
CHAPTER 4

Ethics in Public Contracting



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- Conflict of Interest
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Introduction

- Ethics: one primary reason for establishing clear procurement rules
- Establish framework for:
 - Fair and competitive business practices
 - Cost efficiencies
 - Avoidance of impropriety



Conflicts of Interest

- Involves situations where a person is in position to derive personal benefit from actions or decisions made in his/her official capacity



Conflicts of Interest, cont.

- What does conflict of interest look like in a PHA?
 - PHA Executive Director's brother is a door vendor and bids on a PHA solicitation for doors.
 - Maintenance Director owns stock in company that sells a particular type of stove and recommends to PHA that all units should be equipped with that stove.



Conflicts of Interest, cont.

- What does conflict of interest look like in a PHA?
 - Contract Administrator needs home bathroom remodeled and asks contractor working on PHA projects to do the work at a discounted price.
 - Property Manager quits her PHA job to become a public housing consultant; later, within 1 year of leaving the PHA, she responds to PHA's RFP for consulting services and is awarded the contract.



Conflicts of Interest: What is the Rule?

- No PHA employee, officer, or agent shall participate in selection, award, or administration of contracts supported by federal funds if a conflict of interest—financial or otherwise, real or apparent—would be involved.
- No PHA employee, officer, or agent can sell supplies, services, or construction to the PHA for 1 year after he/she leaves PHA



Conflicts of Interest: What is the Rule? (cont.)

- PHA, contractors, and subcontractors cannot enter into contracts or arrangements that allows certain individuals to work on PHA contracts for at least 1 year after ending their relationship with PHA.
 - Includes:
 - Former PHA employee in a position to formulate or influence policy
 - Public official, member of local governing body, or state or local legislator (or immediate family member) who exercises functions or responsibilities regarding PHA project
- No immediate family member of staff or PHA governing body can do business with the PHA



Gratuities, Kickbacks, and Use of Confidential Info

- Gratuities: Gifts, favors or anything of monetary value including an offer of employment
 - No PHA officers, agents, current, or former employees can solicit or accept gratuities or favors from PHA contractors or potential contractors.
- Kickback: Payment made to someone who facilitated a transaction
 - No payment, gratuity, or offer of employment can be made by or on behalf of a contractor or sub or any person associated as a way to influence award outcome.



Gratuities, Kickbacks, and Use of Confidential Info, cont.

- Confidential information
 - Contents of a quote, bid, or proposal prior to the submittal deadline
 - PHA-generated information on cost estimates (ICE)
 - PHA information related to specific procurement requirement prior to solicitation publication
 - Other information the disclosure of which would have a direct bearing upon contract award or competitive process
- No current or former PHA employee, office, or agency can knowingly use confidential information for actual or anticipated personal gain or anticipated gain of any other person.



Gratuities, Kickbacks, and Use of Confidential Info, cont.

- Prohibition against Contingent Fees
 - It is prohibited for someone to be hired to solicit or secure a PHA contract pursuant to a promise of a commission, percentage, or brokerage fee.
 - Applies to current and former employees or officials being hired on a contingency basis to secure contracts on behalf of others.



Sanctions

- Executive Director and Board establish sanctions.
- PHA must enforce state and local laws.

