

CHAPTER 2.36
CONFLICT OF INTEREST CODE

Prior history: prior code §§ 2-1.1—2-1.5, as amended by Ords. 930, 948, 989, 1013 and 1170.

§ 2.36.010. Conflict of interest code adopted—Statement filing required when.

A. The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18370, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after taking public notice and hearings to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which members and employees are designated and disclosure categories are set forth, constitutes the conflict of interest code of the city of Manteca.

B. Pursuant to Section 4 of the standard code, designated employees shall file statements of economic interests with the city clerk of the city of Manteca. (Ord. 1225 § 1, 2002; Ord. 1338 § 1, 2006; Ord. 1425 § 1, 2008; Ord. 1482 § 1, 2010; Ord. 1491 § 1, 2011; Ord. 1513 § 1, 2012; Ord. 1549 § 1, 2014)

§ 2.36.020. Conflict of interest code for design-build City projects.

A) This establishes the organizational conflict of interest guidelines applicable to City projects procured pursuant to Public Contract Code Section 22185, et seq.

B) This applies to all vendors that have entered into or wish to enter into contracts with the City.

C) Vendors participating as proposers ("Proposers") on a project or joining a team shall not have an organizational conflict of interest. Organizational conflicts of interest are created by circumstances arising out of Proposers' existing or past activities, business or financial interests, familial relationships, contractual relationships, or organizational structure (e.g., parent entities, subsidiaries, affiliates) that could result in any of the following:

(i) impairment or potential impairment of proposers' ability to render impartial assistance or advice to the City or of their objectivity in performing work for the City.

(ii) an unfair competitive advantage for any Proposer with respect to the City's procurement process, or

(iii) a perception or appearance of impropriety with respect to any of the City's

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procurements or contracts or perception or appearance of unfair competitive advantage with respect to a procurement by District (irrespective of whether such perception is accurate).

D) Proposers having any actual, apparent, direct or indirect, or potential conflict of interest that may exist with respect to the Proposer, any employees of the Proposer, any team member(s), or any other person relative to the services to be provided, must immediately make a full written disclosure of the conflict to the City. If a Proposer determines that a potential conflict of interest exists, the Proposer's disclosure will not necessarily disqualify the Proposer from being awarded a contract. The Proposer shall submit proposed measures to avoid, neutralize, or mitigate all potential or actual conflicts. The City, at its sole discretion, shall determine whether an organizational conflict of interest exists and whether the proposed measures are sufficient to overcome the conflict or potential conflict and whether the Proposer may continue with the procurement process.

E) The successful Proposer has an ongoing obligation to monitor and disclose conflicts or potential conflicts of interest. The City has the right to ongoing enforcement of this.

If an organizational conflict of interest is:

(i) Discovered after the contract has been awarded, the Proposer must make an immediate and full written disclosure to the City in writing and detail the action(s) that the Proposer has taken or proposes to take to avoid or mitigate the conflict. The City may, at its sole discretion, terminate the contract.

(ii) Determined to exist and the Proposer was aware of the organizational conflict of interest prior to award and did not disclose the conflict, or if a Proposer provides false or misleading information in response to an inquiry from the City, the City may, at its sole discretion, terminate the contract.

(iii) Arises after the award and the Proposers' proposed measures to avoid or mitigate the conflict are determined by the City to be inadequate, the City may, at its sole discretion, terminate the contract.

If the contract is terminated, the City assumes no obligation, responsibility or liability to reimburse all or part of the costs incurred or alleged to have been incurred by the Proposer, and the City shall be entitled to pursue any and all appropriate legal remedies.

F) This shall be incorporated by reference into all procurement packages as well as any contract for the engineering/design services, inspection, or technical support in the administration of projects executed by the City.

G) This does not derogate from any obligation of "Consultant" under the Fair Political Practices Act, Regulations and the District's Conflict of Interest Code. For reference, "Consultants" are defined in FPPC Reg. 18700.3 and includes persons who make a government decision whether to authorize the agency to enter into, modify or renew a contract, grant agency approval to a contract or specification for such a contract, or grant agency approval to a plan, report or design.