

# Student Nutrition Department

## Code of Conduct

**Updated October 28, 2019**

This Code of Conduct has been created to establish and maintain effective oversight over the Texline ISD Student Nutrition Department's financial management system that provides reasonable assurance that the Texline ISD Student Nutrition Department is managing the program in compliance with all federal, state, and local regulations and terms and conditions of the program award and;

To establish and maintain effective oversight over those definitive actions related to the procurement process, establish standards of ethical conduct and integrity for procurement actions, and provide full and open competition in all procurement actions.

As representatives of the Texline ISD Student Nutrition Department, all employees are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity and the use of good judgment. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the Texline ISD.

The Code of Conduct will be reviewed annually to ensure its relevance to current regulations.

The following Code of Conduct shall govern the performance, behavior and actions of the Texline ISD Student Nutrition Department, including employees, directors, officials, or agents who are engaged in any aspect of procurement, including – but not limited to – purchasing goods and services; awarding contracts; or the administration and supervision of contracts.

### Code of Conduct

- No employee, directors or agent of the Texline ISD Student Nutrition Department shall participate in the selection, award or administration of a bid or contract supported by federal funds if a conflict of interest is real or apparent to a reasonable person.
- Conflicts of interest may arise when any employee, directors or agent of the Texline ISD Student Nutrition Department has a financial, family or any other beneficial interest in the vendor selected or

considered for an award.

- No employee, directors, or agent of the Texline ISD Student Nutrition Department shall award contracts to, or show favoritism toward a member of his/her immediate family, spouse's family or to any company, vendor or concern who either employs or has any relationship to a family member; or award a contract or bid which violates the spirit or intent of Federal, State and local procurement laws and policies established to maximize free and open competition among qualified vendors. Those circumstances where interests, financial or otherwise, are not substantial or are within the limits of applicable Federal, State and local laws and the policies and procedures of the Texline ISD Student Nutrition, the Superintendent's Cabinet shall determine whether the conflict is material under the circumstances.
- The Texline ISD Student Nutrition Department employees, directors, and agents will not solicit gifts, including but not limited to travel packages or other incentives, and/or donations from prospective contactors. However, incentive language may be included as part of the competitive procurement (formal bid and request for proposal) solicitation language to acquire the most favorable terms for the operation and benefit of the non-profit food service account. Such incentives include but are not limited to volume rebates, timely payment discounts, program promotion assistance, upfront savings, etc...

Texline ISD requires that all employees involved in the procurement or contract awarded process adhere to the highest professional behavioral standards that include the upmost integrity, non-self-serving, be fair in all aspects of the procurement process, be alert to conflicts of interest, and avoid any comprising situation.

Employee found to be in violation of this policy are subject to disciplinary action. Based on the severity of the infraction, the penalties include a written reprimand to their personnel file, a suspension with or without pay, or termination.

### **Incentives, Gratuities, or Kickbacks**

In accordance with the State of Texas Department of Agriculture (TDA) "Administrator's Resource Manual" (ARM), Texline ISD Student Nutrition Department employees; officials; agents acting on the Texline ISD Student Nutrition Department behalf; any member of the immediate family of the Texline ISD Student Nutrition Department employee, officer, or agent acting on the Texline ISD Student Nutrition Department behalf; or business partner of the employee, officer, or agent acting on Texline ISD Student Nutrition Department behalf cannot accept anything of value from a vendor. Incentive, gratuities, or kickbacks include, but are not limited to, personal gifts or gratuities that may be construed to have been given to influence the purchasing process.

Although such practices may be accepted in the private sector, giving and receiving gifts in the public sector may constitute a violation of law. Gift to a Public Servant is a Class A misdemeanor offense if the recipient is a government employee who exercises some influence in the purchasing process of the governmental body.

A Texline ISD Student Nutrition Department employee or former employee must not knowingly use confidential SNP information for the actual or anticipated personal benefit or benefit for any person or entity.

Texline ISD will apply disciplinary actions for violations of above stated standards by Texline ISD Student Nutrition Department employees, officers, or agents acting on the Texline ISD Student Nutrition Department behalf.

Texline ISD Student Nutrition Department requires any employee, officer, or agent acting on behalf of Texline ISD Student Nutrition Department to disclose in writing any possible situations where there is an appearance of incentives, gratuities, or kickbacks being received.

Texline ISD will consult with their attorney or legal counsel if there is a question about whether a specific situation is a conflict of interest.

### **Conflict of Interests**

Regulations: 2 CFR Part. 318 (c)(1) and 7 CFR Part 210.21(c) State Procurement Code and Regulations, and Texline ISD Student Nutrition Department

Procedures: Texline ISD seeks to conduct all procurement procedures:

In compliance with stated regulations; and to prohibit conflicts of interest and actions of employees engaged in the selection, award and administration of contracts.

