

# ETHICS

## ETHICAL STANDARDS AND RELATIONSHIPS

This Code of Ethics requires hard work, courage, and difficult choices. In the long run, however, employees and citizens will always be better served by doing what is right, rather than what is expedient.

### I. Personal Interest

**Section 2.425 - Contracts with city; eligibility for appointment or election to office**, of the City of San Marcos City Charter, shall apply to all purchases or contracts entered into by any employee or officer of the City of San Marcos, and reads as follows:

"No member of the city council and no city employee shall have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the City. Any person having an interest shall be ineligible for election as a city council member or appointment as a city employee, and any city council member or city employee who acquires an interest shall forfeit the office or employment. Any violation of this subsection with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the City Manager or the City Council."

### II. Acceptance Of Gifts

The City of San Marcos, Texas Employee Handbook, Section 7.10 entitled "Gifts and Gratuities", shall apply to all purchases or contracts entered into by any employee or officer of the City of San Marcos, and reads as follows: "City employees are prohibited from soliciting or accepting gifts, gratuities, favors, loans or other objects of monetary value arising as a result of the performance of their duties as City employees. Food items may be accepted only if reasonably consumable in one sitting."

### III. National Institute Of Governmental Purchasing, Code Of Ethics

As a member in good standing of the National Institute of Governmental Purchasing, the City of San Marcos shall adhere to the Code of Ethics as adopted and published by that organization:

The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization:

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the Institute and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager.
- Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.
- Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.

### IV. Ethical Criteria For The Award Of City Contracts

On September 19, 2010, The City of San Marcos City Council adopted ethical criteria for award of City contracts for each procurement process.

Disqualification from award of city contracts:

No contract for construction or services, including architectural, engineering or other professional services, shall be awarded to any person, firm, corporation, partnership, or other entity (including subsidiaries) that has been convicted of a criminal offense involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official if the conviction occurred within three years immediately preceding either

the date of submission of a bid, proposal, or statement of qualifications or the date of award of the contract. A bid, proposal, or statement of qualifications from an entity disqualified under this provision shall not be considered for any purpose.

Reportable conditions:

Every bid, proposal, or statement of qualifications submitted for the award of a contract by the City of San Marcos shall include disclosures concerning the following reportable conditions which may be considered in determining the responsibility of a bidder or the qualifications of an entity proposing to perform construction work or provide services (including architectural, engineering, or other professional services) for the City:

- Pending investigation or criminal prosecution of a criminal offense alleged to have been committed in Hays County, Texas involving fraud, theft, bribery, kickbacks, or unlawful gifts to a public official.
- Pending claims, investigations, or civil litigation involving allegations of fraud, misrepresentation, or conversion. Previous final judgments against the entity for breach of contract, fraud misrepresentation, or conversion.
- False statements in a statement of bidder's qualifications submitted to the City of San Marcos or any other public sector entity.
- Contractor or proposed subcontractor previously cited for safety violations.
- Contractor or proposed subcontractor previously cited for improper disposal of demolition/construction debris, or contaminated/hazardous materials.
- Failure to timely pay/remit sales tax, property tax, or utility payments to the City of San Marcos.
- Previous unauthorized substitution of materials not meeting contract specifications.
- Previous failure to obtain bonds/insurance or refusal to execute a contract following an award by the San Marcos City Council.
- Violation of the anti-lobbying provisions in a current or previous City of San Marcos procurement process by making contact with a member of the San Marcos City Council prior to the award of a contract.

City staff shall disclose each of the foregoing reportable conditions to the City Council prior to the date of award of a contract to allow the City Council to make a determination regarding the responsibility or qualifications of an entity to perform the work or service.

#### **V. Anti-Lobbying**

Vendors are prohibited from directly or indirectly communicating with City Council members regarding their qualifications or any other matter related to the eventual award of Contract. Vendors are prohibited from contacting City staff or committee members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff or committee member. Any violation of this provision will result in immediate disqualification of the Vendor from the selection process.

#### **VI. Applicability to FR-5938-N-01**

Revision Notice 07/31/2016: This policy was reviewed and edited for compliance with CDBG-DR requirements for FR-5938-N-01. In instances where the existing City of San Marcos policy exceeded the standards outlined in the Federal Register, the City retained the more stringent existing policy standards.