

521 – Code of Ethics for Contracting

1.0 Purpose

The purpose of this policy is to provide guidelines for the selection and administration of contracts.

2.0 Policy

2.1 Ethics in Public Contracting

Ethical standards apply not only to District employees and Contracting Officers but to others with a vested interest in District contracts such as members of the Board of Commissioners, other officials and agents of the authority, and contractors with whom the District does business.

2.2 Principles

Members of the Board of Commissioners, District employees, and any others serving in an official position or acting as an agent of the District (hereafter referred to as employees, officers, or agents) must discharge their duties impartially to ensure fair competitive access to procurement opportunities by responsible contractors. Moreover, employees, officers, and agents should conduct themselves in such a manner as to foster the public's confidence in the integrity of the District procurement organization and process. Any attempt to realize personal gain through District employment or to serve as an officer or agent of the District through actions inconsistent with the proper discharge of duties is a breach of public trust.

2.3 Conflicts of Interest

Districts must observe the following conflict of interest prohibitions.

1. No District employee, officer, or agent shall participate in the selection, award or administration of a contract supported by State or Federal funds if a conflict of interest, financial or otherwise, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family; his or her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for the award.
2. In addition to any other applicable conflict of interest requirements, neither the District nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project in which any of the following classes of people have an interest, direct or indirect, during his or her tenure or for one year thereafter:
 - a. Any present or former member or officer of the governing body of the District, or any member of the officer's immediate family. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the District or a business entity.
 - b. Any employee of the District who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

- c. Any public official, member of the local governing body, or State or local legislator, or any member of such individuals' immediate family, who exercises functions or responsibilities with respect to the project(s) of the District.)
3. No present or former District employee, officer, or agent shall engage in selling or attempting to sell supplies, services, or construction to the District for one year following the date such employment ceased. The term "sell" means signing a bid or proposal, negotiating a contract, contacting any District employee, officer, or agent for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling contract disputes; or any other liaison activity with a view toward the ultimate consummation of a sale, although the actual contract is negotiated by another person.

2.4 Gratuities, Kickbacks, and Use of Confidential Information

District solicitations and contracts above the Federal small purchase threshold shall include clauses advising prospective contractors of the prohibitions against gratuities and kickbacks. These rules are designed to protect the integrity of the procurement system and to ensure that contracts are awarded fairly, based on merit, without improper influence.

1. **Gratuities.** District officers, current employees, former employees within one year of employment, or agents shall neither solicit, accept, or agree to accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Districts may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. These rules shall be incorporated in the District's Procurement Policy.
2. **Kickbacks and Anticompetitive Practices.** It is a breach of ethical conduct and prohibited for any payment, gratuity, or offer of employment to be made by, or on behalf of, a contractor or subcontractor under contract to the prime contractor, higher tier subcontractor, or any person associated therewith as an inducement for the award of a subcontractor order.

The Contracting Officer shall report to the Executive Director, the HUD Field Office, and the appropriate State and local officials any suspected anticompetitive practices by contractors.

3. **Use of Confidential Information.** Disclosure of confidential information to any person not authorized by the Contracting Officer to receive such information shall be a breach of the ethical standards. Confidential information includes but is not necessarily limited to: the contents of a bid (prior to bid opening) or proposal (prior to contract award using competitive proposals), names of individuals or firms that submitted bids (prior to bid opening) or proposals (prior to contract award); District-generated information related to a procurement (including District cost estimates, contractor selection and evaluation plans, specifications [before solicitation is issued]); and any other information the disclosure of which would have a direct bearing upon the contract award or the competitive process. It is a breach of ethical conduct for any current or former employee, officer, or agent to knowingly use confidential information for actual or anticipated personal gain or for actual or anticipated personal gain of any other person.

2.5 Prohibition Against Contingent Fees

It is a breach of ethical conduct for a person to be retained to solicit or secure a District contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of bona fide employees or a bona fide agency established for the purpose of securing business. This prohibition includes the employment of former District officials and employees on a contingency basis to obtain contracts with the District by a business seeking District contracts. Many States also have specific laws against contingent fees.

2.6 Sanctions

The Executive Director and the Board of Commissioners are responsible for establishing sanctions for violation of the ethical standards. As stated previously, many States have passed laws governing the conduct of officials involved in procurement. All such laws shall be enforced by the Executive Director and, in cases where the State or local government has no such rules, appropriate sanctions for violation of the standards of conduct in this Policy shall be published and imposed.

Civil and administrative remedies should be established for use whenever employees, officials, or agents breach ethical standards. References to State ethics laws, which should be consulted by the District in developing and administering sanctions for misconduct, should be included in the Procurement Policy. In addition, the District may impose any one or more of the following:

- Oral or written warnings or reprimands;
- Suspension with or without pay for specified period of time; Termination of employment; or
- Dismissal from the official or agency position.

The value of anything received by an employee or a non-employee in breach of the ethical standards shall be recoverable by the District either by confiscating the items or by charging the violator for any and all gratuities received. All procedures in this Chapter shall be in accordance with due process requirements and existing law. In addition, notice and an opportunity for a hearing shall be provided before imposing any suspension or termination of employment. Remedies against contractors may include suspension and/or debarment.