

CITY OF LYNNWOOD
POLICY/PROCEDURES

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| TITLE Purchasing Ethics Policy | | NUMBER P00-03 |
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| MAYOR: <i>Lina Roberts</i> | DEPARTMENT HEAD <i>M&B</i> | PURCHASING MANAGER <i>NW</i> |

LMC: 2.94
RCW: 42.23 (42.52)

PURPOSE: To adhere to the City Ethics Code and to provide additional instructions as it applies to competitive bid and contract decisions, in order to protect and reduce risk of conflicts of interest in City procurement decisions, by describing the following in specific relationship to City bids and contracts:

(a) Conflict of interest, (b) confidentiality of documents, (c) limitations on gifts, (d) limitations on prior employees, (e) limits on previously employed employees, (f) limitations on communications. This policy is to protect the City, employees and interested companies from a conflict of interest during a bid or contract. This applies to all City departments, interested bidders, and to formal competitive acquisitions including bids, which herein also means to include any bid, proposal, formal quotation or other forms of bidding. The Manager responsible for the bid and likewise, responsible for the contract, shall manage this policy.

POLICY STATEMENT: The City is committed to conducting competitive bidding in a manner that is fair, open, efficient and accountable. The Public Officials and employees shall follow practices in a manner that shall present no apparent or actual conflict of interest between the public trust and their private interest. The City holds City employees, as well as interested vendors and contractors, responsible for adhering to this policy, as a condition of bid submittal and as a condition of the contract.

CONFLICT OF INTEREST: this is defined in the City's Code of Ethics, and includes with limited exception, any financial or personal interest, or any interaction or benefit, gain or profit that appear to bias the employee in any manner. Employees are responsible to self-declare and remove themselves from the bid process immediately upon such a conflict arising, or bring the issue to the attention of the City. This applies to both bid and contract conditions. This is further defined by the City Code of Ethics ordinance, although one notable exception to this rule is that employees may retain upto 1% of total corporate stockholdings without a conflict of interest.

CONFIDENTIALITY OF DOCUMENTS: any document or specific information that is not general public knowledge or is not declared public information must be maintained as confidential. Documents that will remain confidential until following award include proposal responses, evaluation materials utilized by the City, and related documents. Documents will be declared confidential or public by the City Purchasing Manager or Project Manager, as appropriate, in a manner that is consistent with the City Code of Ethics ordinance, RCW, and other legal directions.

LIMITATION ON GIFTS: during or reasonably prior to a bid, and throughout the contract period, gifts are prohibited, both from companies offering and/or employees accepting. Gifts are defined as "anything of economic value for which no consideration is given", any gift, gratuity, incentive,

trip, entertainment, loan, service, seminars, discounts, financial compensation for actions related to the contract, or any other related actions, from any company where the value meets either of these two conditions: (1) exceeds the annual \$50 allowable under the City Ethics ordinance; or (2) where the gift is of sufficient personal interest or value to reasonably influence the selection, regardless of actual dollar value. Proffered gifts must be denied and companies must be instructed to refrain from gifts, in accordance with the City Code of Ethics ordinance. Among other items that are excepted within the City Code of Ethics, the following are not considered gifts:

- a) unsolicited advertising or promotion items of nominal value such as pens and notepads;
- b) unsolicited tokens or awards such as a plaque, trophy, desk item, wall memento, or similar;
- c) unsolicited items received for the purpose of evaluation or review;
- d) informational material, publications or subscriptions;
- e) food and beverages consumed at hosted reception;
- f) flowers, plants and floral arrangements, which must be shared among all employees or must be taken to a relief agency, in accordance with the City Ethics Code.

PRIOR EMPLOYEES: no former employee may bid on or hold a City contract greater than \$5,000 with the City, for one year after leaving the City, if the employee was involved directly or indirectly with the contract during the prior service with the City. Further, such employees may not assist anyone in securing or obtaining such contracts for one year after leaving the City, or compete for a City contract when they were involved in determining the scope of work or the selection process.

FORMER EMPLOYEES: No City employee may participate on a bid selection, contract award or may be responsible for contract administration, for any company with which the City employee was employed or received financial compensation for services in the preceding 12 months. The Mayor must specifically authorize any exceptions.

LIMITATION ON COMMUNICATIONS: All communications during a bid and award process must be directed only to the City Purchasing Manager or other official Bid/Project Manager. Communications with other City employee or official are not authorized and will be grounds for rejection of the bid, unless specifically authorized by the Bid Manager otherwise.

City Departments that manage bid solicitations will brief both participants and vendors regarding expectations. This may include the following:

- (1) Counsel all employee participants of the policy prior to participation.
- (2) Have employee participants read and sign a copy of the Policy Statement and the Conflict of Interest Forms (Attachment #3) for signature.
- (3) Offer a copy of the City Ethics code to each participant.
- (4) Provide a statement to vendors in the bid document (see Attachment #1)
- (5) Provide a statement in the Contract Terms and Conditions (see Attachment #2).
- (6) Make a verbal reference to these conditions during the pre-bid conference;
- (7) Counsel individual vendors as required.

