

Ethics and Procurement

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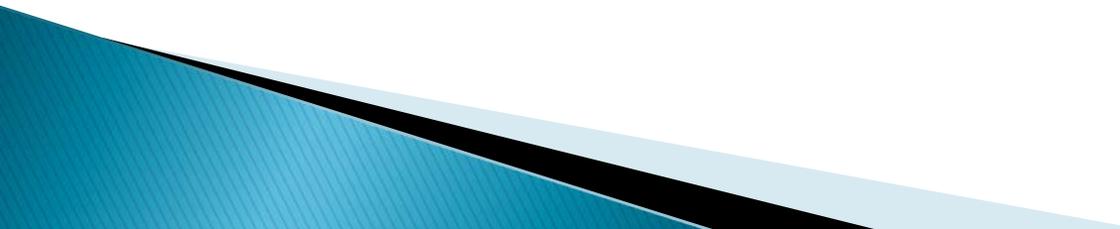
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What comprises Ethics for Procurement?

- ▶ Does not imply right vs wrong
 - ▶ Does not involve morals
 - ▶ Set of rules or guidelines that are to be followed by you and others
 - ▶ These rules are promulgated
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Ethics for the Entity

- ▶ Each entity sets their own set of rules or guidelines for ethics
 - ▶ There may or may not be specific guidelines for procurement in your local code
 - ▶ Partner with your entity's attorney to understand ethics policy
 - ▶ **WHEN IN DOUBT, SHOUT!**
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Perceptions of Impropriety

- ▶ What is the Issue?
 - ▶ Internal rules of engagement
 - Limits
 - Lunches, gifts and tickets to the game
 - Favors
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Avoiding Conflicts of Interest

- ▶ For the bid evaluation, it is critical to avoid a potential conflict of interest situation. If there is a potential conflict of interest situation, notify the Procurement Officer immediately for a determination. If a conflict of interest exists (or the appearance of a conflict of interest), that person cannot participate in the bid event.
- ▶
- ▶ A potential conflict of interest situation determination when any individual is doing the following:
 - Acting in a professional or official capacity or in a position of trust;
 - Having a personal interest (such as financial);
 - Interfering with objective decision making (or gives the impression that decision making is compromised).
- ▶
- ▶ If anyone on the evaluation team has a potential conflict of interest with any of these firms, please contact the Procurement Officer for a determination and next steps.

What can go Wrong?

▶ HEADLINE SCANDALS

- CPS Sole-Source Contract Scandal
- City Insider given 10 years in prison for red light cameras scandal
- The Department of Veterans Affairs has been violating federal contracting rules while spending at least \$6 billion a year to pay for medical care and supplies, a senior official for procurement has said, according to The Washington Post.

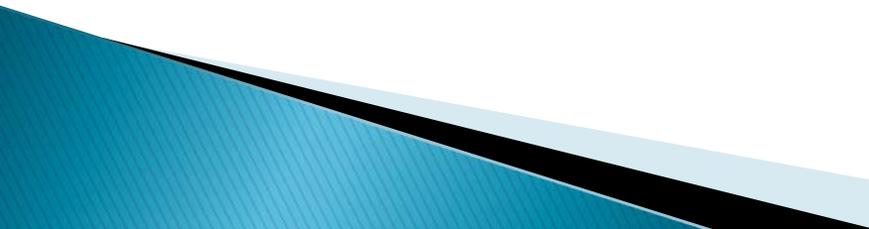
▶ RESULTING IN

- Emanuel moves to tighten purchasing rules at CPS;
CPS to Adopt Recommendations From Independent Third Party to Strengthen Procurement Process

Maintain Professionalism

- ▶ Continuing education and certification
 - ▶ Involvement with procurement groups
 - ▶ Network with peers
 - ▶ Identify ethics as important to all parties
 - ▶ Offer to teach and explain for anyone interested
 - ▶ Consider future dealings with all parties
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Confidential and Proprietary Information

- ▶ When information is shared with firms or individuals, confidential and proprietary information should be labeled as such.
 - ▶ When firms provide confidential and proprietary information, it should be labeled as such.
 - ▶ All parties should only use confidential and proprietary data if it is necessary, only for its intended use and able to be protected.
 - ▶ A nondisclosure agreement may be used.
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Representing the Entity

- ▶ Policies and processes should be designed to be fair and consistent
 - In bid process
 - In negotiations
 - In supplier and provider relationships
 - ▶ Avoid unreasonable demands
 - Flexibility may pay off
 - Other party should want to do business with you
 - ▶ Communicate openly and directly
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Sustainability and Social Responsibility

- ▶ Respect for Human Rights
 - ▶ Respect for the Environment
 - Green Initiatives
 - ▶ Respect for Diversity and Inclusiveness
 - ▶ Provide reminders in Contracts, Value Statements, etc.

