

**NEW JERSEY DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
BUSINESS ETHICS GUIDE**

SECTION 1: INTRODUCTION

As the standard of procurement transactions is to ensure a level playing field for all parties, this Business Ethics Guide ("Guide") covers a wide range of practices and procedures to guide all employees, officers, and directors of companies transacting or seeking to transact business with the State of New Jersey. All company employees, officers, and directors must obey the laws, regulations, and policies of the agencies with which they seek to do business. All Bidders submitting proposals in response to a solicitation will be required to certify that they have complied, and will continue to comply, with all applicable laws and regulations governing the provision of State goods and services, including the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 to 28.

Although the applicable provisions of the Conflicts of Interest Law are drafted in detail, here are the basic guiding principles:

- You may not profit from a State employee's conflict of interest.
- You may not "wine and dine" State employees.
- You may not pay or give a State employee anything for the performance of his or her official duties.
- You may not make political contributions that contravene State Pay-to-Play laws. A condition of contract award is Vendor compliance with the requirements of P.L.2005, c.51 (N.J.S.A. 19:44A-20.13-20.25).
- You may not profit, directly or indirectly, from the use of any secret or confidential knowledge or data of the State that a State employee has willfully disclosed.
- You should report any illegal or unethical behavior or any violation of the State's ethics and business codes to the State Ethics Commission ("Commission"), by calling the hotline at (888)223-1355 established for this purpose.

This Guide reflects current Conflicts of Interest Law. It will be supplemented appropriately to reflect subsequent legislative changes; however, you are responsible for knowing and understanding the current law.

SECTION 2: DEFINITIONS

The Division of Purchase and Property ("Division") transitioned to NJSTART, the State's new eProcurement solution during the Summer of 2016. As a result of that transition, some of the terminology used in NJSTART and the Division's RFP documents may change. In Section 2, please note that items in {brackets} refer to original terminology.

Bidder: An individual or business entity submitting a proposal in response to a RFP or other solicitation issued by the Division.

Bid or Bid Solicitation {RFP or Solicitation} – In NJSTART, the series of documents, which establish the bidding and Blanket P.O. {Contract} requirements and solicits quotes {proposals} to meet the needs of the Using Agencies as identified herein, and includes the Request for Proposal, State of New Jersey Standard Terms and Conditions (SSTC), price schedule, attachments, and bid amendments {addenda}.

Consultant: A State contractor engaged by a State agency to provide expert advice of a professional and technical nature in a subject area.

Contractor: A Bidder awarded a contract resulting from a Request for Proposal (RFP) or other solicitation. May also be referred to as Vendor.

Director: Director, Division of Purchase and Property, Department of the Treasury, who by statutory authority, is the chief contracting officer for the State of New Jersey.

Division: The Division of Purchase and Property.

Evaluation Committee: A committee established to review and evaluate quotes {proposals} submitted in response to an RFP and to recommend a contract award to the Director or Deputy Director.

NJSTART: The State's new eProcurement solution, which allows Bidders to submit quotes {proposals} in response to a Bid Solicitation as well as securely store forms and certifications in its online profile.

Request for Proposal (RFP): The document which establishes the bidding and contract requirements and solicits proposals to meet the purchasing needs of the State using agencies.

Solicitation: The method by which the Division, or an entity with contracting authority, invites bidders to submit offers in response to a Using Agency's need for goods or services. These may include, but not be limited to, Requests for Proposal (RFP), Requests for Quotation (RFQ), and joining a cooperative procurement agreement.

State Agency: Any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department.

Subcontractor: An entity having an arrangement with a Vendor {Contractor}, whereby the Vendor {Contractor} uses the products and/or services of that entity to fulfill some of its obligations under its State Blanket P.O. {Contract}, while retaining full responsibility for the performance of all [the Vendor's {Contractor's}] obligations under the Blanket P.O. {Contract}, including payment to the Subcontractor. The Subcontractor has no legal relationship with the State, only with the Vendor {Contractor}.

