

**COURT ORDER
2015-1455**



Dallas County Purchasing Code of Ethics

On a motion made by Commissioner Dr. Theresa M. Daniel, District 1, and seconded by Commissioner Dr. Elba Garcia, District 4, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 10/6/2015
FUNDING SOURCE: N/A

Be it resolved and ordered that the Dallas County Commissioners Court does hereby adopt and approve the revised Dallas County Purchasing Code of Ethics Policy effective immediately.

Done in open court October 6, 2015, by the following vote:

IN FAVOR: Honorable Clay Lewis Jenkins, County Judge
Commissioner Dr. Theresa M. Daniel, District 1
Commissioner Mike Cantrell, District 2
Commissioner John Wiley Price, District 3
Commissioner Dr. Elba Garcia, District 4

OPPOSED: None

ABSTAINED: None

ABSENT: None

Recommended by: Daniel Garza
Originating Department: Purchasing

DALLAS COUNTY PURCHASING CODE OF ETHICS

1. **Purpose.** Dallas County (the “County”) requires ethical conduct from those who represent the County and those who do business with the County. It is a breach of the public trust to subvert the procurement process, including the competitive bidding process, whether by bribes, kickbacks, preferential treatment, or any other means. To improve procurement practices, the Dallas County Purchasing Code of Ethics, outlined below, is being adopted by the County.

2. **Statement of Purchasing Ethics Policy.** It is the policy of the County to ensure that the following ethical principles govern the conduct of all individuals and entities involved in the County’s procurement process, including, but not limited to, solicitations for bids for goods or services, request for proposals (RFPs), and request for qualifications (RFQs). The County Purchasing Code of Ethics (“Code of Ethics”) shall be committed to and upheld by any individual engaged with this process. This Code of Ethics applies to:
 - i. *Vendor.* Any individual or entity, or any individual’s or entity’s employees, agents, representatives, or any other individuals or entities acting on their behalf (whether paid or unpaid), not employed by the County but involved, directly or indirectly, currently or prospectively, in bidding or contracting with the County.

 - ii. *Procurement Professional.* Any County employee involved, directly or indirectly, with the development, preparation, solicitation, negotiation, evaluation, recommendation, approval of, or contracting of County purchasing projects, excluding County Elected Officials (as defined below). County Procurement Professionals include, but are not limited to, members of the County Purchasing Department, the head of the Purchasing Department (called herein the “Purchasing Director” or otherwise known as the “Purchasing Agent”), members of the evaluation committee, county administrators, department heads, and staff.

 - iii. *Elected Official.* Any County elected official involved, directly or indirectly, with the development, preparation, solicitation, negotiation, evaluation, recommendation, approval of, or contracting of County purchasing projects. County Elected Officials may include, but are not limited to, the County Commissioners Court (the “Commissioners Court”), the County Judge, and any other County elected officials.

3. **Active Solicitations.** A contract solicitation is considered active in terms of this Code of Ethics from the time it is briefed to the Commissioners Court until ten (10) days after (a) the contract has been awarded by the Purchasing Department or the Commissioners Court, (b) the contract is executed between the County and the winning respondent, or (c) the Commissioners Court determines not to go through with the solicitation, whichever represents the final act in any procurement process (an “Active Solicitation”). If the County withdraws a solicitation or rejects all responses with the stated intention to reissue the same or a similar solicitation for the same or a similar project (a “Related Solicitation”), the solicitation remains an Active Solicitation during the time period between the withdrawal and the reissue. Whether a solicitation constitutes a Related Solicitation will be determined at the discretion of the Purchasing Director.

- 4. Conflicts of Interest.** Vendors, Procurement Professionals, and Elected Officials shall avoid any activities, transactions, contacts, or communications that compromise the interests of the County or the procurement process, or give the appearance of impropriety. Conflict of interests may include, but are not limited to, instances in which:
- i. Procurement Professionals, Elected Officials, or any of their respective relatives (which, for purposes of this Code of Ethics, shall include any person within a third degree of consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code), significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, have an interest in, or are connected with, a contract or solicitation for the purchase of goods or services by the County;
 - ii. Vendors, Procurement Professionals, Elected Officials, or any of their respective relatives, significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, solicit, offer, give, accept, or receive anything of value (including a promise, obligation, loan, reward, gift, or compensation) to or from a person who is involved with, or intending to be involved with, whether directly or indirectly, a current or future contract or solicitation with the County;
 - iii. Procurement Professionals, Elected Officials, or any of their respective relatives, significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, are involved with a business or organization that has a financial interest in the outcome of any particular solicitation or contract selection process with the County;
 - iv. Procurement Professionals, Elected Officials, or any of their respective relatives, significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, are involved in negotiating for prospective employment, or are currently employed with, an individual, business, or organization that has a financial interest in the outcome of any particular solicitation or contract selection process.
 - v. Vendors, Procurement Professionals, Elected Officials, or any of their respective relatives, significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, use confidential information (as defined in Section 11) acquired from the County for actual or anticipated gain or benefit in a current or future contract or solicitation with the County.

