

FISCAL MANAGEMENT GOALS AND OBJECTIVES  
FINANCIAL ETHICS

CAA  
(LOCAL)

**Code of Silence**

The District shall implement a code of silence regarding the procurement of goods and services through competitive methods to enforce its commitment to ethical contracting standards and to improve accountability and public confidence.

Definition

For purposes of this policy, "vendor's representative" shall mean an employee, partner, director, Board member, or officer of a potential vendor or consultant, lobbyist, actual or potential subcontractor of a vendor, or any other individual or for-profit or nonprofit organization acting through or on behalf of any person seeking an award or on behalf of a group of interested individuals or members.

Procurement  
Methods

In accordance with law [see CH and CV], the District may purchase goods and services through one of the following procurement methods:

1. Competitive bidding for goods and services other than construction services;
2. Competitive sealed proposals for goods and services other than construction services;
3. A request for proposals (RFP) for goods and services other than construction services;
4. Any method provided by Texas Government Code Chapter 2269 for construction services;
5. A request for qualifications for professional services; and
6. Any other procurement method authorized by state law.

For purposes of this policy, "competitive solicitation" shall mean any RFP, bid, or other competitive solicitation issued pursuant to one of the foregoing procurement methods.

Applicability

The code of silence period applies to the acquisition of goods or services using the procurement methods identified above, as well as renewal periods for contracts previously awarded by the Board with renewal options.

For purposes of this policy, "code of silence" shall mean a prohibition on any communication regarding any competitive solicitation between:

1. Any person who seeks an award from the District or its affiliated entities, including, but not limited to, the La Joya ISD Educational Excellence Foundation, including a potential vendor or vendor's representative; and

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2. A Board member, the Superintendent, the deputy superintendent, an executive team member, or other District representative who has influence on or is participating in the evaluation or selection process.

Campaign contributions, gifts, donations, and any other items of value are prohibited between the parties defined above during the code of silence period. Candidates who have filed for election to the Board are subject to these limitations after the date on which the candidates have filed for office. The District shall review historical campaign finance reports to identify campaign contributions for the applicable period and shall hold newly elected Board members accountable as existing Board members during the code of silence period.

Exceptions

The code of silence shall not apply to communication with the District's legal counsel, chief financial officer, or the executive director of purchasing and warehouse operations to the extent that they are not serving on the particular procurement committee, or with any individual specifically designated to be excepted from the code of silence in the competitive solicitation, provided that any such communications shall be limited to the purpose of obtaining clarification or information concerning the subject solicitation.

An exception shall also apply to specific members of the Board and the office of administration and finance for the selection of external auditors or the Board's legal counsel, and to any other specific circumstances approved in writing by the Superintendent.

Nothing contained in this policy shall prohibit any potential vendor or vendor's representative from:

1. Making public representations at scheduled pre-bid conferences or scheduled selection and negotiation committee meetings;
2. Engaging in contract negotiations during any scheduled meeting;
3. Making a public presentation to the Board during any duly noticed public meeting; or
4. Conducting business on contracts previously executed and currently in force.

The potential vendor or vendor's representative shall send all written communication related to the items listed above directly to the executive director of purchasing and warehouse operations.

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Nothing in this policy shall prohibit the procurement committee's representative from initiating a contact with a potential vendor or vendor's representative and subsequent communication related thereto for the purpose of obtaining additional clarifying information regarding a response to a competitive solicitation. Such contact, and any response thereto, shall be in writing and shall be provided to the members of the applicable procurement committee.

Time Period

The code of silence time period shall begin upon the issuance of a competitive solicitation. Additionally, the Superintendent or designee may invoke the code of silence at any time for any existing or anticipated procurement of goods or services. The authority of the Superintendent to invoke the code of silence extends to any procurement method and is not limited to those procurement methods identified in this policy.

The code of silence time period shall officially end upon execution of the awarded contract by all required parties.

Regardless of the above time period, it is not acceptable for a potential vendor or vendor's representative to participate in determining the scope of work, strategic direction, technical specifications, or evaluation criteria of District projects subject to competitive procurement in a manner that limits fair and open competition or is otherwise prohibited by law.

Notification of  
Solicitation

The District shall provide public notice of all current procurements that are in the code of silence period on a public facing page on the District's website. A weekly email notification containing notice of all procurements that have entered the code of silence period since the last email shall also be sent by the executive director of purchasing and warehouse operations to the Board, the Superintendent, chief financial officer, assistant superintendents, department heads, directors, managers, or other District representatives who have influence on or are participating in the evaluation or selection process for each competitive solicitation. The weekly email notification is provided as a courtesy. Board members, candidates who have filed for election to the Board, and District employees are responsible for regularly reviewing the list of procurements subject to the code of silence maintained on the District's website before any interaction with a potential vendor.

Violation

Any suspected violation of this policy shall be investigated by the executive director of purchasing and warehouse operations, the chief financial officer, or the internal audit department and may result in any of the following being deemed void or voidable:

1. Any recommendation for award;

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2. Any competitive solicitation award;
3. Any bid award to the potential vendor or the vendor's representative; or
4. A vendor's contract.

The potential vendor or vendor's representative determined by the District to have violated this policy shall be subject to debarment from bidding and contracting activities of current and future projects for a period up to two calendar years. In addition to any other penalty provided by law, violation of this policy by a District employee may subject the employee to disciplinary action up to and including termination. Board members and candidates who have filed for election to the Board determined by the Board to have violated the code of silence or received campaign contributions, gifts, donations, or any other items of value prohibited under this policy shall abstain from voting on all matters relating to the particular vendor with whom the Board member engaged in a violation of the code of silence for a period up to two calendar years and may be subject to additional action as deemed appropriate by the Board.

In the event that a Board member or candidate unknowingly accepts a campaign contribution, gift, donation, or any other item of value from a vendor representative during the code of silence, the Board member or candidate shall have the duty to return the contribution, gift, donation, or other item of value within ten calendar days after becoming aware of the conflict with this policy.

Formal Complaints

This policy is not intended to prohibit contractors or their representatives from issuing formal complaints or concerns about potential conflicts of interest during the code of silence. Any such complaints or concerns should be communicated in writing to the chief financial officer.