

**PORTAGE AREA SCHOOL DISTRICT  
SCHOOL FOOD AUTHORITY  
PROCUREMENT CODE OF CONDUCT**

**POLICY:**

Employees, officers, or agents of **Portage Area School District** who engage in the selection, award, and administration of contracts funded by federal awards will avoid potential personal and organizational conflicts of interest and abide by established standards for acceptance of gifts or incentives in an effort to maintain a procurement environment conducive to free and open competition.

**PROCEDURE:**

In accordance with the general procurement standard in Title 2, Code of Federal Regulations (2 CFR), Section 200.318, each agency must develop and maintain written standards of conduct to cover potential personal and organizational conflicts of interest. Such written standards must govern the actions of agency employees, officers, or agents who engage in the selection, award, and administration of contracts funded by federal awards.

**Portage Area School District** establishes this code of conduct in accordance with federal regulations to:

- Prohibit employees, officers, or agents from soliciting gifts, travel packages, and other incentives from prospective contractors or their agents.
- Prohibit employees, officers, or agents from participating in the selection, award, and administration of any contracts supported by a federal award if the employee has a real or apparent conflict of interest.
- Set standards for situations when the financial interest is not substantial or a gift is an unsolicited item of nominal value and may be acceptable.
- Establish disciplinary actions to be taken in the event the standards are violated.

**Conflict of Interest**

A conflict of interest arises when an agency's employee, officer, agent, or any member of their immediate family, a partner, or an organization that employs or is about to employ any immediate family member, has a financial or other interest in – or would gain a tangible personal benefit from – a firm considered for a contract. Organizational conflicts of interest may also exist where there is a relationship with a parent, affiliate, or subsidiary organization and the organization is unable or appears to be unable to be impartial in conducting a procurement action

involved with a related organization per 2 CFR, Section 200.318(c)(2). Potential conflicts of interest must be disclosed in writing to the **Portage Area School District's** Board immediately for reporting to the Pennsylvania Department of Education (PDE) as required by 2 CFR, Section 400.2(b).

### **Procurement Standards**

Procurement transactions must be conducted in a manner that allows for full and open competition consistent with the standards stated in 2 CFR, Section 200.319. To ensure objective vendor performance and eliminate 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 award per 2 CFR, Section 200.319(a). Actions that restrict competition include, but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Conducting noncompetitive pricing practices between firms or between affiliated companies.
- Awarding noncompetitive contracts to consultants who are on retainer contracts.
- Allowing organizational conflicts of interest.
- Specifying a brand name product instead of allowing an equal product to be offered by describing product performance or other relevant requirements.
- Engaging in any arbitrary action during the procurement process such as awarding a contract – without a 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 is unlawful. Examples include, but are not limited to:

- Extra goods or services that were not solicited.
- Gifts such as free merchandise, event tickets, gift cards.
- Money for scholarships.
- Cash.
- Points that can be redeemed for merchandise.

To avoid non-compliance with federal procurement regulations, including, but not limited to, 2 CFR, Sections 200.318, 200.319, and 400.2, and to prevent bid protests, **Portage Area School District** prohibits its employees, officers, or agents from accepting any incentives offered by a bidder for anyone's personal use.

## **Consequences**

Complaints or irregularities related to procurement of goods and services for the federally-funded foodservice program are reported to the Pennsylvania Department of Education (PDE) for investigation per 7 Code of Federal Regulations, Section 210.19(a)(4). Such reporting extends to the performance of individuals and organizations engaged in contract solicitation, award, and administration. PDE oversight may include a review of this written code of conduct and its application to appropriate parties.

Consequences for failure to comply with federal regulations are outlined in 2 CFR, Section 200.338 and 200.339. These consequences may include withholding of cash payments, suspension of program funding, denial of all or part of the cost of the noncompliant activity, other remedies deemed appropriate by the state agency, and termination. Other consequences, including civil or criminal penalties, lawsuits, and bid protests, may result in public mistrust.

All members, officers, and agents of **Portage Area School District** participating in procurement activities with the organization are responsible for ensuring that their behaviors comply with all applicable laws, program instructions, and guidance materials. If any employee, officer, or agent of **Portage Area School District** violates the above code of conduct he or she will be disciplined accordingly. That discipline may include termination.

### **APPROVAL DATE:**

**This policy and procedure was approved/updated as noted in the minutes of the Portage Area School District on September 8, 2021.**