Notice Required. If a Vendor, Procurement Professional, or Elected Official obtains knowledge of a potential conflict of interest, that individual shall notify the Purchasing Director in writing within seven (7) business days after receiving such knowledge, unless circumstances (such as a pending vote on a solicitation by an evaluation committee or the awarding of a contract by the Commissioners Court and/or the Purchasing Department) require immediate notice. The County Administrator shall be copied on the notice.

Recusal. If the Purchasing Director (or, in the event that the Purchasing Director may have a potential conflict of interest, the Commissioners Court) determines that a conflict of interest does exist, the conflicted individual must recuse himself or herself from the contract or

procurement process and any related activities, including, but not limited to, any duties imposed by this Section.

Conflict of Interest Questionnaire. As required by Chapter 176 of the Texas Local Government Code, certain Vendors, Procurement Professionals, and Elected Officials are required to complete and file a Conflict of Interest Disclosure with the County Clerk at 509 Main Street, 2nd Floor, Suite 200, Dallas, Texas 75202 (the form is available online at www.dallascounty.org/departments/countyclerk/countyclerk.php). It is the duty and responsibility of anyone required to file a Conflict of Interest Disclosure under Chapter 176 to keep this Disclosure up-to-date and accurate. Failure to do so may lead to disqualification from a contract or procurement process, and may void current contracts with the County.

Disclosure of Interested Parties. As required by Chapter 2252 of the Texas Government Code, Vendors who are awarded contracts by the Commissioners Court on or after January 1, 2016 must disclose a list of interested parties to the County before they are allowed to enter into the contract. The disclosure must include a list of any party who has a controlling interest in the Vendor or who actively participates in facilitating the contract or negotiating its terms. The required form will be available through the Texas Ethics Commission's website at www.ethics.state.tx.us/.

- 5. Gratuities.** Procurement Professionals and Elected Officials involved in the procurement decision-making process shall not solicit or accept money, loans, gifts, meals, entertainment, lodging, favors, offers of employment (for themselves or for other individuals or entities), promises, obligations, or anything of value from Vendors during a Restricted Contact Period (other than as allowed in Dallas County Code Section 86-752) that could influence or appear to influence a specific purchasing decision. Generally, goods or services with a value of \$75 or less in the aggregate from a Vendor during a year do not violate this prohibition unless they influence or appear to influence a specific purchasing decision.

Notwithstanding the above, Elected Officials may (a) solicit and accept campaign contributions as allowable by law and this Code of Ethics, and (b) attend an association, civic, charitable, or community event sponsored in whole or in part by a Vendor, and Procurement Professionals may attend an association, civic, charitable, community, or training event subject to the approval of the Purchasing Director or the Commissioners Court.

When responding to an Active Solicitation, Vendors shall be required to disclose donations and campaign contributions by the Vendor or any individual or entity acting on the Vendor's behalf to any Procurement Professional or Elected Official (as defined herein) involved in the procurement decision-making process made within one (1) year prior to the date of the Active Solicitation. Failure by a Vendor to fully and accurately disclose such contributions may result in the Vendor's disqualification, debarment, or contract voidance as per Section 20 below.

- 6. Restricted Contact Period.** Vendors, Procurement Professionals, and Elected Officials shall not violate the Restricted Contact Period as set forth herein.

Contact Person and Designated Representatives. All solicitations will include a designated contact person in the Purchasing Department and provide appropriate contact information for that person at the time the solicitation is issued (the “Contact Person”). All Vendor communications regarding the solicitation shall be to the Contact Person or the Contact Person’s designated representatives, as defined by the Contact Person on a question-by-question basis (the “Designated Representatives”).

Restricted Contact Period. The Restricted Contact Period for any solicitation shall be in effect during the time the solicitation is considered an Active Solicitation under this Code of Ethics (regardless of when a Vendor submits a proposal or bid for the solicitation). **All Vendor communications including, but not limited to, questions, comments, requests for clarification, and general information requests, during the Restricted Contact Period, regarding any Active Solicitation, must be directed solely to the Contact Person and the Contact Person’s Designated Representatives (as defined by the Contact Person on a question-by-question basis).** The Contact Person for any specific solicitation can be identified by visiting www.dallascounty.org/departments/purchasing to view the solicitation or the Restricted Contact List (as defined below) or by calling the Purchasing Department at 214-653-7431.

