CITY OF SAN ANTONIO

Administrative Directive	**AD 1.62 Procurement Ethics**
Procedural Guidelines	Guidelines to establish consistent standards of conduct during the procurement process.
Department/Division	Purchasing & General Services Department
Effective Date	November 19, 2009
Project Manager	Paul J. Calapa, Purchasing & Contracts Administrator

Purpose

The purpose of this Administrative Directive (A.D.) is to establish policies and procedures for use by City Departments to address:

1. Prohibited Financial Interests in Contracts
2. Conflicts of Interest in Contracts
3. Confidentiality in the Procurement Process

Policy

It is the policy of the City of San Antonio to require that employees comply with all provisions of Section 141 of the Charter of the City of San Antonio, the City's Code of Ethics and this Administrative Directive when participating in the procurement process for the City of San Antonio.

Policy Applies To

☐ External & Internal Applicants	☒ Current Temporary Employees
☒ Current Full-Time Employees	☐ Current Volunteers
☒ Current Part-Time Employees	☒ Current Grant-Funded Employees
☒ Current Paid and Unpaid Interns	☐ Police and Fire Academy Trainees
☒ Uniformed Employees Under Collective Bargaining Agreements	

Definitions

Administrative Directive	City of San Antonio document used to convey the City's governance on policies and procedures.

COSAWeb	City of San Antonio internal website used to inform employees on various employee-related issues.
Code of Ethics	City Code of the City of San Antonio, Chapter 2, Article III, its amendment(s) and /or enhanced definitions.
Employee	For purposes of enforcement of this Administrative Directive, employee is defined as any full or part time employee or intern of the City.
Procurement and Contracting Employee	For purposes of enforcement of this Administrative Directive, procurement and contracting employee is defined as any full or part time employee or intern of the City who significantly participates in the procurement and contracting process. The City Manager designates these employees, and the Human Resources Department maintains a current listing of these applicable employees.
Procurement	The process involved in soliciting and awarding a contract. The contract may involve the expenditure of funds or generation of revenue. Procurement includes all functions that pertain to the contract, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Policy Guidelines

All staff engaged in the procurement process must adhere to the specific requirements contained within the City Charter, the City Code of Ethics, and this Administrative Directive as outlined below.

Employees utilized by the City of San Antonio to conduct procurement and contracting services shall realize that it is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of their actions on behalf of the government.

Employees will be aware that all conduct incompatible with the City's best interests or that may create risk of any appearance of or perceived improprieties are prohibited.

As a steward of the public trust, employees will conduct themselves in a moral, ethical manner that promotes honesty, trust and integrity and promotes a positive supplier and customer relationship while protecting confidential and proprietary information.

Roles & Responsibilities

Procurement and Contracting Employees	**Prohibited Financial Interest** These employees, in addition to the employees defined in the San Antonio Ethics Code, Section 2-52 Prohibited Interest in Contracts, shall not have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any

	land, materials, supplies, or service, except on behalf of the City as an officer or employee. Any contract or transaction already in place at the time a Procurement and Contracting Employee becomes subject to this provision may remain in place until the contract expires or the transaction is completed without creating a prohibited financial interest for the employee. However, when these circumstances exist, Procurement and Contracting Employees shall not participate in any manner in the selection, awarding, monitoring, amendment, or extension or renewal of a contract in which they have or may have a prohibited financial interest. A prohibited financial interest exists when any of the following individual(s) or entities is a party to the contract: (a) the Employee; (b) the Employee's spouse, child, parent, sibling, or other family member within the first degree of consanguinity or affinity; (c) a business entity in which the Employee or any of the individuals listed above directly or indirectly owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; (d) a business entity of which any individual or entity listed in (a), (b), or (c) above is: (1) a subcontractor on a city contract; (2) a partner; or (3) a parent or subsidiary business entity. Unlike with the conflicts of interests section below, when a Procurement and Contracting employee has a prohibited financial interest in a City contract, there is no opportunity for disclosure and recusal.
All Employees	**Conflicts of Interest in Contracts** (a) Per Section 2-43 of the City of San Antonio Ethics Code, Conflicts of Interest, employees shall not participate in any manner in the selection, awarding, monitoring, amendment, or extension or renewal of a contract in which they know is likely to affect the economic interests of: (1) The official or employee; (2) His or her parent, child, spouse, or other family member within the second degree of consanguinity or affinity; (3) His or her outside client; (4) A member of his or her household; (5) The outside employer of the official or employee or of his or her parent, child (unless the child is a minor), spouse, or member of the household (unless member of household is a minor); (6) A business entity in which the official or employee knows that any of the persons listed in subsections (a)(1) or (a)(2) holds an economic interest as that term is defined in section 2-42; (7) A business entity which the official or employee knows is an affiliated business or partner of a business entity in which any of the persons listed in subsections (a)(1) or (a)(2) holds an economic interest as defined in section 2-42; (8) A business entity or nonprofit entity for which the city official

or employee serves as an officer or director or in any other policy making position, other than non-profit boards to which the official or employee is appointed by the city council or city management as a non-voting member to represent the best interests of the city;

(9) A person or business entity with whom, within the past twelve (12) months:

a. The official or employee, or his or her spouse, directly or indirectly has

1. Solicited an offer of employment for which the application is still pending;

2. Received an offer of employment which has not been rejected;

3. Accepted an offer of employment;

b. The official or employee, or his or her spouse, directly or indirectly engaged in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated.