SECTION 3: OVERVIEW AND GENERAL CONDUCT

This Guide is designed to help Vendors, Bidders, Contractors, Consultants, and other entities familiarize themselves with some key parts of the New Jersey ethics standards as they apply to both themselves and to employees of the Executive Branch of State Government. If you do business with the Executive Branch, are regulated or licensed by, receive grants from, or lobby State agencies, or if you are considering hiring current and former State employees, this Guide is for you.

This Guide is not meant to serve as formal advice or as a substitute for your own legal counsel. Rather, it provides general information and does not have the force and effect of law. It does not replace any laws or rules or regulations, and it does not address every ethical restriction contained in the laws, rules and regulations it summarizes. Further, it does not cover the requirements contained in any particular agency's ethics code. Ethical issues may also be addressed in procurement, personnel, and travel rules, as well as in open meetings, open records, and criminal laws. In addition, members of particular professions (e.g., lawyers and accountants) are subject to their own codes of professional responsibility.

In this Guide, we use the term "State employee" to refer to State officers and employees and special State officers and employees who are subject to the ethics laws and rules discussed in this Guide. As a practical matter, virtually all employees and appointees in the Executive Branch of New Jersey State Government are "State employees."

SECTION 4: GENERAL STANDARDS

As a private sector entity dealing with State agencies, you must not:

- induce or attempt to induce any State employee to violate the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 to 28, or any code of ethics promulgated thereunder;
- influence, or attempt to influence or cause to be influenced, any State employee in his or her official capacity in any manner which might tend to impair his or her objectivity or independence of judgment;
- cause or influence, or attempt to cause or influence, any State employee to use, or to attempt to use, his or her official position to secure unwarranted privileges or advantages for you or any other person or entity; or
- undertake, directly or indirectly, any private business, commercial or entrepreneurial relationship with, or sell any interest in your business to:
 - a State employee who has any duties or responsibilities in connection with the purchase, acquisition, or sale

of any property, good or service by or to any State agency; or

- any person, firm, or entity with which that State employee is employed or associated, or in which he or she has an interest.

A State employee may apply to the Commission for a waiver of this particular restriction, and the Commission may grant the waiver if it finds that the business relationship does not present a potential, actual, or appearance of a conflict of interest. If you enter into a business relationship that contravenes this rule, you must promptly report it in writing to the Commission. Contact information for the Commission may be found at <http://www.state.nj.us/ethics/about/contact/>.

SECTION 5: CONSULTANTS

Consultants may be used in a variety of ways. Consultants may take on an advisory role and assist State agencies in the development of a scope of work that may form the basis of a Bid Solicitation/RFP. Consultants may also be asked to serve as non-voting technical advisors on an Evaluation Committee once an RFP has been completed and proposals have been received from interested Bidders. While Consultants provide valuable expertise, certain steps must be taken in each of these scenarios to avoid the appearance of impropriety and to protect the integrity of the procurement process.

SECTION 5.1: Consultants and RFP Development

Consultants can provide State agencies with expert assistance in the development of complex technical scopes of work to be used as the basis of an RFP or other solicitation. However, State agencies must be mindful that while consultants may assist in scope of work development, it is ultimately the responsibility of the State agency to develop and deliver the scope of work to the Division. Further, any materials developed by a Consultant during the course of its work remain the property of the State and cannot be distributed to any outside party. Consultants engaged by State agencies for purposes of assisting in RFP development may be required to execute a confidentiality agreement prior to the commencement of work. In addition, Consultants and any parent, subsidiary, or affiliate companies, cannot submit a response to an RFP that the Consultant was hired to help develop.

SECTION 5.2: Consultants and Evaluation Committees

Consultants may assist State agencies in the evaluation of proposals received in response to complex and technical RFPs. In order for a Consultant to be approved to participate in the evaluation process, both the firm as a whole and the individual intending to take part in the evaluation process must complete the *Consultant Personal and Business Relationships Disclosure Form*. These forms, along with the resume of the individual(s) intending to take part in the evaluation process, must be forwarded to the Division's Business Ethics Officer for review and approval. Once approved, Consultants can take part in the evaluation process as a non-voting technical advisor only. Further, any materials developed by a Consultant during the course of its work remain the property of the State and cannot be distributed to any outside party. Consultants engaged by State agencies for purposes of assisting in RFP development may be required to execute a confidentiality agreement prior to the commencement of work.