A conflict of interest is any action that allows a person to benefit at the expense of the public interest or the expense of his or her employer. A conflict of interest may be real or apparent, i.e., a conflict of interest does not have to be acted upon to be considered a conflict of interest.

A real or apparent conflict of interest in situations such as the following:

- Texline ISD employee has a financial or other interest in a business being considered for a contract.
- Texline ISD employee receives a tangible personal benefit from a business being considered for a contract.
- Texline ISD employee has a personal relationship or friendship with a business being considered for a contract.
- Texline ISD employee is employed by, about to be employed by, or is seeking employment from a business being considered for a contract.

Texline ISD employees must not solicit or accept gratuities, favors, or anything of value to perform improper financial actions, including actions related to procuring contractors or parties to subcontracts. When this occurs, there is a conflict of interest.

Under Section 173.003 of the Local Government Code requires certain local government officers to file Form CIS to disclose any income, gifts, or family relationships with current or future vendors. A local government officer is defined as a member of the governing body of a local government entity; a director, superintendent,

administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selection, or contracting or a vendor.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal, State or Local funds if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The employee, officer, or agent will need to submit a Conflict of Interest Questionnaire (Form CIQ) (see Appendix I) to the Texline ISD Purchasing Department and remove himself/herself off the procurement process. The officers, employees, and agents of the entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

Texline ISD will apply disciplinary actions (as listed below) for violations of above stated standards by Texline ISD Student Nutrition Department employees, officers, or agents acting on the Texline ISD Student Nutrition Department behalf.

Texline ISD will apply the following disciplinary actions:

1. 1<sup>st</sup> Offense: Documented “verbal” reprimand and review Code of Conduct. Two district staff will be present and sign document as witnesses.
2. 2<sup>nd</sup> Offense: Written reprimand. Two district staff will be present and sign document as witnesses.
3. 3<sup>rd</sup> Offense: Recommendation for termination.

### **Reporting of Fraud, Bribery, and Gratuity Violations**

Texline ISD will report, in writing to TDA, all violations of federal criminal law – fraud, bribery, or gratuity.

*The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in § 200.338 Remedies for noncompliance, including suspension or debarment. (2 CFR 200.113; 31 U.S.C. 3321).*

Texline ISD defines fraud as:

*Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program [and/or Special Milk Program] whether received directly or indirectly, shall, if such funds, assets or property are of a value of \$100 or more, be fined no more than \$25,000 or imprisoned not more than 5 years or both; or if such funds, assets or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than 1 year or both. Whoever receives, conceals or retains for personal use or gain, funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program, whether received directly or indirectly,*

*knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud, shall be subject to the same penalties.*

### **Benefits Received**

Texline ISD Student Nutrition Department employees; officials; agents acting on the Texline ISD Student Nutrition Department behalf; any member of the immediate family of the Texline ISD Student Nutrition Department employee, officer, or agent acting on the Texline ISD Student Nutrition Department's behalf; or business partner of the Texline ISD Student Nutrition Department employee, officer, or agent acting on Texline ISD Student Nutrition Department's behalf must not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

When incentives are offered by the contractor and accepted by an individual, the incentive must become the property of Texline ISD Student Nutrition Department. Under no condition can the incentive become the property of an individual.

### **Certification Regarding Lobbying**

Lobbying certification requirements are applicable to grants, sub-grants, cooperative agreements, and contracts exceeding \$100,000 in federal funds.

Texline ISD Student Nutrition Department uses the following procedures

1. **Documentation:** Texline ISD Student Nutrition Department will take actions to ensure that the proper documentation is prepared, shared as required, and retained.
2. **Use of Funds:** Texline ISD Student Nutrition Department requires that federal funds must not be paid by or behalf of the Texline ISD Student Nutrition Department to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

### **Debarment and Suspension**

Texline ISD and their subcontractors must not make or permit any award, sub-award, sub-grant, or contract with an individual or entity that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs, per the TDA Administrative Review Manual (ARM), Section 15.21.

- Texline ISD Student Nutrition Department will include the following debarment and suspension certification in every written agreement with subcontractors:  
*"{name of subcontracting organization } certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency or by the State of Texas. {name of subcontracting organization} shall immediately provide written notice to Texline ISD Student Nutrition Department if at any time the {name of subcontracting organization} learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Texline ISD*

*may rely upon a certification of a subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous.*

- Texline ISD Student Nutrition Department will require the subcontractor to sign and submit the TDA form entitled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts (H2048)12” and maintain the signed form with its contract record.
- Texline ISD Student Nutrition Department will print the page from the System for Award Management (SAM) which indicates the subcontractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and will maintain that document on file with the contract documents. The System for Award Management can be accessed at [www.sam.gov/portal/SAM/#1](http://www.sam.gov/portal/SAM/#1)

### **Staff Purchase of Items on Awarded Contracts**

Texline ISD Student Nutrition Department does not allow any employee, officer or agent acting on behalf of Texline ISD Student Nutrition Department to take advantage of Texline ISD Student Nutrition Department’s procurement by purchasing off an awarded contract.