Violations. Any communication by Vendors with any Procurement Professionals, Elected Officials, or any of their respective staff members, agents, or representatives (excluding the Contact Person and Designated Representatives), regarding an Active Solicitation, will be considered a violation of the Restricted Contact Period unless the Vendor receives express written permission from the Contact Person for the communication.

It is not a violation of the Restricted Contact Period for Vendors to discuss an existing contract or business relationship not related to any Active Solicitation. However, communications between Vendors and Procurement Professionals and/or Elected Officials regarding Vendor qualifications, qualifications of other parties, past contract performance, or relevant experience could be deemed a violation of this rule if the Vendor is participating in, or considering participating in, an Active Solicitation. Prohibited communications include those initiated by the Vendor (or others on behalf of the Vendor), as well as Vendor responses to communications initiated by other parties.

Whether a violation of the Restricted Contact Period has occurred for an Active Solicitation is subject to the discretion of the Purchasing Director and the Commissioners Court. Vendors (including any employees, agents, representatives, or any other individuals or entities acting on their behalf) that are found to have violated the Restricted Contact Period will be automatically disqualified from any Active Solicitations at the time of the violation and may be subject to debarment or contract voidance per Section 20 below. Disqualification, debarment, and/or contract voidance under this Section shall apply to those individuals or entities that committed the violation, as well as any individual or entity on whose behalf the violation occurred. A Procurement Professional who is found to have violated the Restricted Contact Period will be removed from all Active Solicitations and will be subject to discipline at the discretion of the Purchasing Director and the Commissioners Court, which may include termination of employment. **If you are unsure whether a potential contact or communication violates the Restricted Contact Period, contact your**

Contact Person, the County Purchasing Department, or the Purchasing Director before that contact or communication occurs.

Weekly Notification. Notice of Active Solicitations subject to the Restricted Contact Period shall be provided weekly by the Purchasing Department to all Procurement Professionals and Elected Officials in a format similar to Appendix A attached hereto (the “Restricted Contact List”). Procurement Professionals and Elected Officials (except for the Contact Person and Designated Representatives) shall refrain from contacting Vendors regarding any Active Solicitation on the Restricted Contact List during the Restricted Contact Period. (This prohibition also includes any Procurement Professionals and Elected Officials with actual knowledge that a Vendor is involved, whether currently or prospectively, in an Active Solicitation, regardless of whether the Active Solicitation is on the Restricted Contact List.) The Restricted Contact List shall also be posted weekly online on the County Purchasing website at www.dallascounty.org/department/purchasing.

Communications Between Vendors and Procurement Professionals. Communications between Vendors and Procurement Professionals related to an Active Solicitation will be in writing and posted online at www.dallascounty.org/department/purchasing subject to the discretion of the Purchasing Director. By way of example and not limitation, communications between Vendors and Procurement Professionals during an Active Solicitation regarding proprietary details, trade secrets, Vendor-specific solicitation response clarifications, or any other information which may give an unfair competitive advantage to other Vendors if made publically available may be deemed confidential by the Purchasing Director and not be posted online.

7. **Anti-Lobbying.** Prior to engaging in any Lobbying Activities related to bidding or contracting with the County, Lobbyists should voluntarily file a Lobbyist Registration Form with the County Administrator and provide a copy to any and all Elected Officials or County employees the Lobbyist intends to contact (the “Lobbyist Registration Form”). For purposes of this Code of Ethics, an individual is considered a Lobbyist (and therefore is engaging in Lobbying Activities) when that individual (or that individual’s employer, entity, firm, association, or group) receives compensation, directly or indirectly, whether paid, received, or reimbursed, to communicate with an Elected Official or Procurement Professional on behalf of a Vendor in return for, or in connection with, that compensation.

Lobbyist Registration Form. The Lobbyist Registration Form shall include, but is not limited to, such information as the name of the Lobbyist (including the individual’s name as well as the names of any individual, entity, firm, association, or group he or she is employed with and/or representing), the Lobbyist’s client(s), the issue(s)/subject(s) which the Lobbyist anticipates discussing, and the Elected Official(s) and/or Purchasing Professional(s) that the Vendor intends to visit. The Lobbyist must submit a new form each time prior to engaging in any lobbying activity regarding bidding or contracting with the County, whether that activity is by person, through email, by phone, or otherwise. The Lobbyist Registration Form is available online at www.dallascounty.org/department/comcrt/documents/lobbyist_form.pdf and can be submitted by mail or in person to the County Administrator at 411 Elm Street, 2nd Floor, Dallas, TX 75202 or electronically to Darryl.Martin@dallascounty.org. All

received forms will be forwarded to the Commissioners Court and posted online at www.dallascounty.org/department/comcrt/LobbyistRegistration.php.