Violations must be immediately reported to the Purchasing or Project Manager, so that the manager may immediately respond to the situation.

Attachment #1

Required Language – Bid Solicitation Documents

Following is language that must be provided within any bid, proposal, or formal solicitation. This language should be modified as appropriate to each bid or solicitation.

1. **Communications with the City:** All communications regarding this bid must be directed to the City's Project Manager (Purchasing Manager) or designee.

Communications prior to proposal submittal must be directed to City Purchasing (Project Manager). The City may respond immediately, or may save inquiries to be presented at the Pre-Bid Conference, depending on the nature of the communication, to insure all vendors receive the same information.

Following bid submittal, the City will not accept calls or communications regarding bid submittals. Bidders may access the City Web Site to determine status information, obtain a list of firms that submitted bids, and to confirm anticipated award date. The City will contact submitters as needed to provide a fair and comprehensive review of all proposal.

Failure to comply with these restrictions may cause rejection of the bid, in the sole discretion of the City Purchasing Manager.

2. Unless authorized by the City Purchasing Manager (Project Manager), no other City official or employee can speak for the City regarding this request. The City is not bound by information, clarification, or interpretations from other City officials or employees.
3. **City Officials:** Interested bidders may not contact City officials or employees, other than the City Purchasing Manager (Project Manager) or designee, until following award, unless specific authorization by the City Purchasing Manager (Project Manager) has been provided. Failure to observe this requirement may be grounds for rejection of the bid, at the sole discretion of the City Purchasing Manager (Project Manager).
4. **Gifts/Gratuities:** Bidder's must refrain from any activity, offers, loans, trips, special discounts, gifts, services, gratuities, financial compensation, or other actions that may provide an appearance of influence or conflict of interest. Such conditions will be grounds for rejection of the bid. Gifts that have an annual value exceeding \$50 are disallowed by law. The City Purchasing will reject any bid, in the Purchasing Manager's sole discretion, where the company has offered any gifts, gratuities, trips, loans, services, employment, or other actions, that could be reasonably interpreted as an intent to give influence or the appearance of conflict of interest will be grounds for rejection of the bid.
5. The Company confirms that the company does not have a known business interest or known close family relationship with any City officer or employee who was, is, or will be involved in the development of the contract scope of work, consultant selection, negotiation, drafting, signing, administration or evaluation of the company performance.

Attachment #2

Required Language – General Terms and Conditions

Following are terms and conditions that must be provided as part of the contract documents. This language should be modified as appropriate.

1. **No Gifts and Gratuities:** Businesses must not offer, nor City employees accept, gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with city business practices. It is also unlawful for anyone to offer another, to influence or cause them to refrain from submitting a bid. Contractors and City employees must strictly adhere to the statutes and ordinances for ethics in contracting and purchasing, including the City Ethics Code, RCW 42.23 (Code of Ethics for Municipal Officers) and RCW 42.52 (Ethics in Public Service). This is applicable to any business practice, whether a contract condition, bid practice, or at any activity related to City business.
2. **No Conflict of Interest:** The Contractor confirms that the Contractor does not have a business interest or close family relationship with any City officer or employee who was, is, or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's performance. Also, the Contractor confirms adherence to the City policy regarding conflict of interest, the City Ethics Code, and the RCW as named previous.

Attachment #3

Ethics Policy

Statement To Employee Participants

This is to help employees understand the ethics requirements and expectations that apply to a bid or selection process.

1. Participating employees must consider if they can serve without an apparent conflict of interest and maintain confidentiality of the bid information.
2. The City has the right to determine what constitutes a prohibitive conflict of interest. However, the City Ethics ordinance, RCW, and appearance of fairness will be considered in that determination.
3. No employee may participate in tasks where there is a known conflict of interest. Employees can participate in the process and skip tasks, if that proves an appropriate alternative.
4. Information must be kept confidential, unless it is both public information available for any interested party and it is intended for distribution to all interested parties. Employees are not to release information to any employee, official or company that may have conflict of interest, or who does not have an approved use for such information.
5. Employees should seek assistance if they have doubt about what is confidential.
6. Employees must immediately notify the bid manager should anything occur that might be considered a conflict. The bid manager will determine if a conflict exists.
7. Gifts: Employees must refuse any gift, gratuity, incentive, trip, entertainment, etc., from any company where the value (1) exceeds the annual \$50 allowable under the City Ethics ordinance; (2) where the gift is of sufficient personal interest or value to reasonably influence the selection regardless of actual dollar value. Gifts must be denied and companies should be instructed to refrain from gifts.
8. Companies are notified that gifts, gratuities, and communications are restricted. Failure to comply could jeopardize their status as an eligible bidder.
9. Employees are expected to know and abide by the City Ethics ordinance.
10. Employees shall report all gifts, financial relationships and communications on the Declaration.

