

**INTEROFFICE CORRESPONDENCE**

Date: October 4, 2006
To: Members, Board of Education
Roy Romer, Superintendent
From: Yea-Lan Chiang, Ethics Officer
Subject: Planned Revisions to Contracting Integrity Policy and Program

In accordance with the 2004-2007 "Moving Ethics Forward" Strategic Plan, a revision of LAUSD's Contractor Code of Conduct is being delivered to the Board for approval. This set of Code revisions seeks to improve the ethical framework for LAUSD's contracting and procurement activities by: 1) strengthening the integrity baseline; 2) making the Code easier and more relevant for *all* stakeholders to understand, 3) promoting training both within and beyond the Code, 4) addressing and correcting for omissions and inaccuracies due to subsequent LAUSD policy changes, and 5) enabling LAUSD to draw upon a wider range of corrective actions to address and deter misconduct. These Code revisions have already been reviewed by the Procurement Services Group, the Facilities Contracts Branch, Special Counsel, the Office of the Inspector General, and the Office of the General Counsel and have been presented before the Audit, Business & Technology Committee.

Upon the Board's approval of the revisions, this new Code will serve as the foundation and centerpiece of LAUSD's Contracting Integrity Program, ensuring ethical use of public tax dollars for maximum student benefit.

Background

LAUSD and our Board demonstrated leadership in managing contracting integrity with the passage of our current Contractor Code back in November 2002. However, in the four years since, there has been a sea change in how organizations are managing ethics, largely due to the spectacular examples of misconduct wrought by Enron, WorldCom and other major institutions. Subsequent legal requirements in the form of amendments to the Sarbanes-Oxley Act and the Federal Sentencing Guidelines for Organizations, along with constant headlines highlighting how integrity breakdowns have cost businesses billions of dollars in lost opportunities, litigation, fraudulent acts, increased costs, and fines – not to mention costs to reputation, image, and trust – have all caused leading businesses to take notice and to respond proactively in order to ensure ethical and responsible conduct at all levels of operations, including down through the vendors in their supply chain. Our planned policy revisions and programmatic efforts draw on the lessons learned from managing vendors' ethics and will enable LAUSD to achieve better ethical alignment with the new standards and best practices that have emerged.

Enhancing Our Policy and Program

Our improved Contracting Integrity Policy and Program are premised on the following three guiding concepts:

- *Ethical and responsible use of scarce public tax dollars is a critical underpinning of effective government*
- *Contracting integrity and quality of service are the shared responsibilities of LAUSD and our Contractors*
- *Proactive and transparent management of potential ethics concerns improves public confidence*

In enhancing our contracting integrity efforts, we have worked hard to address the consistent internal and external feedback that crucial parts of the existing policy are difficult to understand. We have also conducted exhaustive research (see Appendix B) on the contracting integrity efforts of other public agencies and private sector organizations, including the work of industry groups such as the Defense Industry Initiative, the Institute of Supply Management (the largest supply management association in the world), and the Electronics Industry Code of Conduct Implementation Group (with Cisco, Dell, Hewlett Packard, IBM Intel, and Microsoft as members) which have all been working to develop a set of common standards for supplier performance in the area of ethics, labor standards, health & safety, and environmental impact. This extensive process has allowed us to identify, extract, and adopt the best practices and components of other supplier performance management efforts to create a more comprehensive Contracting Integrity Program that will deliver better ethical alignment.

Synopsis of Changes

Guided by best practices and internal and external lessons learned in the area of public and private vendor codes, the recommended enhancements incorporate the most significant and prevalent takeaways by: 1) ensuring that high standards are clear standards, 2) recognizing that the effectiveness of a Code depends on how well it is implemented and communicated, and 3) providing for a combination approach of both strict compliance and continuous improvement to eliminate unethical conduct. Enhancement highlights include:

- Clearer ethical standards and responsibilities
- Complementarity with new federal ethics requirements, key state laws which apply to contractors (California False Claims Act, Political Reform Act, Conflicts of Interest in Contracts, Gifts to a Public Agency) and industry-driven ethics and corporate social responsibility reforms
- Correction for subsequent changes to LAUSD policies (e.g. Sweat Free policy & updated Lobbying Code)
- Greater training support (with examples weaved into the Code and additional tools under development)
- Wider range of corrective actions for addressing and deterring misconduct

On the programmatic side, our roll-out of the new policy will involve a broad outreach to LAUSD contractors, sub-contractors and their representatives. We are currently in the process of finalizing a web-based contractors training video and a new ethics certification. Additional resource tools such as a contracting integrity brochure, a contractors' ethics guide, and a contracting integrity workshop are also under development. Finally, we will continue to work collaboratively with the Procurement Services Group, the Facilities Contracts Branch, the Office of the Inspector General, and the Office of the General Counsel to ensure that we are effectively rooting out unethical business practices that could hurt LAUSD.