Lobbyist Restricted Contact. Lobbyists for Vendors shall not contact Procurement Professionals or Elected Officials regarding any Active Solicitation during the Restricted Contact Period except for the Contact Person or the Contact Person's Designated Representatives.

Violations. Lobbyists who, on a Vendor's behalf, contact a Procurement Professional or Elected Official regarding an Active Solicitation during the Restricted Contact Period (except for the Contact Person or the Contact Person's Designated Representatives) will be considered in violation of this Code of Ethics, and the Vendor will be automatically disqualified from any Active Solicitation(s) at the time of the violation and may be subject to debarment or contract voidance as per Section 20 below.

8. **Impartial Decision-Making and Perception.** It is the duty of Procurement Professionals and Elected Officials to discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible Vendors and to provide the greatest value possible to the County. Vendors, Procurement Professionals, and Elected Officials shall conduct themselves in such a manner as to foster public confidence in the integrity of the County and the County Purchasing Department. It is the goal of the County to avoid not only actual impropriety in the procurement process, but also any appearance of impropriety.
9. **Undue Influence.** Vendors, Procurement Professionals, and Elected Officials will not use arbitrary or unfair leverage or influence to cause a result (a) that is not in the best interest of the County or (b) to further the private interest of a Procurement Professional or Elected Official. Vendors, and any of their respective relatives (as defined herein), significant others/partners, other close personal relations, business partners, staff, or other agents acting on their behalf, that participate, on behalf of any Procurement Professional or Elected Official, in the development, preparation, or evaluation of any Active Solicitation, shall not be eligible to submit a proposal or bid on that Active Solicitation.
10. **Equal Opportunity.** Procurement Professionals and Elected Officials shall select Vendors on the basis of appropriate and fair criteria that afford all Vendors equal opportunity to compete for County contracts. It is the duty of Procurement Professionals and Elected Officials to use their best efforts to ensure that all segments of society are able to participate in County contracting processes by demonstrating support for, and encouraging the participation of, small, disadvantaged, and minority and women-owned businesses.

Title VI. Vendors, Procurement Professionals, and Elected Vendors shall comply with Title VI of the Civil Rights Act of 1964 and related statutes, which ensure that no person shall, on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 2000d-3), color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County contracts, programs, or activities.

11. Confidential Information. During any contract or procurement process, certain confidential or proprietary information may be disclosed. Confidential Information includes any information that is disclosed from one party to another that is either (a) marked as being “confidential” or “proprietary,” (b) otherwise reasonably identifiable as being confidential or proprietary information, or (c) under the circumstances of the disclosure should be reasonably considered as confidential or proprietary information. Confidential Information includes, but is not limited to, responses to Active Solicitations and the evaluation process thereof.

Treatment and Protection. Vendors, Procurement Professionals, and Elected Officials shall take all measures necessary to ensure that any Confidential Information provided during any contract or procurement process is held in strict confidence, and is not disclosed unless necessary for the furtherance of the procurement or contracting process or otherwise required by law, rule, regulation, subpoena, or other court authority or governmental action. Confidential Information shall not be used for the actual or anticipated personal gain of any Procurement Professionals or Elected Officials.

12. Professional Conduct. Vendors, Procurement Professionals, and Elected Officials shall maintain high standards of honesty, integrity, and impartiality throughout the solicitation and contracting process, and shall conduct all contract and solicitation-related activities in accordance with any governing laws, regulations, and this Code of Ethics.

13. Responsibility. Vendors, Procurement Professionals, and Elected Officials must ensure that they, along with their agents, representatives, employees, and other representative individuals or entities, conduct themselves in compliance with this Code of Ethics to the best of their ability. Lack of knowledge will not be considered a defense to a violation of the Code of Ethics.