 - ▶ Stakeholders are concerned for the entire supply chain not just the product that is delivered.
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SCENARIO 1

- ▶ The public entity has been talking about print management for several years. One vendor, PrintAll Services, that is located in town has stopped by on a regular basis and even provided software that showed the entity's printer utilization. PrintAll often invited staff to lunch and insisted on paying since PrintAll's own management insisted on paying for prospect's meals. Full slab of ribs were always ordered and doggie bags allowed staff to have food for the next day's lunch, too. Since PrintAll could not be awarded the business without competitive bidding, PrintAll provided staff with a sample RFP that would save staff both time and effort. PrintAll would only ask at lunch 'are there any plans to go out for bid soon?'. Eventually many months later, staff said that a bid event for managed print services would be starting next month and that they would send the RFP to PrintAll as soon as it was released to the public. Staff indicated that the RFP will be familiar to PrintAll as it was based on the one that Printall had provided to staff.



SCENARIO 2

- ▶ The Public Safety department needs new uniforms on a regular basis. Staff has a home-grown approval process that is a combination of emails, index cards and spreadsheet tracking. Due to a retirement, newly assigned staff in the department were not happy with maintaining the onerous process. One firm, Uniform by Web, contacted the public safety department and told them that they have a web-based tool that takes over the management process including approvals for the department. In fact, Uniform by Web maintains that they are the only firm that can provide that capability. If the department signed up now, Uniform by Web, would make a donation to the department's annual holiday charity effort. An internal report found that Uniform by Web seemed to address all of the issues for the department which is not a surprise since the staff report author also moonlights at Uniform by Wed. Since this is considered a sole-source situation, staff can go straight to the approval process which will expedite the award.



SCENARIO 3

- ▶ A Department Head decides to attend a Parking Management convention out of town as budget was finally approved for a managed parking initiative. One of the vendors, ParkItWithUs, recognizes the Department Head, discusses the latest budget approval with the Department Head and immediately extends a dinner invitation. Dinner was in a luxury box for the local professional hockey team. No business is discussed and the Department Head mentions that he had wanted to get home early for a home commitment from the two day conference. An invitation is immediately extended to the Department Head to join the the ParkItWithUs team on their private jet flight home. No payment is needed since the ParkItWithUs team is going back to their corporate headquarters anyway. When they arrive back at the corporate airport, the Department Head is given two hockey jerseys for the Department Head's two children. Someone from ParkItWithUs drives the Department Head home even though it is out of his way.



SCENARIO 4

- ▶ The IT Department management is invited by an IT vendor to a luncheon seminar held at a top restaurant. The speaker is an author and industry expert and is providing information on leading-edge cloud storage technology. A copy of the speaker's latest book is provided to all attendees. At the end of the meal, a drawing is held and the IT Department Head wins the latest tablet. In fact, everyone attending manages to win something. The IT vendor reminds each table that they not only provide the latest equipment but they will also buy up any existing hardware including ones secured through lease agreements.



SCENARIO 5

- ▶ For a bid event, one of the submitters, TreeTrimmers Inc, transposed numbers and the resultant bid price is erroneous. TreeTrimmers did not attend the bid opening but other bidders did attend. In addition, since the price was lower than the bid bond threshold, no bid bond was submitted. Without the transposition error, TreeTrimmers Inc. would be the apparent low bidder. The second bidder is \$12,000.00 higher. Since budget money is scarce and TreeTrimmers is the incumbent supplier, a call is made to TreeTrimmers Inc. , the bid price is corrected and TreeTrimmers Inc. is recommended as the lowest responsive and responsible bidder. Since the contractor is so well known to the entity, the bid bond requirement is relaxed for them and does not need to be provided.

Follow the Law

- ▶ All parties are must follow the law
 - Entity or agency code, county, state and federal law
- ▶ Reminders are necessary
 - All contracts and quote requests
 - All dealings
 - Disposal of spoils
 - RFP review
 - Quiet Period for bid process
 - Employment and safety law
- ▶ No one can know all the law but firms can be expected to know the law that applies to their situation.