



# Kerman Unified School District

## Procurement Code of Conduct

In accordance with the general procurement standards in Title 2, *Code of Federal Regulations (2 CFR)*, Section 200.318(c), Kerman Unified School District has developed and maintain written standards of conduct to cover potential personal and organizational conflicts of interest. These written standards govern the actions of agency employees, officers, or agents who engage in the selection, award and administration of contracts funded by federal awards.

Any person employed by Kerman Unified School District who purchases goods and services, or is involved in the purchasing process for Kerman Unified School District shall be bound by this code and shall:

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications;
2. Diligently follow all lawful instructions while using professional judgment, reasonable care, and exercising only the authority granted;
3. Conduct all purchasing activities in accordance with the laws, while remaining alert to and advising the School Food Director regarding the legal ramifications of the purchasing decisions;
4. Refrain from any private or professional activity that would create a conflict between personal interests and the interests of Kerman Unified School District
5. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved;
6. Never solicit or accept money, loans, credits, or prejudicial discounts, and avoid the acceptance of gifts, entertainment, favors, or services from present or potential suppliers which might influence or appear to influence purchasing decisions;
7. Promote positive supplier relationships through impartiality in all phases of the purchasing cycle;
8. Display the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the public being served;



9. Provide an environment where all business concerns, large or small, majority- or minority-owned, are afforded an equal opportunity to compete for Kerman Unified School District's business; and,
10. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standards of ethical behavior.



## **Procurement Standards**

Kerman Unified School District must conduct all procurement transactions in a manner that allows full and open competition consistent with the standards stated in 2 *CFR*, Section 200.319. To ensure objective vendor performance and eliminate any unfair competitive advantage, vendors that develop or draft specifications, requirements, statements of work, invitations for bid (IFB), or requests for proposal (RFP) must be excluded from competing for the bid (2 *CFR*, Section 200.319[a]).

Actions that restrict competition include, but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business.
2. Requiring unnecessary experience and excessive bonding.
3. Conducting noncompetitive pricing practices between firms or between affiliated companies.
4. Awarding noncompetitive contracts to consultants who are on retainer contracts.
5. Allowing organizational conflicts of interests.
6. Specifying brand name product instead of allowing an equal product to be offered by describing product performance or other relevant requirements.
7. Engaging in any arbitrary action during the procurement process such as awarding a contract without valid reason to a vendor that did not rank first or lowest in price according to the agency's evaluation criteria when awarding a contract.

## **Incentives**

Incentives that may serve to induce or influence an employee engaged in the selection, award, or administration of contracts may be unlawful. Examples of incentives include, but are not limited to:

Extra goods or services that were not solicited  
Gifts (such as free merchandise, extra tickets, gift cards)



Money for scholarships  
Cash  
Points that can be redeemed for merchandise

To avoid noncompliance with federal procurement regulations (including, but not limited to 2 *CFR*, sections 200.318, 200.319, and 400.2) and to prevent bid protests, this written Code of Conduct prohibits Kerman Unified School District staff from accepting any incentives offered by a bidder for any Kerman Unified School District's. staff member's personal use.

Incentives solicited by Kerman Unified School District in the RFP or IFB may be allowable if the incentive or related item benefits the food service operation.

When requesting incentives, the Kerman Unified School District must keep in mind the following:

- All responsive bids or proposals, including those without the requested incentives, must be evaluated
- All requested incentives must exclusively and directly benefit the food service program; incentives that are retained by the Kerman Unified School District for nonprogram use, or given to employees or students as a reward for an accomplishment, are not allowed
- Soliciting incentives must not create a barrier to full and open competition
- Eliminating bidders based on the provision of incentives or points programs limits full and open competition by placing unreasonable requirements on those bidders that are unable or unwilling to provide such incentives
- Requesting incentives may reduce the pool of bidders
- Unless all bidders can offer the solicited incentives, the Kerman Unified School District may not score the solicited item as part of the evaluation criteria
- Bids and proposals that include unsolicited incentives are considered overly responsive and Kerman Unified School District. may be required to disqualify overly responsive bids, especially if it causes a material change to the RFP



## **Consequences**

Pursuant to 7 *CFR*, Section 210.19(a) (4), the California Department of Education (CDE) is required to investigate complaints received or irregularities noted in connection with the operation of the food service program. This requirement extends to the performance of individuals and organizations engaged in contract solicitation, award, and administration. The CDE's oversight and monitoring of SFA procurement activities includes a review of the SFA's written Code of Conduct and, when necessary, investigations of reported real or apparent conflicts of interest. If a CDE investigation reveals that an SFA violated their Code of Conduct, the CDE will issue a finding of noncompliance and require the SFA to take corrective action. Consequences for failure to comply with federal regulations are outlined in 2 *CFR*, sections 200.338 (Remedies for Noncompliance) and 200.339 (Termination), and may include temporary withholding of cash payments, suspension of program funding, denial of all or part of the cost of the noncompliant activity, and/or other remedies to bring the SFA into compliance and termination.

Kerman Unified School District should be familiar with federal, state, and local laws regarding the misuse of public funds that could lead to other consequences, including civil or criminal penalties, lawsuits, and bid protests that may also result in public mistrust. Kerman Unified School District shall be responsible for ensuring that their procurements and contracts comply with all applicable laws, program instructions, and guidance materials, and will consult their legal counsel regarding any proposed procurement methods or contract language.

## **References:**

U.S. Department of Agriculture Policy Memorandum SP 09-2015, CACFP 03-2015, SFSP 02-2015: Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts  
Title 2, *Code of Federal Regulations*, sections 200.318, 200.319, 200.338, and 200.339, and Part 400  
Title 7, *Code of Federal Regulations*, Section 210.24  
California Government Code, sections 87301 and 87302