14. Duty to Report. It is the duty and obligation of Vendors, Procurement Professionals, and Elected Officials to report any potential or suspected Code of Ethics violations, whether personal or by a third party, to the County Purchasing Director or to the Civil Division of the County District Attorney’s Office. Your report should include a reference to the Active Solicitation number at issue (if applicable). To report a potential violation by mail, send any relevant information to the Purchasing Director at 509 Main Street, 6th Floor, Room 623, Dallas, TX 75202 or to the District Attorney’s Office, Civil Division at 411 Elm St., 5th floor, Dallas, TX 75202. You can also report by visiting any of the offices above, calling the Purchasing Office at (214) 653-7431 or the District Attorney’s Office at 214-653-7358, or emailing the Purchasing Director at Daniel.Garza@dallascounty.org. **If you become aware of a potential or suspected violation and fail to report it, you may be subject to discipline under this Section.**

15. Protest Procedures. Vendors aggrieved in connection with a specific solicitation, evaluation, or the award of any bid, purchase order, or contract, may formally protest to the Purchasing Director only if the Vendor has reason to believe that, with respect to a specific solicitation, (a) there was a material violation of state or federal statutory requirements, County Purchasing Department rules and regulations, or this Code of Ethics (including the Restricted Contact Period), or (b) the procurement process gave an unfair advantage or unfair

disadvantage to one or more Vendors. Procurement processes that may give an unfair advantage or disadvantage to one or more Vendors include, but are not limited to, the following:

- i. The specification unfairly limits competition for no legitimate purpose;
- ii. The contract award is compromised by improprieties in post-award negotiations;
- iii. The evaluation factors or criteria are applied in a manner that is different than disclosed in the solicitation; and
- iv. There are irregularities in the receipt or opening of solicitation responses.

Protests must be in written form and must contain the following information (if applicable):

- i. The protesting Vendor's name, address, telephone number, fax number, and email address;
- ii. The identifying number of the solicitation and/or contract;
- iii. The date the Vendor become aware of the facts forming the basis of the protest;
- iv. A detailed statement of the factual grounds for the protest, including copies of any relevant documents or evidence and the statute, rule, or regulation that was violated, if applicable; and
- v. A sworn certification that the protest is brought in good faith and for good cause. If a protest is based on an ambiguity or a problem in a solicitation, and is made after the solicitation response deadline, it must also include a certification that the protesting Vendor was not aware of the ambiguity or problem (and did not have an opportunity to ask for clarification or a correction) before the solicitation response deadline.

Protests must timely raise all claims and describe the evidence supporting those claims with specificity. Any claims that are not timely raised may be deemed waived. In the event of a protest during a solicitation response period, a protesting Vendor who wishes to continue in the solicitation process during such protest must still submit a bid or proposal according to the rules set forth in the solicitation.

Protests, including any protest appeals requests, must be sent by mail or email to the Dallas County Purchasing Director at 509 Main St., 6th Floor – Room 623, Dallas, TX 75202 or Daniel.Garza@dallascounty.org. Mail-in requests must be postmarked and email requests must be received by the Purchasing Director no later than (a) five (5) business days after the date that the protesting Vendor knew or should have known of the facts giving rise to the protest, or (b) before the contract is awarded, if the Vendor is aware of the facts giving rise to the protest prior to the contract award, whichever is earlier.

It is the responsibility of the Vendor to ensure that solicitation protests are delivered to the Purchasing Director within the time period stated herein. Protests that are late or

delivered to an incorrect address or individual, or that otherwise do not comply with these rules (including providing the sworn certification as described above), will be declared invalid.

Written Decision. All protests will be initially reviewed by the Purchasing Director, who must rule on the protest and provide a written decision, including the reasons for the decision and the decision date, to the protesting Vendor within ten (10) business days (the “Written Decision”). Any appeal of the Written Decision must be made within five (5) business days of the receipt thereof.

Appeals Process. Appeals of the Written Decision should be sent to the Purchasing Director at the address above, who shall notify the Appeals Committee, consisting of the County Administrator, the County Auditor, and the County Budget Director. The Purchasing Director shall serve as staff to the Appeals Committee and will be present at the Appeals Hearing. The protesting Vendor shall be notified of the time and place of the Appeals Hearing and will be provided an opportunity to present arguments. The documentary evidence at the Appeals Hearing is limited to the documentary evidence submitted for the original protest unless, for good cause shown, the Appeals Committee grants authority for the protesting Vendor to provide additional documentary evidence. The protesting Vendor shall seek approval to submit additional documentary evidence for good cause as soon as possible, but no later than (a) five (5) days before the hearing, or (b) within seventy-two (72) hours from when the protesting Vendor knew or should have known about the additional evidence, whichever period is shorter. The request should include copies of the additional documents that the protesting Vendor seeks authority to use at the hearing. The Appeals Committee may appoint an independent hearing examiner to conduct the hearing and provide a written recommendation, if needed. A written final decision, including the reasons for the final decision and the decision date, will be provided to the protesting Vendor within ten (10) business days of the Appeals Hearing (the “Final Decision”). Requests for an appeal of the Final Decision must be mailed or emailed to the Purchasing Director within five (5) business days of the Final Decision, who will notify the Commissioners Court of the request.

