Conflicts of Interest

Vendor Representative

For purposes of this policy, "vendor's representative" shall mean an employee, partner, director, board member or officer of a potential vendor or consultant, lobbyist or actual or potential subcontractor of a vendor, or any other individual or for-profit or nonprofit organizations acting through or on behalf of any person seeking a contract award or on behalf of a group of interested individuals or members seeking a contract award.

Covered Activities

The District shall investigate theft of property, theft of service, theft of anything of value, fraud, and misappropriation claims in accordance with policy CAA(LOCAL).

Actions Constituting Inappropriate Activities

In addition to the examples listed in CAA(LOCAL), activities constituting inappropriate conduct include, but are not limited to, the following:

1. Receiving payment as a result of the submittal of fictitious billing for work not actually performed;
2. Receiving payment as a result of intentional over-billing for work performed;
3. Bid price fixing;
4. Bid rigging;
5. Collusion with District employees to commit a fraudulent or unethical act; and
6. Bid tailoring, as defined by the Association of Certified Fraud Examiners that is intended to limit competition or create an unfair advantage for a specific vendor.

Reporting

An individual who detects or suspects any fraud, misappropriation, or financial impropriety involving an employee must immediately report this to the employee's supervisor, the Superintendent or designee, the Board President, CFO, local law enforcement, or the District's internal audit office.

An individual who detects or suspects any fraud, misappropriation, or financial impropriety of any vendor or potential vendor, must immediately report this to the District's procurement services department, the internal audit office, the Superintendent or designee, or the Board President.

Restricted Contact Period Purpose — "Cone of Silence"

The cone of silence shall apply to the acquisition of goods or services using the procurement methods identified in this policy.

"Cone of silence" shall mean a prohibition on communication regarding any pending Request for Qualifications (RFQ), request for proposal (RFP), Competitive Sealed Proposal (CSP), bid, or other competitive solicitation (as defined in the procurement methods above) between:

1. A potential vendor submitting a proposal to a competitive bid as defined above; and
2. Any Board member, Superintendent, senior staff member, principal, department head, director, manager, or other District employee who has influence in the evaluation or selection process.

Campaign contributions, gifts, donations, and any other items of value shall be prohibited between the parties defined above during the time period of any known contract or other bid opportunity is under consideration and which falls under the "cone of silence," defined above.

Exception

The cone of silence shall not apply to communication with the District's Legal Counsel Procurement Services staff and Facilities and Construction Director. Such communications shall be limited to the purpose of obtaining clarification or information concerning the subject of solicitation or conducting contract negotiations. The cone of silence shall not apply to communications regarding work or services provided by vendors already under contract with the District, provided that such communications are limited to existing work or services and shall not relate to any Request for Qualifications (RFQ), request for proposal (RFP), Competitive Sealed Proposal (CSP), bid, or other competitive solicitation in progress.

Time Period

The cone of silence shall begin upon the issuance of an RFI, RFP, bid, or other competitive solicitation as defined in this policy and shall officially end upon execution of an award by the Board.

Regardless of the above time period, it shall not be acceptable for a potential vendor to participate in discussions that determine the scope of work, strategic direction, technical specifications, or evaluation criteria of such projects.

Nothing contained in this policy shall prohibit any potential vendor or vendor's representative from:

1. Making public representations at scheduled pre-bid conferences or scheduled selection and negotiation committee meetings;
2. Engaging in contract negotiations during any scheduled meeting;
3. Making a public presentation to the Board during any duly noticed public meeting; or
4. Conducting business on contracts previously executed and currently in force.

The potential vendor or vendor's representative shall send all written communication directly to the designated procurement staff.

Nothing in this policy shall prohibit the procurement staff from initiating contact with a potential vendor or a vendor's representative and subsequent communication for the purpose of obtaining clarifying information regarding a response to an RFP, bid, or competitive solicitation. Such contact, including any response, shall be in writing and shall be provided to the members of the applicable procurement staff.

Cone of Silence Disclosures

A Board member who has had contact with a person seeking to do business with the District during the cone of silence shall disclose this contact to the director of purchasing and/or general counsel.

Violation

Any suspected violation of the cone of silence shall be reported to the District's procurement services department or the District's internal auditor and may result in the disqualification of the potential vendor, a recommendation for award, if any, to the potential vendor or vendor's representative being withdrawn or may result in a vendor's contract being deemed void or voidable. The potential vendor or vendor's representative determined to have violated this rule shall be subject to debarment from bidding and contracting activities of current and future projects for a period up to two calendar years (24 months).

In addition to any other penalty provided by law, violation of this policy by a District employee shall subject the employee to disciplinary action.

Board members who have violated the restricted communication period and/or received campaign contributions, gifts, donations, or any other items of value from such vendor representatives during the cone of silence shall abstain from voting on such matters related to that vendor for a period up to two calendar years (24 months).

In the event that a Board member or candidate unknowingly accepts a campaign contribution, gift, donation, or any other item of value from a vendor representative during the cone of silence, it shall be his or her duty to return the contribution within 10 business days after becoming aware of the conflict with this policy.

Formal Complaints

This policy shall not be intended to prohibit contractors and their representatives from issuing formal complaints or concerns about potential conflicts of interest during the cone of silence.

Contact with Employee / Board

Salespersons of educational products may be permitted to meet with employees during their planning periods or before or after school. An appointment shall be necessary, and the visitation must

be approved by the employee and the principal. [See also GKC(LOCAL)]

Persons conducting commercial business with the District shall refrain from contacting District personnel and any member of the Board regarding any aspect of the business during the cone of silence described above.

Individual Board members who are contacted by persons conducting business or seeking to conduct business with the District shall refer such persons to the office of the Superintendent for administrative response.

“Conducting business” shall include participation in a pending procurement, the negotiation of any contract, the performance of any contract, the selling of any product, and the performance of any service.

Vendor Data Requirements

Every individual or entity who contracts or seeks to contract with the District for the sale or purchase of property, goods, or services shall file a completed conflict of interest questionnaire at the time of responding to an RFP, RFQ, or bid. If a consultant or volunteer participates in the evaluation of an RFP, RFQ, or bid, a completed conflict-of-interest questionnaire must be completed and submitted to the procurement department.

Every entity that contracts or seeks to contract with the District for the sale or purchase of property, goods, or services shall also file a completed Form 1295, pursuant to state law at the time of responding to an RFP, RFQ, bid. Prior to any award or recommendation, the District shall review the information provided and make a recommendation to the Board.

The Board may use the information to determine whether any potential conflicts exist and to determine whether such conflicts of interests are of sufficient magnitude as to warrant:

1. Disqualification of a Board member, District employee, consultant, or volunteer from participation in any decision pertaining to conducting business with such a company.
2. Disqualification of the company or corporation from conducting business with the District.

If any company, corporation, organization, or individual refuses or willfully fails to provide the requested data without consent of the Board, the Board may consider such refusal or failure as good cause to not conduct business with such company, corporation, organization, or individual for no less than two years.