Benefits Summary

Contracting integrity is an integral part of strengthening public trust because it helps to ensure that our limited resources provide the maximum benefit possible for our students. As illustrated below, our enhanced policy and program will enable us to promote greater integrity and better serve each critical stakeholder group:

Improved Benefit by Stakeholder Group

Stakeholder	Improved Benefit
Board Members	<ul style="list-style-type: none"> • Leading policy and program that aid in goals of good governance
LAUSD Contracting Partners	<ul style="list-style-type: none"> • Clearer set of ethical standards that are in concert with federal guidelines and private industry standards
LAUSD Staff	<ul style="list-style-type: none"> • Improved ability and awareness to proactively manage against conflicts
Public	<ul style="list-style-type: none"> • Confidence that public tax dollars are spent ethically and responsibly to ensure maximum student benefit and success

The proposed changes in this packet will help LAUSD take our next significant step forward in meeting our goal of increasing employee and public confidence in the integrity of our decision-making processes.

Next Steps

Timeframe	Action Items
By October	<input type="checkbox"/> Have Board pass new Contractor Code
By January 1, 2007	<input type="checkbox"/> Provide robust outreach to affected stakeholders
	<input type="checkbox"/> Finalize training support materials
By June 30, 2007	<input type="checkbox"/> Improve mechanisms for evaluating and tracking contractor misconduct

Appendices

Appendix A – Best Practices Review

Appendix C – 2002 Contractors & Consultants Code of Conduct

Appendix B – Mapping Guide for Code Changes

Appendix D – Benefits Summary

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Appendix A: Best Practices Review

Over 40 sources were consulted as part of our contracting integrity enhancement process. Our improvements to our Contractor Code and Program incorporate and reflect the best practices for managing supplier ethics from both public and private sector. Some of the most helpful sources are highlighted below:

Agency Sources:

Federal

- Sarbanes-Oxley Act
- U.S. Department of Justice – Procurement Integrity Outline
- U.S. Federal Acquisition Regulation (48 CFR Chapter 1)
- U.S. Federal Sentencing Guidelines (Revised)

Compilation

- “The Request for Proposal Handbook”
Best RFP Practices from State and Local Governments

State

- California Public Contracts Code
- New York State – Procurement and Disbursement Guidelines
- State of Indiana Executive Branch – Ethics Guide for Contractors
- University of Michigan – Code of Conduct for University of Michigan Vendors

Municipal

- City of Seattle – Ethical Standards for Contractors, Vendors, Customers and Clients
- Chicago Public Schools – Debarment Policy on Non-Responsible Persons in Procurement Transactions
- Los Angeles Metropolitan Transportation Authority –
- Miami-Dade County Conflict of Interest and Code of Ethics Ordinance
- New York Metropolitan Transportation Authority – Vendor Code of Ethics
- School District of Philadelphia – Vendor Code of Ethics
- Wyandotte County, Kansas City, Kansas – Article 12: Ethics in Public Contracting

International

- International Monetary Fund – Procurement Guide for Suppliers
- Organization for Economic Cooperation and Development Conventions
- Reitaku Center for Economic Studies – Ethics Compliance Standard 2000
- World Bank - Procurement Guidelines and Sanctions Committee Procedures

Private Industry:

- Abbott Laboratories – Code of Business Conduct
- Baxter Business – Ethics Toolkit for Suppliers
- British Petroleum – Business Partners Code of Conduct
- Business Ethics Magazine – “Ethics After Enron” (Summer 2006)
- Business for Social Responsibility
- Defense Industry Initiative on Business Ethics and Conduct
- Electronics Industry Code of Conduct
- Global Supply Chain Summit (October 24-26, 2005), Lessons Learned
- Intel – Supplier Code of Conduct
- Institute for Business Ethics
- Institute for Supply Management – Principles and Standards of Ethical Supply Management
- Microsoft – Vendor Code of Conduct
- Northrop Grumman – “Values, Ethics and Business Conduct” resources
- Sears – Code of Conduct