A Commissioners’ Hearing may take place at the discretion of the Commissioners Court. A single vote of a Commissioner on the Commissioners Court is required for a Hearing to be granted. The Commissioners may, at any time during the process, review the written record of the previous decisions on the matter. All decisions of the Commissioners Court, including whether to allow a Commissioners’ Hearing, are final.

Right to Appear before the Commissioners Court. All individuals and entities have the right to an appearance before the Commissioners Court subject to the rules of the Court, this Code of Ethics, and, during an Active Solicitation, the Restricted Contact Period provisions in Section 6 herein. However, a protesting Vendor does not have an automatic right to a Commissioners’ Hearing on any protest appeal under this Code of Ethics, which will be granted only at the discretion of the Commissioners Court.

Notification. Protest hearings are open to the public. Public notification of any hearings, including Appeals Hearings and Commissioners’ Hearings, shall be posted on the Dallas County Purchasing website at www.dallascounty.org/department/purchasing.

Solicitations and Contracts Pending. Filing a protest under this Section will not trigger an automatic stay of any procurement process or contract award. It is in the discretion of the Purchasing Director and the Commissioners Court whether to stay any procurement process or contract award with respect to any Vendor protest. Whether a stay is granted shall not compromise any protesting Vendor's right to the protest procedures outlined herein.

Records. Records of all protests, including the protest filed, related evidence, and any Written and Final Decisions (including the outcome of any Commissioners' Hearing, if applicable) will be maintained by the Purchasing Department for a period of no less than four (4) years.

- 16. Training.** Procurement Professionals shall participate in regular training courses to ensure their knowledge and understanding of this Code of Ethics, as well as to enhance their skills, learn best practices, and better perform their duties related to contracting and contract solicitation.
- 17. Notice and Affidavit of Compliance.** A copy of this Code of Ethics shall be included with each public solicitation request. Vendors that submit a response to an Active Solicitation must include an Affidavit of Compliance with this Code of Ethics in order for the response to be eligible. Upon contract award, Vendors shall include a copy of this Code of Ethics as an attachment to any subcontract awarded under a County contract. Procurement Professionals will be required to sign an Acknowledgement of this Code of Ethics, which will be kept in the employee's file, and once a year, or upon any updates or revisions, whichever is sooner, this Code of Ethics will be sent by the Purchasing Department to all Dallas County employees and Elected Officials in a broadcast email. Copies of this Code of Ethics shall be available on the County Procurement website at www.dallascounty.org/departments/purchasing and at the County Purchasing Department at 509 Main Street, 6th Floor, Room 623, Dallas, TX 75202.
- 18. Affidavit of Compliance.** Vendors that participate in a solicitation will be required to submit an Affidavit of Compliance with this Code of Ethics as part of the finalization of any bid or proposal. Vendors who choose not to submit an Affidavit of Compliance will not be eligible to compete for a contract award, and any of the Vendors' submitted bids or proposals on that solicitation will be deemed ineligible.
- 19. Audit.** Procurement Professionals shall develop regular internal and external audit programs to ensure compliance with this Code of Ethics.
- 20. Vendor Disqualification, Debarment, and Contract Voidance.** The Commissioners Court and the Purchasing Director may disqualify or debar a Vendor, its partners, principals, members, directors, officers, responsible managing employees, agents, successors-in-interest, and other affiliates from bidding on or entering into contracts with the County (including participating as a sub-consultant or sub-contractor, or providing goods, services, materials, equipment, or other benefits to any County project). Successors-in-interest include, but are not limited to, any person with interlocking management or ownership, identity of interests among relatives (as defined herein), shared facilities and equipment, common use of employees, or a business entity organized subsequent to the debarment or other action under

this Section that has the same or similar management, ownership, or principal employees as the debarred Vendor.

Disqualification. A Vendor may be disqualified from submitting a bid or proposal on and/or competing for any Active Solicitation(s). Vendor's disqualification includes any Related Solicitations.

Debarment. A Vendor may be debarred from participating in the County procurement process and from signing any new contracts with the County for a period of no more than three (3) years per violation. If a Vendor has been disqualified more than three times in a three year period, the Vendor will be automatically debarred provided that the Vendor is given written notice and an opportunity for a hearing in advance of the debarment.

