



Procurement Ethics Guide

Hillsborough County Aviation Authority

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Preface

Procurement is a critical aspect of Hillsborough County Aviation Authority (Authority) operations, involving the ongoing acquisition of goods, services, and capital construction needed to satisfy the growing demands of the public. In contrast to private sector business, public sector procurement is highly regulated. It must be conducted with the utmost integrity, transparency, and fairness to ensure the efficient and effective use of public funds. The Authority expects its suppliers to share its commitment to ethics and to conduct business in full compliance with all applicable laws and regulations.

This Procurement Ethics Guide (Guide) has been prepared as a resource to advise Authority suppliers and prospective suppliers regarding their ethical obligations and what they can expect from Authority Procurement Department (Procurement) staff and other Authority staff members engaged in the procurement process (collectively referred to as Staff). The supplier who understands the operating and ethical standards that govern the Authority procurements will be more skilled in recognizing conduct that could negatively impact its business transactions with the Authority.

As its title implies, this Guide is a reference tool and not an exhaustive compilation of all criminal, civil and ethical laws and rules covering the Authority procurements. Any person who believes there has been unfairness, favoritism, or impropriety in any Procurement activity should inform the assigned Procurement Agent or the Vice President of Procurement. The Authority will maintain confidentiality to the extent possible and will not tolerate retribution or retaliation against any individual who has in good faith sought advice or reported questionable behavior or violation of laws and regulations.

WHAT THE SUPPLIER SHOULD EXPECT FROM STAFF

Public service is a public trust. That means placing professional and job-related responsibilities before personal gain and individual interest. Authority Staff operate under a formal code of ethics to ensure public confidence and to protect the integrity of the Authority. Staff is obligated to report known or suspected wrongdoing. In addition, they are required to review this code annually. Staff must not:

- Engage in or give the appearance of engaging in, dishonest or unethical actions.
- Show favoritism. Actions and decisions must be based on merit in accordance with established laws, rules, regulations, policies, and procedures.
- Accept a gift of any kind, regardless of the value, under circumstances in which it could be reasonably inferred that the gift was intended (or could be reasonably expected) to influence the performance of official duties or serve as a reward for any official action. Examples include cash, goods, meals, travel, sporting event tickets, entertainment, loans, services, or anything else of value.
- Directly or indirectly purchase, rent, or lease any realty, goods, or services for the Authority from any business entity of which they or their spouse or child is an officer or has a material interest.

- Engage in any private or professional activity that would create a conflict of interest or the appearance of impropriety.

WHAT THE AUTHORITY EXPECTS FROM SUPPLIERS

As described above, the Authority relies upon open, fair, and transparent competitive procurements to ensure that it spends funds wisely and in the best interest of the Authority and the public. To do business with the Authority, suppliers must adhere to certain instructions and regulations without limitations. The Authority expects suppliers to perform fully, timely, and honestly in accordance with the terms of their contracts and to demonstrate responsibility through a history of successful and honest performance.

1. CONSIDERATION OF BECOMING A SUPPLIER

Procurement is required to consider whether the supplier has the requisite “responsibility” to provide the goods or services before awarding a contract. Before engaging in the Authority procurement process, a supplier should review its firm’s capability of fully meeting the demands of the requested work. To do business with the Authority a supplier must be:

- a. Capable of meeting all minimum qualifications specified in the solicitation document.
- b. Prepared to demonstrate that it has the resources and experience to successfully fulfill the contract requirements.
- c. Prepared to publicly and truthfully disclose management and ownership, officers and owners, and current financial condition with an expectation that any of their legal, financial or performance problems will need to be explained.
- d. Honest and accurate in recording and reporting all business information in compliance with applicable laws.
- e. Current on obligations, including licenses and insurance.

2. SUBMITTING A BID OR PROPOSAL RESPONSE

Except for certain situations listed in an Authority Policy, for purchases exceeding \$100,000, the Authority is required to conduct competitive solicitations and to award contracts solely based on price, best value and/or qualifications. Efforts by a supplier or by a lobbyist acting on behalf of a supplier to gain an unfair advantage by inhibiting competition or exploiting business or political relationships are prohibited. (Note: Lobbyists must register with the Authority prior to engaging in any lobbying activity at <https://www.tampaairport.com/legal/lobbyist-registration>.)