Research Institutes:

- Revolving Door Working Group
- Project on Government Oversight

Internal Sources:

- 2001 LAUSD Debarment Policy and Procedures
- 2002 LAUSD Contractor and Consultants Code of Conduct
- LAUSD contracting documents, including “The Contract Responsibility Determination Process” presentation
- Consultation with LAUSD staff from: Procurement Services Group, the Facilities Contracts Branch, Special Counsel, the Office of the Inspector General, and the Office of the General Counsel

Appendix B

Mapping Guide for Code Changes (by Code Section)

2002 Contractors Code		2006 Contractor Code	
Section #	Heading Title	Section #	Heading Title
1	"Application of the Code"	NA	"Preamble"
2	"Purpose"	NA	"Preamble"
3	"Expectations"	1	"Contractors"
		3	"Ethical Responsibilities"
4	"Enforcement"	8	"Enforcement Provisions"
5	"Prohibitions"	6	"Prohibited Activities"
6	"Avoid the Appearance of Impropriety"	3.A	"Demonstrate Honesty and Integrity"
7	"Lobbying"	4.F	"Government to Lobbying Restriction"
		5.B	"Be transparent about lobbying"
8	"Zero Tolerance Regarding Gifts"	4.E	"Respect Gift Limits"
9	"Zero Tolerance Regarding Offers of Employment"	6. H - I	"Prohibited Activities"
10	"Contact by Staff Prior to the Issuance of a Solicitation"	3.C	"Maintain the Cone of Silence"
11	"Receipt of Preliminary Information"	3.C	"Maintain the Cone of Silence"
		6.T	"Prohibited Activities"
12	"Receipt of Protected Information"	6.T	"Prohibited Activities"
13	"Influencing Contract Decisions, Negotiations and Protests"	3.C	"Maintain the Cone of Silence"
		6.O	"Prohibited Activities"
14	"Contractor Qualification"	3.B	"Be a Responsible Bidder"
15	"Disclosure of Former LAUSD Employees"	5.A	"Identify Current and Former LAUSD Officials"
		4.F	"Observe Cooling Periods"
16	"Submitting Proposals after Developing Specifications"	6.U	"Prohibited Activities"
17	"Conflicts of Interest"	3.D	"Manage Potential Conflicts"
		5.C	"Fulfill the State-Mandated Statement of Economic Interests"
18	"Sanctions"	8	"Enforcement Provisions"

**Appendix C: 2002 Contractors and Consultants Code of Conduct****Los Angeles Unified School District****Contractors and Consultants Code of Conduct***(Board Adopted: 11/02)*