**CITY OF LYNNWOOD
COMPETITIVE BID AND PROPOSAL**

**DECLARATION
REGARDING CONFLICT OF INTEREST and CONFIDENTIALITY OF MATERIALS**

Purpose: The City is committed to conducting competitive bidding in fair, open, efficient and accountable manner. This form is to declare, certify, report, and acknowledge information regarding conflict of interest and confidentiality of information relating to handling and evaluating City bids (herein defined to include proposals, sealed bids, and other competitive methods).

Condition: The City requires employees involved in a bid process to have no beneficial interest, directly or indirectly, which may influence the bid process. All bid projects shall be conducted in a manner that presents no apparent or actual conflict of interest between the public trust and any employee private interest.

Conflict of Interest: Each employee shall act to avoid conflict of interest, and strive to avoid even an appearance of impropriety. The City defines conflict of interest in the City's Code of Ethics, and includes with limited exception, financial or personal interest, any interaction that could or would appear to bias the employee in any manner. Employees are responsible to self-declare and remove themselves from the bid process immediately upon such a conflict arising, or bring the issue to the attention of the City.

Confidential Information: The confidentiality of information is the responsibility of each employee, to assure the employee acts within the requirements of confidentiality. The Bid or Project Manager will determine which materials are publicly available. Only such materials may be made publicly available. Employees will not disclose any confidential information that is known to them because of their participation in this process. This includes disclosure to other City employees or other organizations.

The City reserves the right to request and review information from employees as needed, in order to determine whether any activity could constitute a conflict of interest. The City reserves the right to request the State Auditor reviews or investigates, as a part of such determination.

Employee Statement: Except as I described below I have (a) no present, past, or anticipated future financial or other interest in any anticipated vendor, supplier or respondent to this bid or proposal; and (b) not obtained and will not obtain personal, family or financial benefit or gain from any such company, or in any other way have personal gain from the consideration of these bids and any subsequent award; and (c) not accepted, nor will I accept anything that may be perceived to reasonably influence the bid process, including gifts, travel, participation in special entertainment events, or other services from any companies involved, whether of monetary value or not.

I will handle all information, documents, bids and proposals in a secured, confidential manner. None of the information or documents will be left unsecured, or will be provided to any individual who does not have official City requirement for the information.

Statement of Financial Interest. Within the last twelve (12) months from the date of this Declaration, I or a member of my family, have received no compensation, gifts, travel, participation in special entertainment events (for example, lunch), or other services from any company herein (any supplier, vendor, or respondent involved), whether of monetary value or not, except as listed below. If none, print "none." If additional space is needed, attach separate page. State any compensation or gift, even if excluded from the definition of gift or is presumed not to influence under the City Code of Ethics.

Within the last twelve (12) months from the date of this Declaration, I have had the following communications or activity with any supplier, vendor, or respondent interested in this bid. If none, print "none." If additional space is needed, attach separate page. You may summarize communications, if

possible to do yet still reveal the nature of your communications. State any communications or activity even if presumed not to influence under the City Code of Ethics.

Compliance with Code of Ethics. In addition to the statement contained in this Declaration, I confirm my reading and acceptance of the City of Lynnwood Code of Ethics, which defines both conflict of interest and confidentiality of documents, and my compliance with same insofar as it affects any aspect of this bid process.

I declare under penalty of perjury under the Laws of the State of Washington (RCW 9A.72.085) that the foregoing is true and correct:

Signature

Date

Proposal/Bid Title

City Purchasing Procedures

These instructions are applicable to the City Purchasing, for bids conducted through the Purchasing and Contracts Division.

1. Prior to inclusion in a specification or bid process or as soon as practicable, the Buyer will brief and counsel employees. This counsel should include the attached statement, and form, and initiate a verbal discussion of it.
2. Any note of potential conflict by an employee with a potential bidder, financially or otherwise, shall be referred to the City Purchasing Manager for review.
3. The City Purchasing Manager may consult with the City Attorney. With Mayoral approval, the Lynnwood Police Department and/or State Auditor's Office may also be requested to provide research and investigation, depending upon the potential severity or the circumstance.
4. Employees are to sign the attached statement prior to engaging in the involved specification or bid process. The Buyers are to obtain the signed statement and retain the statement in the contract file.
5. The Buyer shall verify that a statement regarding the City Ethics policy is included in the bid documents. This currently is available as a statement in the Standard Terms and Conditions (Gifts and Gratuities clause).
6. The Buyer may verbally remind bidders of such statement at a pre-bid conference, if one is held.
7. The Buyer shall contact the Purchasing Manager immediately if any potential conflict of interest or confidentiality arises during the bid and contract award process.