Per the ARM, Section 15.18, Confidentiality and Program Integrity, this type of activity as actually accepting the cash difference between the bid or discount price and the amount the individual would have paid for the item in the regular retail market. This is a financial incentive. When an individual pays for the purchase, the payment does not remove the financial incentive. Even if the contractor were to charge retail price, the individual would still be receiving the convenience of a personal delivery and would be accepting a favor from the contractor—therefore, this is an unallowable practice.

### **Contracting with Persons and Companies for Assistance in Developing a Solicitation**

Per the ARM, Section 15.20, Confidentiality and Program Integrity, when acquiring goods and services, contracting entities (CEs) may contract with agents or companies that provide technical information in drafting procurement specifications and/or technical requirements. This provision is intended to encourage program administrators to obtain information from as many sources as possible to assist them in drafting procurement documents.

- Potential Offerors or Interested Parties Involved in Developing a Solicitation  
Texline ISD Student Nutrition Department will not accept a contractor or other interested party’s offer if the contractor or other interested party assisted with or drafted the procurement specifications and/or technical requirements, procedures, or documents.

### **Duplicative Services from the Same Contractor or Different Contractors**

Per the ARM, Section 15, Confidentiality and Program Integrity, when awarding a contract to an entity that has financial relationship with a third party acting on behalf of the CE constitutes an unfair advantage and is in violation of federal procurement requirements. This type of arrangement may also result in the CE paying for duplicative services, which is an unallowable cost to the nonprofit school food service account.

- Texline ISD will avoid acquisition of unnecessary or duplicative items/services. Purchases will be justified using the following criteria:
  - Purchaser will determine if there are like items in the District that may not be in use and consider transferring item before determining if purchase is necessary
  - The item is being considered for menus or is needed to serve, prepare, receive, transport or store an item on the menu
  - The item is replacing an obsolete, broken, damaged or outdated piece of equipment

Texline ISD's procedures seek to avoid acquisition or duplicative items. Consideration is given to choose a method of procurement to obtain and more economical purchase. Where appropriate, an analysis will be made to determine the most economical approach.

Texline ISD will purchase goods, products and/or services for use in the Child Nutrition Program in compliance with 2 CFR Part 200 and state laws using the procedures outlined as follows:

The primary purpose of this procurement plan is to ensure that open and free competition exists to the maximum extent possible. The procurement process practiced by the Texline ISD Student Nutrition Department must not restrict or eliminate competition (2 CFR Part 200.318(c)). For example, description of goods, products and/or services to be procured should not contain features that unduly restrict competition. Competition helps ensure that goods, products and/or services will be obtained that best meets the needs of the Child Nutrition Program.

### **Food Taken From Schools**

Texline ISD Student Nutrition Department does not allow any employee, officer, or agent acting on behalf of the Texline ISD Student Nutrition Department to take food or leftover food (including milk) from the premises for personal use, personal gain, or benefit to another person or entity.

## Appendix I: Conflict of Interest Questionnaire FORM CIQ

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>		<b>OFFICE USE ONLY</b>
		Date Received
<p><b>1 Name of vendor who has a business relationship with local governmental entity.</b></p>		
<p><input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3 Name of local government officer about whom the information is being disclosed.</b></p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p><b>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</b></p> <p>A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="text-align: center;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>		
<p><b>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</b></p>		
<p><input type="checkbox"/> <b>Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</b></p>		
<p>_____ Signature of vendor doing business with the governmental entity</p>		<p>_____ Date</p>

Form provided by Texas Ethics Commission

[www.ethics.state.tx.us](http://www.ethics.state.tx.us)

Revised 11/30/2015

In accordance with Federal Civil Rights Laws, JSDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). This institution is an equal opportunity provider.



**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

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(2) the vendor:

- (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
  - (i) a contract between the local governmental entity and vendor has been executed;
  - or
  - (ii) the local governmental entity is considering entering into a contract with the vendor;
- (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
  - (i) a contract between the local governmental entity and vendor has been executed; or
  - (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:
  - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
  - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
- (2) the date the vendor becomes aware:
  - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
  - (B) that the vendor has given one or more gifts described by Subsection (a); or
  - (C) of a family relationship with a local government officer.