



*Ethics Excerpted*

*Ethics in Public Contracting*

**3**



**SECTION**

AHA shall adhere to the following code of conduct, consistent with applicable laws. Transactions with vendors/suppliers, contractors, subcontractors, and firms must be conducted within a framework established by AHA. Business dealings with outside firms should not result in unusual gains for those firms. An “unusual gain” refers to bribes, product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the employer, the employee, or both. Promotional plans that could be interpreted to involve unusual gain require advance written approval by President & Chief Executive Officer.

# Conflict of Interest

* + 1. **Avoidance of Conflicts of Interest**

It is AHA's policy to avoid situations, which place a Respondent in a position where its judgment may be biased because of any past, present, or currently planned interest, financial or otherwise, that the Respondent may have which relates to the work to be performed pursuant to a subsequent solicitation or where the Respondent's performance of such work may provide it with an unfair competitive advantage.

# Gratuities, Favors or Monetary Compensation

Neither commissioners, employees, relatives or business associates of commissioners or employees, nor agents of AHA will accept gratuities, favors, or anything of monetary value from contractors, potential contractors or parties to subcontracts. AHA solicitations and contracts above the simplified acquisition threshold shall include or reference clauses advising prospective contractors of the prohibitions against gratuities and kickbacks (2 CFR §200.318(c)(1) and 2 CFR §200.326(D)).

# Unlawful Influence

Actual or potential conflicts of interest occur when an employee or commissioner and/or publicly elected or appointed official is in a position to influence an AHA business decision and that decision may result in personal and/or financial gain to that commissioner, employee, his/her relative, business associate or organization which employs, is negotiating to employ or has an arrangement concerning prospective employment of that employee, commissioner, relative or business associate.

# Contracting with Relatives

For purposes stated herein only, a “relative” means the spouse, mother, father, brother, sister, child of a covered class member (whether related as a full blood relative, or as a half or a step relative, e.g., a half‐ brother or stepchild), or a significant other who lives in the same household as the employee, elected or appointed public official (including members of the City of Atlanta City Council, Fulton County Board of Commissioners, DeKalb County Board of Commissioners, or Georgia legislator), or commissioner.

If an employee, elected or appointed public official (including members of the City of Atlanta City Council, Fulton County Board of Commissioners, DeKalb County Board of Commissioners, or Georgia legislator) or commissioner has any conflict of interest or the ability in any way to influence AHA transactions with an outside firm, including purchases, contracts, or leases, then he or she must disclose the existence of any actual or potential conflict of interest to the President & Chief Executive Officer, as soon as possible.

A conflict of interest may also exist when an employee, a commissioner, an employee's or commissioner's relative, an employee's or commissioner's partner, or an organization which employs or is about to employ any of the above, has a financial or other interest in a firm selected for a business transaction, e.g., award or contract, with AHA. The President & Chief Executive Officer, or designee, will determine whether the conflict is an actual conflict of interest. In such a case, the President & Chief Executive Officer may exclude

the outside firm from contracting with AHA or may impose such conditions, as she should deem reasonable to alleviate the conflict of interest.

# Personal Gains

Personal gain may result when an employee, the employee's relative, or the employee's partner or a commissioner, the commissioner's relative, or the commissioner's partner has an ownership interest in a firm that does business with AHA, especially when that employee, commissioner, relative, or partner receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealing involving AHA. Employee or commissioner personal gain, as defined herein, is prohibited.

No commissioner or employee who exercises or has exercised any function or responsibility with respect to activity in connection with any AHA transaction, or who is in a position to participate in a decision‐making process or gain inside information with regard to such activity, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect to the activity or the proceeds thereunder, either for himself or herself, or for those with whom he or she has family or business ties, during his or her tenure or for one (1) year thereafter.

# Notification by Suppliers/Vendors of Conflicts of Interest

Suppliers/Vendors shall provide a statement which describes in a concise manner all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the Supplier/Vendor has a possible organizational conflict of interest with respect to: (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. In its statement, the Supplier/Vendor may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or departments of the organization and how that structure or system would avoid or mitigate such organizational conflict.

In the absence of any relevant interests referred to above, Suppliers/Vendors shall prepare a notarized "*Organizational Conflicts of Interest Certification*".

# Awarding of Contracts Pending Determination of Conflict of Interest

No award shall be made until the disclosure or certification has been evaluated by Contracting Officer. Failure to provide the disclosure or certification will be deemed to be a minor infraction and the Supplier/Vendor will be permitted to correct the omission within a timeframe established by the Contracting Officer.

*Refusal to provide the disclosure or certification and any additional information as required, or the willful non‐disclosure or misrepresentation of any relevant information, shall disqualify the Supplier/Vendor.*

If the Contracting Officer, or designee, determines that a potential conflict exists, the Supplier/Vendor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation by the Contracting Officer.

# Use of Confidential Information

Disclosure of confidential information to any person not authorized by the CO or the Vice President, Acquisition & Management Services to receive such information shall be a breach of ethical standards. Confidential information includes, but is not necessarily limited to, the contents of a bid (prior to bid opening) or proposal (prior to contract award using competitive proposals), names of individuals or vendors that submitted bids (prior to bid opening) or proposals (prior to contract award); AHA‐generated information related to a procurement,

including AHA cost estimates, contractor selection and evaluation plans, specifications (before solicitation is issued); and any other information the disclosure of which would have a direct bearing upon the contract award or the competitive process. It is a breach of ethical conduct for any current or former employee, officer, or agent to knowingly use confidential information for actual or anticipated personal gain or for actual or anticipated personal gain of any other person, supplier/vendor or entity.

# Gratuities, Kickbacks (Copeland Act ‐ 29 CFR 3)

AHA solicitations and contracts above the simplified acquisition threshold shall include or reference clauses advising prospective contractors of the prohibitions against gratuities and kickbacks (2 CFR §200.318(c)(1) and 2 CFR §200.326). AHA officers, commissioners, employees and agents shall not solicit or accept for themselves, their relatives, their businesses or other organizations, gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts, except unsolicited items below a threshold amount set by AHA or of nominal intrinsic value (as defined in the AHA’s *Human Resources Manual*, as the same may be amended from time to time), and shall not knowingly use confidential information for actual or anticipated personal gain. The President & Chief Executive Officer, or designee, will determine whether the action was an actual violation of this subsection. In such case, the President & Chief Executive Officer may bar the outside supplier/vendor from contracting with AHA.

# Prohibition against Contingent Fees

Contractors shall not retain a person to solicit or secure a contract from AHA for a commission, percentage, brokerage, or contingent fee, except for bona fide employees of established commercial selling agencies.

# Penalties

In the event any commissioner, employee, agent or contractor of AHA has been determined to violate any of the provisions of this Section such commissioner, employee, agent or contractor may be disciplined up to and including, but not limited to, termination and/or removal, to the extent permitted by Federal, State or local law or regulations.

# Third‐Party Consultants

As used in this subsection, a third‐party consultant is an individual or company that is paid to assist in the development of a solicitation. Third‐party consultants who participate in the solicitation process may be required to prepare and submit a nondisclosure statement. Any third‐party consultant who assists in the development of a solicitation document will be prohibited from submitting a bid/proposal in response to that solicitation or from otherwise performing work on any contract directly resulting from that particular solicitation document, unless the CO or the Vice President, Acquisition & Management Services expressly waives this restriction in writing and/or the solicitation document discloses the usage of the third‐party consultant.

Nothing in this subsection prohibits AHA from soliciting information or preliminary quotes from suppliers through the Request for Information process or other means.