



Financial Services  
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## **PUBLIC PURCHASING ETHICS**

### **General**

The objectives of public procurement include conserving public funds and inspiring public confidence. The appearance of a conflict of interest may be as harmful to public confidence in its government as an actual case of misconduct. For that reason, all personnel involved directly or indirectly in procurement transactions, from the original purchase to the ultimate disposal, must be guided by the highest standards of ethical conduct.

Further, any personal gain other than wages and benefits realized through public employment is a breach of public trust.

### **Policy**

No public employee having official responsibility for a procurement transaction shall represent the City in that transaction when the employee knows that:

- (a) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
- (b) The employee, the employee's partner or any member of the employee's immediate family holds a position with a bidder, offeror or contractor, such as officer, director, trustee or partner, has a personal and substantial participation in the transaction or owns or controls any portion of the firm;
- (c) The employee, the employee's partner or any member of the employee's immediate family has a pecuniary interest in or arising from the transaction; or
- (d) The employee, the employee's partner or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

### **Vendor Requirements**

The City of Fort Collins stipulates certain ethical requirements for vendors participating in procurement transactions. Those statements are generally stated as follows:

- (a) No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services, present or promised;
- (b) All bidders, offerors, contractors or subcontractors shall disclose any personal interest of any public official with respect to any City procurement;
- (c) Failure to make the required disclosure may result in disqualification, disbarment, suspension from bidding and rescission of contracts;

- (d) No contractor or subcontractor shall give, demand or receive from any suppliers, subcontractors or competitors any bribe or kickback or anything of value in return for participation in a procurement transaction or agreeing not to compete in a transaction; and
- (e) Architects or engineers employed by the City may not furnish building materials, supplies or equipment for any structure on which they are providing professional services. The City also does not accept bids or proposals from consultants or bidders who have solely and directly prepared specifications for a specific requirement, regardless of whether the consultant/bidder was paid for the specification.

### **Gratuities and Kickbacks**

- (a) Gratuities. It is a breach of ethical standards for any person to offer, give or agree to give any employee or public official a gratuity or offer of employment or employment in connection with any decision or recommendation concerning a possible or actual purchase by and/or on behalf of the City.
- (b) Kickbacks. It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract and solicitation thereof.

### **Confidential Information**

It shall be a breach of ethical standards for any employee or public official to knowingly use confidential information for his or her personal gain or the personal gain of others.

### **Employee Personal Purchases**

It is a breach of ethical standards for any employee or public official to solicit or request personal monetary discounts from vendors based on employment with the City of Fort Collins.

### **Purchases from Employees**

No officer or employee shall solicit or receive any pay, commission, money, or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of employment by the City, except his lawful compensation or salary as such officer or employee.

### **Bribes, Gifts and Gratuities**

A gratuity means a payment, loan, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received. It is the policy of Purchasing not to accept any gifts, entertainment, meals or gratuities from vendors.

### **Conflict of Interest**

Conflicts of interest are defined as either financial or personal in nature. A City employee is prohibited from participating in or attempting to influence a City decision when either type of conflict of interest exists. Additionally, when a conflict of interest is identified, the employee must immediately declare such interest by delivering a written statement to the City Clerk. Forms for this purpose are available from the City Clerk's office. If written disclosure is impractical under the circumstances, oral disclosure will suffice until a written disclosure can reasonably be filed.

- (a) **Financial Interests:** Essentially, an employee has a financial interest in a decision of the City when the City decision entails some foreseeable, measurable financial benefit to the employee (a spouse-owned business may not supply goods or services to the City, as an example). The definition of "financial interest" and the various exceptions are defined in greater detail in the Charter.
- (b) **Personal Interests:** A City employee has a personal interest in a City decision when his or her independence of judgment or action in the performance of official duties would, in the judgment of a reasonably prudent person, tend to be impaired by some close relationship or association.
- (c) **Contracts:** Contracts made in violation of the provisions of the City Charter (either because they were entered into by a person having a conflict of interest or because they involved a prohibited sale or purchase) are voidable by the City. At the City's option, all or any designated portion of the monies received by a third party under the contract may have to be refunded to the City.
- (d) **Sales to the City:** City employees and their relatives are prohibited from having any financial interest in the sale to the City of any real or personal property. **City employees may not use City discount schedules when purchasing goods or services for their private use.**
- (e) **Purchases from the City:** City employees may purchase real or personal property from the City only when it is offered for sale at an established price and the purchase is made upon the same terms and conditions as are offered to all members of the general public. Employees may not purchase from the City at auction or bid.
- (f) **Acceptance of meals, gifts or entertainment:** There is a general prohibition by City Charter of any City employee or their family members from soliciting or accepting any gift or favor which "in the judgment of a reasonably prudent person, would tend to impair the employee's independence of judgment in the performance of their duties."