

Business and Noninstructional Operations

CONFLICTS OF INTEREST IN ADMINISTRATION OF FEDERAL GRANTS

I. Overview.

- A. In accordance with the federal Education Department General Administrative Regulations (EDGAR) at 2 CFR § 200.318(c)(1), the district has developed written standards of conduct to govern real or apparent conflicts of interest and the actions of district officials, employees, or agents engaged in the selection, award, or administration of a contract supported by a federal grant. Under federal rules and regulations, the district shall not make grant and contract awards, including but not limited to Requests for Proposals, Negotiated Contracts, Bids and Purchase Orders, which have, or appear to have, a conflict of interest between district or district officials, employees, or agents and the award or contract recipient.
- B. Conflicts of interest may arise throughout the grant award or contract process as district officials, employees, or agents carry out their roles and responsibilities. Accordingly, it is important that organizations and individuals involved in the award and contract process are aware of the potential for conflicts of interest. Furthermore, these individuals must be aware of their responsibilities if conflicts are detected. Responsibilities may include reporting the conflict, recusal and issuing sanctions as appropriate. As required by federal law, the district must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity, as appropriate.

II. Implementation.

- A. The district maintains written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts in compliance with federal, State laws, rules, regulations and district policies. These are set forth in District Administrative Procedures 7040 (Conflict of Interest Code) and 9300 (Acceptance of Gifts). The limitations on the acceptance of gifts apply to all employees engaged in the selection, award, or administration of a contract supported by a federal grant.
- B. CA Fair Political Practices Commission (FPPC). The District complies with the requirements of the CA Fair Political Practices Commission (FPPC). The FPPC is responsible for administering and enforcing the Political Reform Act (the Act). It enacts regulations that implement the law, issues advice letters, and adopts advisory opinions that apply to the Act as well as the regulations to particular circumstances.

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(continued)

C. Conflicts of interest.

1. No employee, officer, or agent of the district may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.
2. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
 - a. For example, a conflict of interest could exist if a district employee (or a member of his or her immediate family) is named as a vendor in an application that the employee is responsible for evaluating.

D. Gratuities.

Officers, employees, and agents of the district may not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the district may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. Such standards governing gratuities are set forth in District Administrative Procedure 9300.

E. Certifications.

1. Those individuals charged with reviewing and evaluating applications, proposals, or other documents associated with awarding funds and contracts must sign a certification setting forth the standards for determining whether a conflict of interest exists.
2. In addition, the certification requires the district official, employee, or agent to notify Strategic Sourcing & Contracts of any potential or actual conflicts with documents related to awards and contracts, such as applications, bids, and proposals.
3. This certification must be submitted as early as possible in order to identify and resolve any potential conflict of interest situations.

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4. The certifications are reviewed and maintained by the Department Head for the department in which the employee works..

F. Disclosure of conflicts.

1. District officials, employees, and agents must be mindful of real and potential conflicts of interest and go through the appropriate channels of reporting the conflict, and possibly recusal should the need arise. All real or possible conflicts of interest must be reported to the employee's supervisor and the Department Head for the department in which the employee works.
2. Designated employees under District Administrative Procedure 7040 shall comply with the reporting requirements of same.

G. Resolution of Conflicts of Interests of Persons on Review or Evaluation Panels

1. If reviewers or an evaluation panel are used during the process of awarding funds or contracts, they must conduct their reviews without the appearance or actuality of a conflict of interest.
2. If a conflict of interest by a reviewer or panel member is alleged, a review will be performed to determine whether the individual(s) involved improperly exerted prejudice or bias on behalf of one of the applicants.
3. Situations and circumstances presenting an actual conflict or the appearance of a conflict should be brought to the immediate attention of Legal Services for resolution.
4. Resolution can consist of disqualification, recusal, waiver, or other appropriate measures.

H. Disqualification and recusal.

Because it is important to avoid conflicts of interest, it may be necessary for an individual (employee, contractor, etc.) to disqualify or recuse him or herself from participating in any actions related to the award, contract, or matter where a conflict – real or apparent – may exist. Such employees shall comply with the disqualification requirements of section B.12 of District Administrative Procedure 7040.

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I. Violations.

1. In accordance with state and local laws, rules or regulations, these conflicts of interest standards include disciplinary actions to be applied to violations of conflicts standards by officers, employees, or agents of the district.
2. The conflict of interest code has the force of law. Any violation may constitute a misdemeanor with specified penalties depending on the nature of the infraction (e.g., for late reports, \$10 per day with a limit of \$100; for other violations, a fine of up to \$10,000 or three times the amount the person failed to report, whichever is greater).
 - a. The FPPC prescribes the enforcement process for a violation of the Act. Violations can be pursued in three ways:
 - (1) Administrative proceedings by the Enforcement Division.
 - (2) Criminal prosecution by a local District Attorney or the State attorney general; or
 - (3) Civil action by the public, certain government agencies or the Enforcement Division.

J. Monitoring.

1. The district will monitor this conflict of interest policy to ensure that these processes established for independence and recusal are followed.
2. The district maintains a fraud hotline that individuals may use to report potential conflicts of interest.
3. Any questions about this policy, including advice for handling or assisting with potential conflict of interest issues may be brought to Legal Services.

III. References.

- A. 2 C.F.R. Part 200, §200.318(c)(1)
- B. 2 C.F.R. Part 200, §200.318(c)(2)
- C. 2 C.F.R. Part 200, §200.112

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- D. CA Fair Political Practices Commission (FPPC) website:
<http://www.fppc.ca.gov/learn/conflicts-of-interest-rules.html>
- E. The district's Conflict of Interest protocols are also specified in the following:
 - 1. Administrative Procedure 9300, Acceptance of Gifts
 - 2. Administrative Procedure 7040, Conflict of Interest Code

Regulation
approved: December 11, 2018

SAN DIEGO UNIFIED SCHOOL DISTRICT
San Diego, California