Procedures and Contract Process Integrity and Conflict of Interest – Administrative Procedures 5.1.1

PURPOSE

The purpose of this policy is to establishes the administrative framework for the implementation of Council Resolution No. 77135, Section 7Council Policy No. 0-35, titled "Procurement and Contract Process Integrity and Conflict of Interest." The purpose of the Policy and these Administrative Procedures is to ensure integrity in the procurement and contract process, to educate City employees, consultants, uncompensated outside parties, and any person involved in the decision to award a contract about potential cConflicts of iInterests, and to establish a process for screening of cConflicts of iInterests.

AUTHORITY

Council Resolution No. 77135, Section 7Council Policy titled "Procurement and Contract Process Integrity and Conflict of Interest.", Council Policy No. 0-35, approved on February 6, 2007.

DEFINTIONS

"Procurement Authority: "T means the City Manager, Council Appointee, Director of Finance, Director of Public Works or such other person who has been duly authorized to procure a contract.

Procurement and contract processes are defined as, but not limited to: specification development, preparation and issuance of solicitations, evaluation of solicitations and submissions, and other evaluations which lead to an award of a City contract.

POLICY

It is the policy of the City of San José to provide a fair opportunity to participants in competitive processes for the award of City contracts by promulgating integrity and removal of Conflicts of Interest through the inclusion of a communication protocol, respondents' code of conduct, confidentiality during the evaluation process, and conflict of interest in all competitive solicitations. Any allegations of Conflict of Interest or misconduct brought to the attention of City staff shall be investigated.

CONFIDENTIALITY DURING THE EVALUATION PROCESS

City staff, consultants, and outside evaluators, who are participants in the evaluation process are required to sign a Confidentiality Agreement, which binds the participants not to share any information about responses received and the evaluation process until the City issues a Notice of Intended Award.

CONFLICT OF INTEREST IN PROCUREMENT

In accordance with City Policy Manual Section 1.2.1, Code of Ethics, "City employees and officials are expected to avoid any conflicts of interest." Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

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Council Appointees are required to take measures to ensure that the City avoids any conflict of interests in procurement processes of City contracts, including:

~~1.~~ Professional procurement and contracting staff and others who regularly participate in ~~2.~~1. contract activities on behalf of the City must disclose relevant financial interest as required by State Law and by City Policy and to annually review those statements in conjunction with this Policy and other ethical standards.

~~3.~~2. Other persons involved in procurements must review Council Resolution No. 77135, Section 7~~Council Policy No. 0-35~~ and other ethical standards and provide information in order to determine if there is a conflict of interest. Such persons shall include, but are not limited to:

a. ~~authors~~ Authors of specifications
b. ~~paid~~ Paid and unpaid evaluators
c. ~~paid~~ Paid and unpaid consultants who assist in the procurement process

~~4.~~3. If a possible conflict of interest is identified, it must be reviewed and documented with the City Attorney's Office.

In order to implement the Council Resolution~~Policy~~, all City officers and employees involved in procurements or contracting activities shall adhere to the p~~P~~rocedures set forth below. ~~The attached~~ F~~f~~orms are subject to revision and modification on a case-by-case basis in consultation with the Deputy Director of Finance-~~Chief~~ Purchasing ~~Officer~~.

~~EXCEPTIONS~~

~~The following competitive processes are not subject to the ***procedural*** requirements of this policy (See Council Policy 0-35, Procurement and Contract Process Integrity and Conflict of Interest):~~

~~1. Any contracting activity with an estimated value less than $100,000.~~

~~2. Disposition of goods as described in the Municipal Code Section 4.16.~~

~~3. Award of grants by the City with a value below $10,000.~~

~~Designation of these E~~exceptions from the ~~A~~administrative ~~P~~procedures are~~is~~ in no way intended to indicate that persons involved in these purchasing activities are exempt from State and City conflict of interest laws. Persons who are involved in making contract decisions are responsible for complying with the rules to which they are subject.

~~CONFIDENTIALITY DURING THE EVALUATION PROCESS~~

~~Department~~ ~~1. Identifies all participants of an evaluation process, including non-evaluating observers who receive proposals or other documents used in the evaluation process.~~

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~~2. Ensures that these participants will sign a Confidentiality Agreement.~~

~~3. Submits Confidentiality Agreement to Procurement Authority.~~

~~Procurement Authority~~

~~4. Verifies that signed Confidentiality Agreements for all participants, including non-evaluating observers, in the evaluation process are submitted.~~

~~5. Keeps signed Confidentiality Agreements in the file.~~

PROCEDURES ~~TO DOCUMENT CONFLICT OF INTERESTS IN PROCUREMENT OR CONTRACT ACTIVITIES~~

Department

1. Identifies all participants of an evaluation process, including non-evaluating observers who receive proposals or other documents used in the evaluation process.

2. Identifies employees, consultants, outside uncompensated parties, or any person who will be involved in a procurement or contract activity such as specification development, preparation and issuance of solicitations, evaluation of solicitations or submissions, or other evaluations which will lead to an award of contract unless otherwise exempted ~~as outlined above~~.

~~1.~~3. Ensures that all evaluation process participants complete a Confidentiality Agreement and all identified participants involved in a procurement or contract activity complete a Conflict of Interest Form.

~~Provides the attached Conflict of Interest form to the identified participants involved in a procurement or contract activity.~~

~~3.~~4. Submits the completed Confidentiality Agreements and Conflict of Interest forms to the Procurement Authority prior to commencement of any procurement or contract activity.

Procurement Authority

5. Verifies that completed Confidentiality Agreements for all participants, including non-evaluating observers, in the evaluation process are submitted and reviews the submitted Conflict of Interest Forms for potential conflicts of interest.