Contract Voidance. Any contracts awarded to a Vendor who is subsequently disqualified or debarred are voidable at the discretion of the Commissioners Court.

Grounds. The following actions constitute a nonexclusive list that may be grounds for disqualification, debarment, or voidance of a contract:

- i. Unsatisfactory performance of a contract or a history of unsatisfactory performance;
- ii. Continued acceptance of goods, services, or Vendor performance under the contract that may constitute a hazard to health, safety, welfare, or property;
- iii. Failure to provide contracted services or failure to comply with the terms and conditions of any contract;
- iv. Refutation of an offer by failure to provide bonds, insurance, or other required certificates within a reasonable time period;
- v. Unwillingness to honor a binding bid;
- vi. Knowingly and intentionally providing false information, whether during the procurement process or otherwise;
- vii. Violation of the Restricted Contact Period;
- viii. Violation of any other statute, rule, regulation, or order related to gifts, gratuities, favors, or bribes;
- ix. Debarment by any other local, state, or federal governmental entity;
- x. Violation of this Code of Ethics;
- xi. A finding of guilt, whether by verdict or plea or nolo contendere, to a felony or Class A or B misdemeanor for any violation involving charges of fraud, bribery, collusion, larceny, theft of services, coercion, conspiracy, payment of kickbacks, violation of antitrust laws, or any charges involving moral turpitude, or any other criminal act based

on an intent to commit fraud in the procurement or performance of any governmental contract or to defraud any governmental entity in the provision of goods or services; or

- xii. Commission of any of the above acts in any other contracting or procurement process with any other governmental entity.

While these actions may be grounds for disqualification or debarment, the Commissioners Court and the Purchasing Director may decide to disqualify or debar a Vendor or other individual for any reason at any time.

Notice. The Purchasing Director will notify the Vendor by the most expeditious method available, including, but not limited to, telephone, e-mail, and fax, of the potential disqualification, debarment, or contract voidance. In addition to the most expeditious method, the Purchasing Director shall also notify the Vendor in writing via certified mail, return receipt requested.

Debarment/Disqualification Procedure. The Purchasing Director will notify the Vendor that (a) the Vendor is subject to being disqualified or debarred; (b) the basis for the potential disqualification or debarment, which shall be in terms sufficient to apprise the Vendor of the conduct or transaction(s) upon which the disqualification or debarment is based; (c) the effective date of the potential disqualification or debarment, which may be immediately, and if applicable, the duration of the debarment; and (d) that the Vendor has seventy-two (72) hours to respond from the time of notice, upon which, if no response has been received by the Purchasing Director, no further action may be taken by the Vendor and the disqualification or debarment shall be in effect. The Vendor is presumed to have received notice upon receipt of fax or email confirmation or receipt returned by U.S. mail, whichever period is shorter. The Vendor response, if any, should include a response to each reason for the disqualification or debarment that the Purchasing Director cites in the notice and shall include all facts and evidence that the Vendor believes are relevant, including any supporting documentation. The Purchasing Director will review the Vendor's response, if any, and shall determine within three (3) business days of the response deadline if the disqualification or debarment shall be in effect (the "Final Decision"). The Purchasing Director will notify the Vendor of the Final Decision by the most expeditious method available, and in writing via certified mail, return receipt requested.

Contract Voidance Procedure. The Purchasing Director (with the Commissioners Court's approval) will notify the Vendor that (a) it is being investigated for a potential contract voidance; (b) the basis for the contract voidance, which shall be in terms sufficient to apprise the Vendor of the conduct or transaction(s) upon which the contract voidance is based; and (c) that the Vendor has ten (10) business days to respond from the time of notice, upon which, if no response has been received by the Purchasing Director, no further action may be taken by the Vendor, and the contract will be void. The Vendor is presumed to have received notice upon receipt of fax or email confirmation or receipt returned by U.S. mail, whichever period is shorter. The Vendor response, if any, should include a response to each reason for the contract voidance that the Purchasing Director cites in the notice and shall include all facts and evidence that the Vendor believes are relevant, including any supporting documentation. The Purchasing Director and the Commissioners Court will review the

Vendor's response, if any, and shall determine within fourteen (14) business days of the response deadline if the Vendor's contract should be voided (the "Final Decision"). The Purchasing Director will notify the Vendor of the Final Decision by the most expeditious method available, and in writing via certified mail, return receipt requested.

