. General.

- a. The provisions of this article supplement, but do not supersede, other provisions of New York State and federal law. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the state and local government conflict of interests laws.
- b. No County employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the County when the employee knows that:
 1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or
 2. The employee, the employee's spouse, the employee's child or step-child, under the age of 18, or adult dependent child of the employee holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,
 3. The employee, the employee's spouse, the employee's child or step-child, under the age of 18, or adult dependent child of the employee has a pecuniary interest arising from the procurement transaction; or,
 4. The employee, the employee's spouse, the employee's child or step-child, under the age of 18, or adult dependent child of the employee is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 2. Solicitation or Acceptance of Gifts.

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value in excess of \$75.00, present or promised, unless consideration of substantially equal or greater value is exchanged. The County may recover the value of anything conveyed in violation of this section.

Section 3. Gifts.

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value in excess of \$75.00, present or promised, unless consideration of substantially equal or greater value is exchanged.

Section 4. Kickbacks.

1. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or other, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.
2. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
3. No person shall demand or receive any payment, loan subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.
4. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.
5. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interest of the County.

Section 5. Certification of Compliance.

The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written

certification that they complied with the provisions of this action.

Section 6. Misrepresentations.

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statement or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

Section 7. Personal Conflicts of Interest.

It is County policy to require contractors to:

1. Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and
2. Prohibit employees who have access to non-public County information from using such information for personal gain.

The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if he determines in writing that such mitigation is in the best interest of the County.

REFERENCE: Jefferson County Board of Legislators Resolution No. of 2018

ISSUED: December 11, 2018

Robert F. Hagemann, III
County Administrator