(b) *Recusal and disclosure.* A city official or employee whose conduct would otherwise violate subsection (a) must recuse himself or herself. From the time that the conflict is, or should have been recognized, he or she shall:

(1) Immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter;

(2) Promptly file with the city clerk the appropriate form for disclosing the nature and extent of the prohibited conduct.

(3) A supervised employee shall promptly bring the conflict to the attention of his or her supervisor who will then, if necessary, reassign responsibility for handling the matter to another person;

(4) A member of a board shall promptly disclose the conflict to other members of the board and shall not be present during the board's discussion of, or voting on, the matter.

(c) *Definitions.* For purposes of this rule:

(1) An action is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof;

(2) The term client includes business relationships of a highly personalized nature, but not ordinary business-customer relationships.

<u>Confidentiality in the Procurement Process</u>

Per Section 2-61 of the City of San Antonio Ethics Code, Prohibited Contacts During Contract Solicitation Period, a person or entity who seeks or applies for a city contract or any other person acting on behalf of such person or entity, is prohibited from contacting city officials and employees as defined in section 2-62 regarding such a contract after a request for proposal (RFP), request for qualification (RFQ) or other solicitation has been released. This no-contact provision shall conclude when the contract is posted as a city council agenda item. If contact is required with city officials and employees, such contact will be done in accordance with

	procedures incorporated into the solicitation document. Violation of this provision by respondents or their agents may lead to disqualification of their offer from consideration. City employees shall be mindful of this prohibition and discourage violations of it. Employees will not discuss the documents received in response to a solicitation with anyone other than members of the evaluation team, the City Attorney's Office, and/or their supervisors, unless specifically authorized by the Purchasing & General Services Director of the City of San Antonio to do so. Employees will ensure that copies of the documents received in response to a solicitation and any documentation related to the procurement process provided to them for review or produced in the course of the evaluation process are not reproduced, or left in an unsecured location during the evaluation process. Employees will not disclose nor permit disclosure of the documents received in response to a solicitation or any documentation related to the procurement process provided for review or produced in the course of the evaluation process to anyone other than members of the evaluation team and the City Attorney's Office, unless otherwise instructed by the Purchasing & General Services Director. Employees will not willfully or intentionally make any false statements, mark or alter documentation or report in regard to any selection made, or in any manner commit any fraud interfering with the performance of these provisions or the rules and regulations made there under. Employees shall not in the performance of their duties and assignments, engage in unlawful and unethical practices, but shall perform the functions of their office without favor and without prejudice. At no time shall an employee disclose to an unauthorized person any fact, testimony, or information in any pending matter coming to their official knowledge, which may be calculated to prejudice the minds of existing or prospective suppliers or the public at large either to favor or to disfavor any person or issue. Employees will not directly or indirectly accept, render or pay any monies, service or other valuable thing to any person on account of or in connection with any evaluation or selection process. Employees must understand that willfully or intentionally violating any of the provisions of this policy shall be subject to disciplinary action up to and including termination.

All Other Departments	**A.** Department Directors will assure compliance with this Administrative Directive. **B.** Department Directors will disseminate this A.D. to appropriate staff involved in the procurement process. **C.** Department Directors will obtain a signed acknowledgement form. **D.** Department Directors will direct any questions related to this A.D. to Purchasing & General Services Department.
Purchasing & General Services Department	**A.** Purchasing & General Services Department will be responsible for maintaining this Administrative Directive. **B.** Purchasing & General Services Department will respond to any questions related to this Administrative Directive.
Attachments	
Acknowledgment Form	Attachment A

This directive supersedes all previous correspondence on this subject.

Information and/or clarification may be obtained by contacting Purchasing & General Services Department at 207-7260.

CITY OF SAN ANTONIO

EMPLOYEE ACKNOWLEDGMENT FORM
FOR

ADMINISTRATIVE DIRECTIVE 1.62
Procurement Ethics

Employee:

I acknowledge that on _____, 20____, I received a copy of Administrative Directive 1.62 Procurement Ethics. I understand if I should have any questions I should contact my Human Resources Generalist.

_____	_____
Employee Name (Print)	Department
_____	_____
Employee Signature	SAP ID #