SECTION 6: GIFTS, FAVORS, SERVICES, AND OTHER THINGS OF VALUE

Do not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, honorarium or other thing of value of any kind to:

- any State employee or any member of his or her immediate family (i.e., a spouse, child, parent, or sibling residing in the same household as the employee); or
- any partnership, firm, or corporation with which the State employee is employed or associated, or in which he or she has an interest. Some things of value are clear, such as money, stock, debt forgiveness, real estate, or automobiles; but other things of value may be less obvious, including offers of employment, loans, labor, rebates, price discounts, entertainment, or meals.

The effect of this principle is that you must not send holiday gifts, office-warming gifts, tokens of appreciation, or other things of value to State employees or State agencies. In addition, it is improper to invite State employees to meals, parties, sporting events, theatrical performances, and similar social functions.

A State employee can accept items of nominal value from you or contract with you under the same terms and conditions that you offer or make available to members of the general public, provided that the item or contract does not violate any other Commission guideline or a particular agency's ethics code. For example, State employees can take advantage of cell phone rate packages offered to "all public employees" and government rates offered by hotel chains. State employees can also accept nonalcoholic beverages and snack items (e.g., coffee, doughnuts, and cookies) at meetings or site visits, but they cannot accept meals.

If any State employee solicits you for a fee, commission, compensation, gift, gratuity, favor, or other thing of value, you are required to report the occurrence promptly, in writing, to the Attorney General at <https://www.njoag.gov/about/divisions-and-offices/division-of-criminal-justice-home/report-crime/> and to the Commission at ethics@ethics.nj.gov.

State employees may accept payment or reimbursement for travel expenses from a private sector entity under very limited circumstances. In each case, the employee must secure prior approval from his or her agency. The rules governing travel expenses, N.J.A.C. 19:61-6.1 et seq., are available at <http://www.state.nj.us/ethics/statutes/rules/>.

SECTION 7: OFFERS OF EMPLOYMENT

SECTION 7.1: Current State Employees

If you offer a job to a State employee, be aware that job negotiations create a financial interest for that employee. To that end, the employee will no longer be able to act in the State's interest concerning your company. Please also note that State employees must secure prior approval through their management and Ethics Officer for secondary employment. Depending on your relationship with the employee's agency, your employment offer may be disapproved, and the State employee could be screened from taking any official action with respect to your contracts, applications, or matters in the future.

SECTION 7.2: Former State Employees

After leaving State service, State employees are under a lifetime ban against the use or provision of information acquired during their State employment that is not generally available to the public. Further, former State employees are prohibited from representing or assisting a person concerning a particular matter if they were substantially and directly involved in that particular matter while in State employment. There is also a one-year ban prohibiting certain high ranking officials from involvement with any matter involving the former State agency in which he/she served.

SECTION 7.3: Casino-Related Restrictions

The Casino Control Act and the Conflicts of Interest Law place restrictions on the employment of current State employees, their immediate family members, and former State employees and their immediate family members, by holders of and applicants for casino licenses. However, there are statutory provisions that permit waivers of some of these restrictions by the Commission. In addition, there are restrictions on benefits that can be passed to State employees by holders of and applicants for casino licenses. Questions about these restrictions should be addressed to the Commission, at P.O. Box 082, Trenton, New Jersey, 08625-0082, or at ethics@ethics.nj.gov.

SECTION 8: PENALTIES

The Commission has the authority to impose penalties on private sector entities and individuals, and it can refer such cases to appropriate agencies when a violation is punishable by law. Violations of some of the above-described standards can result in the violator's criminal prosecution, and/or suspension, disqualification or debarment from doing business with any State agency.

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