

**CENTRAL UNION HIGH SCHOOL DISTRICT
Nutrition Services Department**

PROCUREMENT CODE OF CONDUCT

In accordance with the general procurement standards in Title 2, Code of Federal Regulations (2CFR), Section 200.318(c), the Central Union High School District has developed these written standards of conduct to cover potential personal and organizational conflicts of interest. These written standards govern the actions of District employees, officers, or agents who engage in the selection, award and administration of contracts funded by federal awards.

Any person employed by the Central Union High School District who purchases goods and services, or who is involved in the purchasing process for the Nutrition Services Department shall be bound by this code and shall:

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions and communications;
2. Diligently follow all lawful instructions while using professional judgment, reasonable care and exercising only the authority granted;
3. Conduct all purchasing activities in accordance with the laws, while remaining alert to and advising the District regarding legal ramifications of the purchasing decisions;
4. Refrain from any private or professional activity that would create a conflict between personal interest and the interest of the District;
5. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved;
6. Never solicit or accept money, loans, credits or prejudicial discounts and avoid the acceptance of gifts, entertainment, favors or services from present or potential suppliers which might influence or appear to influence purchasing decisions;
7. Promote positive supplier relationships remaining impartial through all phases of the purchasing cycle;
8. Display 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 public being served;
9. Provide an environment where all business concerns, large or small, majority or minority owned, are afforded an equal opportunity to compete for the Districts business; and,
10. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standard of ethical behavior.

11. Pursuant to California Government Code section 87302, all Nutrition Services employees who make or influence governmental decisions will submit a Statement of Economic Interest, Form 700, within designated time frames.

Procurement Standards

The Central Union High School District's Nutrition Services Department will conduct all procurement transactions in a manner that allows full and open competition consistent with the standards stated in 2 CFR, Section 200.319. To ensure objective vendor performance and eliminate any unfair competitive advantage, vendors that develop or draft specifications, requirements, statement of work, invitations for bid (IFB) or requests for proposal (RFP) must be excluded from competing for the bid (2CFR, Section 200.319 [a]).

Actions that restrict competition include, but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business
2. Requiring unnecessary experience and excessive bonding
3. Conducting noncompetitive pricing practices between firms or between affiliated companies.
4. Awarding noncompetitive contracts to consultants who are on retainer contracts
5. Allowing organizational conflicts of interests
6. Specifying brand naming product instead of allowing an equal product to be offered by describing product performance or other relevant requirements
7. Engaging in any arbitrary action during the procurement process such as awarding a contract without valid reasons to a vendor that did not rank first or lowest in price according to the agency's evaluation criteria when awarding a contract

Incentives

Incentives that may serve to induce or influence an employee engaged in the selection, award or administration of contracts may be unlawful.

Examples of incentives include but are not limited to:

1. Extra goods or services that were not solicited
2. Gifts (such as free merchandise, extra tickets, gift cards)
3. Money for scholarships
4. Cash

5. Points that can be redeemed for merchandise

To avoid noncompliance with federal procurement regulations (including, but not limited to CFR, sections 200.318, 200.319 and 400.2) and to prevent bid protest, this written Code of Conduct **prohibits District staff from accepting any incentives offered by a bidder for any District staff member's personal use.**

Incentives solicited by the District in the IFB or RFP may be allowable if the incentive or related item benefits the Nutrition Services Department.

When requesting incentives, the District must keep in mind the following:

1. All responsive bids or proposals, including those without the requested incentives, must be evaluated.
2. All requested incentives must exclusively and directly benefit the Nutrition Services Department. Incentives that are retained by the District for non-program use, or given to employees or students as a reward for an accomplishment, are not allowed.
3. Soliciting incentives must not create a barrier to full and open competition.
4. Eliminating bidders based on the provision of incentives or points program, limits full and open competition by placing unreasonable requirement on bidders that are unable or unwilling to provide such incentives.
5. Requesting incentives may reduce the pool of bidders.
6. Unless all bidders can offer the solicited incentives, the District may not score the solicited item as part of the evaluation criteria.
7. Bids and proposals that include unsolicited incentives are considered overly responsive and the District may be required to disqualify overly responsive bids, especially if it causes a material change to the RFP.

Consequences

Pursuant to 7 CFR, Section 210.19(a) (4), the California Department of Education (CDE) is required to investigate complaints received or irregularities noted in connection with the operation of the Nutrition Services Program. This requirement extends to the performance of individuals and organizations engaged in contract solicitation, award and administration. The CDE's oversight and monitoring of the District's procurement activities includes a review of the District's written Code of Conduct and when necessary, investigations of reported real or apparent conflicts of interest. If a CDE investigation reveals that the District violated this Code of Conduct, the CDE will issue a finding of noncompliance and require the District to take corrective action. Consequences for failure to comply with federal regulations are outlined in 2 CFT, sections 200.338 (Remedies for Noncompliance) and 200.339 (Termination), and may include temporary withholding of cash payments, suspension of

program funding, denial of all or part of the cost of the noncompliant activity, and/or other remedies to bring the District into compliance.

The District will assure that all Nutrition Services employees that are granted the authority to purchase on behalf of the department are familiar with federal, state and local laws regarding the misuse of public funds that could lead to consequences, including **disciplinary action**, civil or criminal penalties, lawsuits, and bid protests that may also result in public mistrust. The District shall be responsible for ensuring that their procurement and contract procedures comply with all applicable laws, program instructions and guidance materials and will consult their legal counsel regarding any proposed procurement methods or contract language.

References:

U.S. Department of Agriculture Policy Memorandum SP 09-2015

CACFP 03-2015, SFSP 02-2015: Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts

Title 2, Code of Federal Regulations, sections 200.318, 200.319, 200.338 and 200.339 and Part 400

Title 7, Code of Federal Regulations, Section 210.24

California Government Code, sections 87301 and 87302