

## COUNCIL POLICY

Subject:	Policy Number	Effective Date	Number of Pages
Standards of Conduct – City Procurements	000-69	____, 2019	Page 1 of 4

### 1. PURPOSE

The purpose of this policy is to set forth City of Santa Rosa's standards of conduct with respect to City procurements. This policy governs all City employees, officers, and agents who engage in the solicitation, selection, award or administration of City contracts.

### 2. REFERENCES

- 2.1. Santa Rosa City Charter, section 42
- 2.2. Government Code sections 87100, *et seq.*
- 2.3. Government Code sections 1090, *et seq.*
- 2.4. Code of Federal Regulations, title 2, section 200.318(c)
- 2.5. California Code of Regulations, title 2, section 18730

### 3. POLICY

3.1 **General.** City employees, officers, and agents who engage in the solicitation, selection, award or administration of City contracts shall:

3.1.1 Not engage in unethical or compromising practices in relationships, actions and communications and shall avoid even the appearance of such practices;

3.1.2 Diligently follow all lawful instructions while using professional judgment, reasonable care and exercising only the authority granted;

3.1.3 Conduct all procurement activities in accordance with all laws, while remaining alert to and advising the City regarding legal ramifications of procurement decisions;

3.1.4 Refrain from any private or professional activity that would create a conflict between personal interests and the interests of the City;

3.1.5 Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved;

3.1.6 Never solicit or accept money, loans, credits or prejudicial discounts and avoid the acceptance of gifts, entertainment, favors or services for themselves or their families or others that result in personal gain from present or potential contractors which might influence or appear to influence purchasing decisions or the award of contracts;

3.1.7 Promote positive contractor relationships, remaining impartial through all phases of the procurement cycle;

## COUNCIL POLICY

Subject:	Policy Number	Effective Date	Number of Pages
Standards of Conduct – City Procurements	000-69	____, 2019	Page 2 of 4

3.1.8 Display the highest ideals of honor and integrity in all public and personal relationships to merit the respect and inspire the confidence of the public being served;

3.1.9 Provide an environment where all business concerns, large or small, majority or minority owned, are afforded an equal opportunity to compete for the City's business;

3.1.10 Not use public office for private gain;

3.1.11 Not participate in a City procurement if the employee, officer or agent's spouse, domestic partner, child, stepchild, parent or stepparent will benefit financially from the procurement; and/or is negotiating or has an employment arrangement which is contingent upon or will be affected by the procurement;

3.1.12 Upon discovery of an actual or potential conflict of interest, immediately disclose the actual or potential conflict of interest and withdraw from further participation in the procurement;

3.1.13 Not give preferential treatment to any person or entity;

3.1.14 Not directly or indirectly use, take, dispose of, or allow the use, taking, or disposing of City property or resources;

3.1.15 Conduct all procurement activities in a manner that allows full and open competition consistent with Code of Federal Regulations, title 2, section 200.319 when Federal funding is utilized; and

3.1.16 Prohibit contractors that develop or draft specifications, requirements, statements of work for City procurements such as invitations for bids, requests for quotations or requests for proposals, from competing in the solicitation.

**3.2 Actions that restrict competition.** Language within a solicitation that intentionally restricts competition is prohibited. Restrictive actions include, but are not limited to:

3.2.1 Placing unreasonable requirements on firms for them to qualify to do business;

3.2.2 Requiring unnecessary experience and excessive bonding;

3.2.3 Conducting noncompetitive pricing practices between firms or between affiliated companies;

3.2.4 Awarding noncompetitive contracts to consultants that are on retainer contracts;

3.2.5 Allowing organizational conflicts of interests;

COUNCIL POLICY

Subject:	Policy Number	Effective Date	Number of Pages
Standards of Conduct – City Procurements	000-69	____, 2019	Page 3 of 4

3.2.6 Specifying brand named products instead of allowing an evaluation of potentially equal products to be offered by describing product performance or other relevant requirements;

3.2.7 Engaging in any arbitrary action during the procurement process such as awarding a contract without valid reasons to a contractor that did not rank first or lowest in price according to the City’s evaluation criteria.

**3.3 Prohibited Incentives.** City employees, officers, and agents engaged in the selection, award or administration of contracts shall not accept any incentives that may induce or influence any decision. Incentives include, but are not limited to:

3.3.1 Extra goods or services that were not solicited;

3.3.2 Gifts (such as free merchandise, extra tickets, gift cards);

3.3.3 Money for scholarships;

3.3.4 Cash; and

3.3.5 Points that can be redeemed for merchandise.

3.3.6 Notwithstanding the forgoing, the City Council may determine that certain incentives have nominal or no value and are therefore not prohibited under this policy.

**3.4 Permitted Incentives.** Incentives requested by the City in the solicitation process are permitted if the incentives benefit the City. When determining whether incentives should be included in a solicitation, the following factors should be considered:

3.4.1 Whether the incentives exclusively and directly benefit the City. Incentives that are retained by the City for non-City use or given to employees or elected officials are not permitted;

3.4.2 Whether the solicitation of incentives will limit full and open competition;

3.4.3 Whether the solicitation of incentives will reduce the pool of bidders or proposers;

**3.5 Limits on use and Application of Permitted Incentives in the Solicitation Process.**

3.5.1 All responsive bids or proposals, including those without the requested incentives, must be evaluated;

3.5.2 Unless all bidders or proposers can offer the solicited incentive, the City may not use the incentive as part of the evaluation criteria; and

COUNCIL POLICY

Subject:	Policy Number	Effective Date	Number of Pages
Standards of Conduct – City Procurements	000-69	____, 2019	Page 4 of 4

3.5.3 Bids and proposals that include unsolicited incentives may render the bid, quote, or proposal as non-responsive.

**4. POLICY ENFORCEMENT**

4.1 Rule 7 of the City’s Personnel Rules and Regulations pertaining to discipline are incorporated by this reference into this policy. A violation of this policy by a City employee shall be deemed sufficient cause for discipline under Section 3 of Rule 7.