Appeals Process. Vendors who submit an initial response to a disqualification, debarment, or contract voidance notice may appeal any Final Decision within five (5) business days after notice of the Final Decision is received. All appeals under this Section shall be subject to the *Appeals Process* as described in Section 15 above.

Appeal requests should include the following information:

- i. The Vendor's name, address, telephone number, fax number, and email address;
- ii. The Vendor's response to each complaint or allegation forming the basis of the disqualification, debarment, or contract voidance, including all facts and evidence that the Vendor believes are relevant and any supporting documentation;
- iii. Any mitigating circumstances, including impossibility, force majeure, or mutual mistake;
- iv. Any remedial measures taken by the Vendor, including immediately identifying and remedying the cause of the failure to perform, disciplinary actions against responsible individuals, or cooperation with County investigations; and
- v. A sworn certification that the appeal is brought in good faith and that the factual statements in the appeal are true and correct.

Failure to file a timely, compliant appeal of any disqualification, debarment, or contract voidance (including providing the sworn certification as described above) waives any right to an appeal.

21. Violations of the Code of Ethics. Whether a violation of this Code of Ethics has occurred will be determined by the Purchasing Director and the Commissioners Court, subject to the Appeals Process as stated below.

Vendors. A Vendor that is alleged to have violated the Code of Ethics will be (a) disqualified, debarred, and/or or have its contract(s) voided as set forth in Section 20, or (b) subject to other disciplinary action deemed in the best interest of the County.

Procurement Professionals. A Procurement Professional who is found to have violated the Code of Ethics will be removed from all Active Solicitations and subject to discipline at the discretion of the Purchasing Director and the Commissioners Court.

Elected Officials. Elected Officials who are found to have violated the Code of Ethics with respect to an Active Solicitation must recuse themselves from that Active Solicitation and may be subject to any other actions authorized by state and local rules as the Commissioners Court deems advisable.

Appeals Process. Any appeals regarding violations of this Code of Ethics and/or any disciplinary actions taken as a result thereof shall be subject to the *Appeals Process* as described in Section 15 above. Appeals must be made within five (5) business days of receipt of notice of the decision, action, or inaction giving rise to the appeal.

22. Questions Regarding the Code of Ethics. If a Vendor has a question regarding any provision in this Code of Ethics unrelated to an Active Solicitation, the Vendor should contact the Purchasing Director. If a Vendor has a question regarding or relating to an Active Solicitation, the Vendor should contact the Contact Person or the Designated Representatives as per the Active Solicitation requirement. Questions from Procurement Professionals and Elected Officials regarding any provision in this Ethics Code should be directed to the Dallas County District Attorney's office, Civil Division or the Purchasing Director.

23. Other Laws/Policies. If a conflict exists between this Code of Ethics and any federal or state statute, the stricter of the two provisions prevails. If this Code of Ethics conflicts with any County purchasing processes or purchasing ethics rules, the provisions in this policy control, including but not limited to any conflict with:

- i. Gift Policy, Dallas County Code, Section 86-752;
- ii. Conflicts of Interest, Dallas County Code, Section 74-742 and 86-758;
- iii. Personal Financial Reporting, Dallas County Code, Section 74-742.1 and 86-759;
- iv. Dallas County Transparency Policy; and
- v. Procurement requirements, Dallas County Code.

Compliance with this Code does not abrogate the duty of Vendors, Procurement Professionals, and Elected Officials to comply with the County Code and the Transparency policy, to the extent it does not conflict with this Code of Ethics.

24. Remedies Cumulative. The remedies provided for in this Code of Ethics are cumulative, and no action taken by the County constitutes an election by the County to pursue any remedy to the exclusion of any other remedy, whether provided by law, equity, statute, federal/state grant, or in any contract with the Vendor. This Code of Ethics is intended to be in addition and supplementary to other local, state, or federal law or grant requirements and shall not be construed to repeal any provisions of the Dallas County Code.

25. No Waiver. The County's failure to exercise or delay in exercising any right, power or privilege under this Code of Ethics shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege, by the County, preclude any other or further exercise thereof.

26. Severability. If any provision or any part of a provision of this Code of Ethics is determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable legal requirements, such determination shall not impair or otherwise affect the validity, legality, or

enforceability of the remaining provisions or parts of a provision of this Code of Ethics, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

27. Effective date. This Code of Ethics takes effect on _____. The provisions of this Code apply to: a) transactions entered into after the effective date; b) events occurring after the effective date; c) renewals or extensions of current contracts after the effective date; and d) events occurring before the effective date, which give rise to a duty to report by any current Vendors, Procurement Professionals, or Elected Officials, as set forth in Sections 4 and 14.

