

CHAPTER TWO

ETHICAL CONSIDERATIONS

2.1 Purpose

To define appropriate conduct for personnel engaged in District procurement and contracting activities.

2.2 Policy

The Central Contra Costa Sanitary District Code Section 2.36.010A states:

“It is the Central Contra Costa Sanitary District’s policy to perform procurement activities in conformance with all applicable laws and with the highest ethical standards.”

Preservation of the District’s reputation for the fair, honest and consistent treatment of suppliers can best be preserved if procurement is done solely on the merits of the transaction. All District personnel should conduct themselves in such a manner as to foster public and Board confidence in the integrity of the District’s procurement operation.

2.3 General Requirements

2.3.1 Statement of Philosophy. The primary mission of Central Contra Costa Sanitary District is to protect the public health and the environment through the collection and treatment of wastewater, the recycling of high quality water and the promotion of pollution prevention.

To perform its mission effectively, the District must have the trust and confidence of the Board of Directors, as well as the public it serves. That trust is dependent upon District employees discharging their duties honestly, forthrightly, objectively and with personal integrity.

To secure and maintain the trust and confidence of the public, as well as the District’s Board of Directors, the employees of the Central Contra Costa Sanitary District are committed to upholding the highest standards of ethical conduct. The full measure of ethical review is not limited to the narrow confines of a specific job, task or department. The review must also determine whether the action gives the appearance of wrongdoing, inequity, impropriety or the perception of misconduct when viewed by the public.

2.3.2 Institute for Supply Management Purchasing Standards. The Central Contra Costa Sanitary District Purchasing Division subscribes to the *Institute for Supply Management (ISM) Standards of Purchasing Practice*, which state:

- a. Avoid the intent and appearance of unethical or compromising practice in relationships, actions and communications.
- b. Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and only granted authority.
- c. Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.
- d. Avoid soliciting or accepting money, loans, credits or preferential discounts and the acceptance of gifts, entertainment, favors or services from present or potential suppliers that might influence or appear to influence purchasing decisions.
- e. Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- f. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- g. Avoid improper reciprocal agreements that restrain competition.
- h. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- i. Encourage support for small, disadvantaged and minority-owned businesses.
- j. Enhance the proficiency and stature of the purchasing profession by acquiring and maintaining current technical knowledge and the highest standards of ethical behavior.
- k. Conduct purchasing activities in accordance with national and international laws, customs and practices, consistent with United States laws, your organization policies and these Ethical Standards and Guidelines.

2.3.3 California Association of Public Purchasing Officers Standards of Practice. The Purchasing Division also subscribes to the following California Association of Public Purchasing Officers Standards of Practice:

- a. To regard public service as a sacred trust, giving primary consideration to the interests of the public agency by which we are employed.
- b. To purchase without prejudice, seeking to obtain the maximum value for each dollar expended.
- c. To avoid unfair practices, giving all qualified suppliers an equal opportunity.
- d. To honor our obligations and to require that obligations to our public agency be honored.
- e. To accord supplier representatives courteous treatment, remembering that they are important sources of information and assistance in solving purchasing needs.
- f. To refuse to accept any form of commercial bribery, and prevent the appearance of doing so.
- g. To strive constantly for greater knowledge of purchasing methods and of the materials we purchase.
- h. To be receptive to counsel from our colleagues and to cooperate with them to promote a spirit of teamwork and unity.
- i. To conduct ourselves with fairness and dignity and to demand honesty and truth in the purchasing process.
- j. To cooperate with all organizations and individuals involved in activities designed to enhance the development and standing of the purchasing profession, remembering that our actions reflect on the entire purchasing profession.

2.3.4 Conflict of Interest Regulations. Conflicts of interest occur when a conflict exists between the public interest and the private monetary interest of a public official or employee. Conflicts of interest can also occur with regard to individuals who have left District employment, when former public officials are able to exert undue influence over the District's procurement and contracting processes because of their past personal connections inside the District.

The Central Contra Costa Sanitary District *Employee Handbook* states:

“As a District employee, you are personally and professionally responsible for serving the public with integrity and honesty. You are expected to maintain the public trust and the trust of the Board and management. To this end, you are not allowed to have any financial interests, engage in business transactions or incur any obligations that conflict with your job duties or provide any personal gain in the course of your employment. You are required to act ethically at all times on the job.”

The *Employee Handbook* further states:

“You must perform your duties in compliance with all Federal, State and local laws and avoid any conduct that could be considered illegal, unethical or improper.”

Generally speaking, an employee should not participate directly or indirectly in District contracts or agreements when the following conditions apply:

- a. The employee or any member of the employee’s immediate family has a financial interest in the purchase.
- b. A business or organization, in which the employee or any member of the employee’s immediate family has a financial interest, is involved in the purchase.
- c. Any other person, business or organization, with which the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment, is involved in the purchase.

2.3.5 Purchasing for Personal Use. Central Contra Costa Sanitary District employees shall not use their official capacity or District time to negotiate or make personal purchases for themselves or others. Employees must act purely in the best interest of the public at all times and avoid the introduction of personal factors.

2.3.6 Gifts and Gratuities. The Central Contra Costa Sanitary District regards the practice of accepting gifts or gratuities as unnecessary, undesirable and contrary to the mission of the District. The District recognizes the responsibility of its employees to maintain good relations with all members of the community and believes this can be accomplished in a professional manner without gifts or gratuities interfering with and/or influencing employees.

The Gifts and Entertainment Policy in Chapter Three of the *Central Contra Costa Sanitary District Employee Handbook* prohibits District employees from accepting any gratuity or advantage from any supplier or contractor. This policy is

designed to prohibit actions that may tend to unduly and improperly influence officers and employees in the discharge of their duties, or grant, in the discharge of their duties, any improper favor, service or thing of value. The policy states:

“Accepting individual gifts or other considerations from a person or company doing business with the District or that may have an indirect interest in District services is prohibited. Unsolicited promotional materials (pens, note pads, calendars, etc.) of a nominal value and food or refreshments on an infrequent basis in the ordinary course of business are allowed, providing that the gift does not impose any sense of obligation, affect your judgment or violate acceptable business standards or ethics. Personal favors, loans, lavish entertainment or other monetary considerations are not to be accepted.”

2.3.7 Kickbacks. Kickbacks are a financial payment for receiving a contract. It shall be illegal for any payment, gratuity, or offer of employment to be made by, or on behalf of:

- a. A contractor or subcontractor to any District official, officer, director, agent or employee as an inducement for the award of a contract or order; or
- b. A subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith.

Upon showing that (1) a contractor made a kickback to a District official, officer, director, agent or employee in connection with the award of a contract, subcontract or order, or (2) a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the District and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other and all offending parties.

2.3.8 Unethical Use of Confidential Information. District employees are frequently made privy to confidential information in the course of their duties, and the prohibition against the misuse of confidential information is just as fundamental to ethical purchasing as it is to any other sphere of government. It is considered unethical for any employee, or former employee, knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

2.3.9 Recovery of Value Transferred or Received In Breach of Ethical Standards. The value of anything transferred or received in breach of ethical standards by a Central Contra Costa Sanitary District employee or a supplier may be recovered from both employee and supplier.

2.3.10 Sanctions for Ethical Violations. Any employee who violates ethical standards may be disciplined in accordance with the Central Contra Costa Sanitary District Personnel Rules and Regulations and/or criminal courts.