- a. Maintaining the Integrity of the Competitive Process

- Suppliers are expected to independently and honestly prepare and submit bid and proposal responses based on the true cost of their operations. By this mechanism, the Authority obtains the most advantageous price or best value available among firms doing business in that market.
- Suppliers must not “cooperate” or share pricing information with competitors when preparing bid or proposal responses. Activity where competitors agree on the prices to be submitted, is known as collusive bidding, price fixing, or bid-rigging and is illegal.
- Do not submit artificially high pricing or an intentionally uncompetitive response to ensure the success of a competitor’s response. This is known as “complementary bidding” and is also illegal.
- Do not submit bid or proposal responses with deceptively low rates or costs with an expectation of receiving increases through change orders after award or receiving a competitive advantage in the award of related contracts.
- Do not manipulate unit cost awards by selectively underpricing certain line-item costs or engage in unbalanced pricing with the expectation that quantities will change after award.

b. Gifts

Do not offer a gift of any kind to Staff to influence the drafting of solicitation requirements, evaluations, awards, payment, or for any other reason. Such offers are prohibited and must be reported by Staff. Such activities may lead to disqualification, suspension, or debarment of the supplier, regardless of intent. If Staff suggests or demands a gift from a supplier for providing any service, consideration, or advantage, immediately report this to the Vice President of Procurement.

c. Job Offers

Should a supplier determine that an Employee or an immediate member of their family would make a perfect addition to its firm, make sure that the Employee is not involved in any capacity with any solicitation that benefits the supplier before discussing a job offer, or even the prospect of a job. Wait until the solicitation is completed before discussing employment prospects. Otherwise, an attempt to discuss employment Suppliers’ ethical responsibility extends to their hiring practices. A supplier’s (or prospective supplier’s) attempt to hire Authority Staff or their immediate family may be considered an attempt to improperly influence the solicitation process if the Staff member is involved with any solicitation that benefits the supplier.

d. Information and Communication

Ensuring all suppliers have equal access to information from which to base their solicitation response, and the inability to influence its evaluation is a critical aspect of public procurement ethics. To that end, the Authority has established a cone of silence for all competitive selections. The cone of silence is in effect from the advertisement of

the solicitation through the Board's selection or award. The cone of silence prohibits communications regarding a specific RFP, RFQ, ITN, RA or ITB except where specifically permitted. Violation will render a response or resulting contract voidable. The cone of silence policy may be found on the Procurement webpage (<https://www.tampaairport.com/cone-silence>). All interested suppliers may ask questions at a pre-solicitation conference or direct inquiries to the Procurement Agent in writing. Responses are then shared with all other potential suppliers through written addenda. Staff are prohibited from providing information or responses outside of a written addendum. Information relating to the identity of proposal response contents, such as cost/pricing data, proprietary information, and trade secrets are not available until the recommendation of award or 30 days after the bid or proposal responses were received.

3. WORK UNDER CONTRACT

A supplier's ethical obligations do not end upon award of a contract. Gifts and job offers may not be offered to improperly influence Staff to approve work, materials, or payments under the terms of a contract. Suppliers are required to perform fully in accordance with the terms of the contract. Where progress payments are sought or payments are made on a budgetary or cost reimbursement basis, a supplier's business records must truthfully support its claims for payment.

a. Product Substitution

The unauthorized delivery of goods or services that do not meet the contractual requirements and for which the supplier charges as if contractual specifications had been met, is known as "product substitution." Unauthorized product substitution is a violation of the contract and can be considered fraud. The following acts are considered product substitution:

- Providing inferior quality or substandard raw materials and finished products.
- Substituting generic or foreign-made products when particular brand names or domestically produced products (Buy American) are required in the contract specifications.
- Submitting for compliance testing, samples or items that are not representative of actual production materials or products.
- Substituting used or refurbished products without authorization.

b. Premature Progress Payments

Certain long-term contracts permit payments to be made as construction or other performance progresses. These "progress payments" are generally payable upon proof that costs have been incurred or milestones in the contract have been reached. A supplier's falsification of labor or material costs, or a misrepresentation of progress reached to obtain faster payments, is illegal.

c. Improper Claims for Cost Reimbursement

When a supplier enters into a contract for an amount based on its actual costs, the supplier must maintain an accounting system that accurately categorizes its costs so that only costs that are reasonable, allowable, and allocable to the work are claimed for reimbursement. Some examples of costs that should not be claimed for reimbursement include fines, gifts, entertainment costs, and certain legal costs. Cost mischarging occurs when unrelated costs are improperly charged to a contract.

d. Proper Control and Accounting (non-fixed fee contracts)

The supplier is required to have appropriate internal controls to monitor its costs, schedule, assets, and general operations. The supplier needs to maintain reliable records to ensure that actions pertaining to the contract, inventory, expenses, and other reportable items are accurately, completely, and fairly recorded and reported.

4. SANCTIONS FOR MISCONDUCT

A wide range of criminal, civil, administrative, and contractual sanctions are available to address procurement fraud or misconduct. These include, but are not limited to, filing of State and Federal criminal charges, civil contract remedies including damages, assessment of liquidated damages, voiding or rescinding a contract, finding a supplier non-responsible, suspension, and debarment.

Establishing and maintaining a good relationship with the Authority requires an understanding of the Authority's ethical environment as well as its business needs. Suppliers that are committed to ethics and conduct business in full compliance with all applicable laws and regulations are mitigating risk for their firm, their employees, and the Authority. The Authority can terminate a contract between the Authority and a supplier if it determines there was a violation of the code of ethics. Further, the supplier and Authority Staff may also face misdemeanor or felony charges for procurement fraud. Ensuring ethical business practices between the supplier and the Authority mitigates risk, supports compliance, and maintains public trust.

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