~~4. Reviews the submitted forms for potential conflicts of interest.~~

6. Discusses any potential conflict of interest identified with the City Attorney's Office, documents the resulting determination, and sets appropriate actions, including but not limited to, removal of

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employee, consultant, or outside uncompensated party from the procurement or contract activity or cancellation of the solicitation.

~~5.~~7. Keeps completed Confidentiality Agreements and Conflict of Interest Forms in the procurement file.

Department

~~6.~~8. Complies with Procurement Authority's determination.

~~7.~~9. Reports any changes to the submitted Conflict of Interest F~~f~~orms regarding procurement or contract activities immediately to the Procurement Authority.

Approved:

/s/ Maria Öberg
Director of Finance

July Day, 2026
Date

Approved for Posting:

/s/ Jennifer A. Maguire
City Manager

July Day, 2026
Date

~~/s/ Scott P. Johnson~~
~~Director of Finance~~

~~April 18, 2007~~
~~Date~~

~~Approved:~~

~~/s/ Kay Winer~~
~~Chief Deputy City Manager~~

~~April 18, 2007~~
~~Date~~

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CONFIDENTIALITY AGREEMENT
AND
CONFLICT OF INTEREST DISCLOSURE

I, _____, have been appointed by the City of San José to serve as an evaluator of proposals for the procurement of Request for Proposal (RFP) [Number of RFP] for [Title of RFP]. I understand that my appointment is governed by and agree to comply with the following conditions and representations regarding the use of any and all information I receive during the procurement process in accordance with Council Policy 0-35 and City Policy 5.1.1.

I understand that all information I receive during the procurement process, including but not limited to the contents of specific proposals, my evaluations and those of other evaluators, rankings and discussions regarding proposals, constitutes "Confidential Information."

I understand that any unauthorized disclosure of Confidential Information will compromise the fairness of the procurement process.

I agree:

to hold all Confidential Information in strictest confidence; and
not to disclose Confidential Information to any person other than evaluators and Purchasing representatives unless I have prior written permission from the Procurement Authority to make a disclosure; and
not to have any direct or indirect contact or discussions (outside of meetings that the Procurement Authority's Department may schedule) with any party who submits a proposal; and
to notify the Procurement Authority immediately if:
any person who is not a member of the evaluation team or Procurement Authority contacts or attempts to contact me about this procurement.
a conflict of interest occurs (see attached City of San José Conflict of Interest form).
I obtain information outside of this procurement process that could impair or could create the appearance of impairing my ability to evaluate proposals submitted in response to this RFP fairly and impartially.

City Employee: □ Yes □ No

I understand that, as a City employee, if I violate this agreement, I may be subject to disciplinary action.

Read and accepted by: _____

_____
Signature of Evaluator

_____
Printed Name of Evaluator

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Date

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CONFLICT OF INTEREST FORM

NAME: **DATE:**

ASSIGNMENT:

This form must be completed **by each person** that participates in the above-referenced assignment, so that the City may assess whether the proposed staff exhibit a conflict of interest.

Questions	Yes (Provide Details)	
Personal Relationships you currently have or have had any official, professional, financial, or personal relationships with any person or firm associated with this assignment? If yes, describe the type and extent of the relationship. r opinion, might this affect your judgment or your ability to execute this assignment in a fair and impartial manner?		
2. Stock and Investments u own any stock in any company likely to be affected by or involved in the Proposed Assignment? es your spouse, domestic partner, or a dependent own any stock in pany likely to be affected by or involved in the Proposed Assignment? ou hold any investments in any entity (e.g. partnership, limited liability npany, or a trust) likely to be affected by or involved in the Proposed Assignment?		

Questions	Yes (Provide Details)	
your spouse, domestic partner, or a dependent hold any investments in entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment? nswer is yes to any of the above questions, please provide the name of the company and the amount of the stock or investment.		
Employment & Consulting our spouse, domestic partner, or a dependent employed/retained by one likely to be affected by or involved in the Proposed Assignment? Has your spouse, domestic partner, or dependent been previously ployed/retained by anyone likely to be affected by or involved in the Proposed Assignment?		

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ve you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? answer is yes to any of the above questions, please provide name of oyer, nature of services provided, and date of employment/retainment .		
Payments or Gifts in the past 12 months, have you received any payments or gifts from one likely to be affected by or involved in the Proposed Assignment? the past 12 months, has your spouse, domestic partner, or a dependent d any payments or gifts from anyone likely to be affected by or involved in the Proposed Assignment? answer is yes, please provide the amount the payment or value of the t, the name and position of the payor/donor and the date of receipt.		

Questions	Yes (Provide Details)	
5. Real Estate Do you own real property that s likely to be affected by or involved in the Proposed Assignment? Does your spouse, domestic ner, or a dependent own real property that is likely to be affected by or involved in the Proposed Assignment? If the answer is yes, please provide the location of the property.		
6. Positions u currently hold a position (e.g. member of a board of directors) of any (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment? s your spouse, domestic partner, or a dependent hold a position (e.g. ber of a board of directors) of any entity (e.g. a company, partnership, sociation, nonprofit) that is likely to be affected by or involved in the Proposed Assignment? answer is yes, please provide the name of the entity, and the title of the position held.		
Are you aware of any facts or circumstance that might give someone the ession that your participation in this process would create a conflict of interest?		

The undersigned has read and understood City Council Policy "Integrity and Conflict of Interest in Procurement." If during the course of the assignment any personal, external, or organizational impairments occur that may affect the undersigned's ability to perform the work and report findings impartially, the undersigned will notify the respective Procurement Authority of the City of San José immediately.

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~~Date~~ ~~Signature~~

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