

**CODE OF ETHICAL CONDUCT
FOR CHILD CARE FOOD PROGRAM PROCUREMENT**

STATEMENT OF PURPOSE

The purpose of the Code of Ethical Conduct ("Code") is to establish the expectation and enforcement of ethical conduct required by federal regulations for Child Care Food Program ("CCFP") employees engaged in procurement of CCFP goods and services. In addition, the Code specifies disciplinary action that will be taken for violations.

NOTE: This document is only intended to address ethical conduct in CCFP procurements. It does NOT cover other aspects of CCFP procurement or any other policies or procedures required to ensure compliance with CCFP regulations. It does NOT cover any other ethical requirements established at the federal, state or local level.

ETHICAL CONDUCT - POLICY STATEMENT

Child Care Center or Organization conducts its business fairly, impartially, in an ethical manner, and in compliance with all federal, state, and local laws and regulations.

The Center or Organization is committed to conducting its business with integrity underlying all relationships, including those with clients, suppliers, business associates, communities, and among employees. The highest standards of ethical conduct are required of Center or Organization employees in the performance of their responsibilities. Center or Organization employees will not engage in any conduct or activity that may raise questions as to the Center or Organization's honesty, impartiality or reputation or otherwise cause embarrassment to the Center or Organization.

A. CONFLICT OF INTEREST

No employee, officer or agent of the Center or Organization shall participate in selection or in the award or administration of a contract supported by CCFP funds if a conflict of interest, real or apparent, would be involved. [7 C.F.R. § 226.22(c)(3)]

An "apparent" conflict of interest arises when an objective observer, based upon existing facts or relationships, could reasonably conclude that there is a conflict of interest as described in this section, even if there is no actual conflict of interest.

Solicitation or acceptance of valuable consideration

Employees will safeguard their ability to make objective, fair, and impartial decisions by not accepting any gratuities, favors or anything of monetary value that appears to influence or reward a specific or future decision or violates this Code. The compensation, employee benefits, and reimbursement received from the Center or Organization shall be the sole financial or material benefit derived from Center or Organization employment.

No employee, officer or agent of the Center or Organization shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements ("Prohibited Sources"). If this has occurred, a conflict of interest exists. [7 C.F.R. § 226.22(c)(3)] This includes but is not limited to gifts, travel packages, and other incentives. [CACFP 03-2015]

Center or Organization employees shall not accept any gratuities, favors or anything of monetary value from a Prohibited Source, regardless of value, unless covered by one of the following narrow exceptions:

- a. Gifts from relatives.
- b. On-site consumption of food or refreshments during the time of a reception, meeting, or conference, while on work time, when attendance is necessary and appropriate to exercise official employee duties.
- c. Gratuities, favors, or anything of monetary value, accepted on behalf of a governmental entity or charitable organization, or for which a public purpose can be shown, provided the employee's supervisor has approved such acceptance, so long as such items are immediately: disclosed to the employee's supervisor; donated to a charitable organization approved by the supervisor; and documentation of the donation is submitted to the supervisor.
- d. Gratuities, favors, or anything of monetary value that are generally available to the public at large for free or no cost to the public.

However, Center or Organization employees may accept awards, plaques, certificates, or similar personalized items valued at \$10.00 or less that are given in recognition of public, civic, charitable, or professional services.

Business or personal relationships between buyer and seller

Every related party transaction creates a conflict of interest. A related party transaction would include any transaction between the Center or Organization and any of the following:

- (1) its parent corporation;
- (2) its corporate divisions;
- (3) its subsidiaries; or
- (4) its employee(s), officer(s), or agent(s) or members of their immediate families;

either directly or indirectly through corporations, trusts or similar arrangements in which they (items 1 – 4, above) hold a controlling interest, no matter how represented.

[FNS 796-2, Rev. 4, Ex. J]

Put another way, a related party transaction is one in which the buyer and seller do not act independently of each other when negotiating a price or terms due to their business or personal relationships or connections. [FNS 796-2, Rev. 4, Ex. A]

Financial relationship between buyer and seller

A conflict would arise when any of the following persons or organizations has a financial or other interest in the firm selected for award:

- (1) The employee, officer or agent;
- (2) Any member of his or her immediate family;
- (3) His or her business partner; or
- (4) An organization which employs or is about to employ any of the above.

[7 C.F.R. § 226.22(c)(3)]

Any other condition causing appearance of conflict of interest

A conflict of interest is also created when there is any other condition that would create the appearance of a conflict of interest to a reasonable person, whether financial or otherwise. Therefore, Center or Organization employees will not take any action, whether or not specifically prohibited in this Code or in any other Center or Organization policies, which would result in or reasonably be expected to create an appearance of:

- (1) using the employee's position for private gain.
- (2) giving preferential treatment to any person or entity.
- (3) adversely affecting public confidence in the Center or Organization's integrity.

B. OPEN AND FREE COMPETITION

All Center or Organization procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. [7 C.F.R. § 226.22(g)]

Restrictive competition includes but is not limited to:

- (1) placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) noncompetitive practices between firms;
- (3) organizational conflicts of interest; and
- (4) unnecessary experience and bonding requirements.

[7 C.F.R. § 226.22(g)]

C. DISCIPLINARY ACTION

To the extent permitted by State or local law or regulations, the Center or Organization shall pursue disciplinary action for violations of this Code by the Center or Organization's officers, employees, or agents, or by contractors or their agents, up to and including dismissal of an employee and/or termination of conflicting contracts or relationships. [7 C.F.R. § 226.22(c)(3)]

D. DUTY TO DISCLOSE AND SEEK GUIDANCE

This Code constitutes the standards of ethical business conduct required of all Center or Organization employees. The Center or Organization's policy is to provide this Code to all employees prior to hiring.

Every Center or Organization employee has the responsibility to read and understand this Code and immediately disclose, prior to and during employment, any facts or circumstances that would or might create a real or apparent conflict of interest, as described in this Code.

Every Center or Organization employee has the responsibility to ask questions, seek guidance, report suspected violations and express concerns regarding his/her compliance, and any fellow employees' compliance, with this Code.