1. **Application Of The Contractors Code Of Conduct.** This *Code of Conduct* shall govern the conduct of all contractors and consultants of the Los Angeles Unified School District ("LAUSD"). These standards supersede all prior written ethics policies duly adopted by the LAUSD which are in conflict with these standards. These standards are to be read in conjunction with the latest editions of applicable LAUSD contracting and procurement policies and procedures. All contractors shall insure that their subcontractors comply with this *Code of Conduct*.
2. **Purpose.** The purpose of this *Code of Conduct* is:
 - To protect the integrity of the procurement process;
 - To provide a comprehensive statement of expectations governing the conduct of contractors doing business with the LAUSD so they will be able to compete fairly, and perform their work and services in an ethical manner.
3. **Expectations.** This document does not address all ethical issues which may arise in the course of doing business with the LAUSD. Each person and entity is expected to act ethically at all times and in all things. The LAUSD Ethics Office is responsible for providing education and advice on ethical issues. Contact the Ethics Office with any questions regarding this *Code of Conduct*.
4. **Enforcement.** The provisions of this *Code of Conduct* are enforced by the LAUSD Inspector General, Office of the General Counsel and other appropriate enforcement authorities. The LAUSD may reject any bid or other proposal, or impose other sanctions against any person, contractor or entity that has not complied with the requirements of this *Code of Conduct* or the *LAUSD Lobbyist Registration Code*.
5. **Prohibitions.** No bidder, proposer, contractor or subcontractor shall fraudulently deceive or attempt to deceive any District official with regard to any material fact pertinent to any pending or proposed LAUSD action. Nor shall they do anything with the purpose or intent of placing any District official under personal obligation to the bidder, proposer, contractor or subcontractor.
6. **Avoid The Appearance Of Impropriety.** All contractors shall refrain from conduct which they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they are using their relationship with the LAUSD in an improper manner.
7. **Lobbying.** Under the *LAUSD Code of Ethics* (Lobbyist Registration Code), a "lobbyist" is defined as any person who receives \$4000 or more compensation in any quarter, other than reimbursement for reasonable travel expenses, to influence any LAUSD action. All persons classified as a lobbyist under this definition shall register with the LAUSD prior to the commencement of any lobbying activity. The LAUSD may disqualify any person or entity that is in violation of this policy from participating in the contracting process. The LAUSD definition of lobbyist may be different than definitions used by other agencies. You should consult the *LAUSD Lobbyist Registration Code* to determine whether you or others retained by you are lobbyists.
8. **Zero Tolerance Regarding Gifts.** No bidder or proposer shall offer, give, or promise to offer or give, directly or indirectly any money, gift or gratuity to any LAUSD procurement employee or consultant at any time.
9. **Zero Tolerance Regarding Offers Of Employment.** No bidder, proposer, or contractor shall offer, or promise to offer, either directly or indirectly, any future employment or business opportunity to any LAUSD employee or consultant, their immediate family, spouse, significant other or business associates of such persons if such offer of employment is conditioned expressly or implicitly on the awarding of a present or future contract, or preference in the awarding of a contract to anyone at any time by the LAUSD.

10. **Contacts By Staff Prior To The Issuance Of A Solicitation.** While informational and market research contacts with prospective contractors are a valuable source of data to the LAUSD, such contacts can be perceived as improper. All parties shall exercise sound judgment and caution to prevent an actual or implied impression that such contacts will result in preferential treatment of the prospective contractor.
11. **Receipt Of Preliminary Information.** No bidder, proposer or contractor shall request, attempt to request or accept from any LAUSD employee or consultant the dissemination of any information regarding present or future contracts, or expectations of such contracts, unless this information is made available at the same time and in the same form to all other bidders, proposers or contractors.
12. **Receipt Of Protected Information.** No bidder, proposer or contractor shall solicit, obtain or accept, directly or indirectly, from any LAUSD employee or consultant, any information developed during the course of the contracting process relating to the procurement prior to the contract award unless this information is a public record under the Public Records Act.
13. **Influencing Contract Decisions, Negotiations and Protests.**
 - a) Commencing with the issuance of a request for proposal, a request for qualifications or any other document initiating the contracting process, and ending at the time the staff recommendation for award is made public, no contractor or representative of a contractor participating in the contracting process shall contact by any means or engage in any discussion concerning the award of the contract with any Board Member or his or her staff, or any LAUSD employee or consultant. Any such contact may be grounds for the disqualification of the contractor. A recommendation for contract award is made public and contact may be initiated when the contract's board report is published by the Board Secretariat.
 - b) During price negotiations of non-competitive bid contracts, contractors or their representatives shall not contact, lobby or otherwise attempt to influence LAUSD employees or consultants (other than negotiation team members), or Board Members and their staff, relative to any aspect of the contract under negotiation. This provision shall apply from the time of award until the recommendation for execution of the contract is made public. Any concerns relative to any contract under negotiation shall be communicated only to the General Superintendent for resolution.
 - c) No contractor or their representative who submitted a proposal or bid in response to a request for proposal, a request for qualifications or any other document initiating the contracting process shall contact a Board Member or his/her staff regarding a protest submitted regarding the recommended contract award or any lawsuit or potential lawsuit regarding the recommended contract award, or any dispute, lawsuit or potential lawsuit concerning the contract.
14. **Contractor Qualification.** The LAUSD will accept bids and proposals for contracts and procurement of goods or services having a value, to be determined by the LAUSD, only from firms or entities which are complying with the LAUSD contracting and procurement policies and procedures, the *Contractors and Consultants Code of Conduct* and the *Lobbyist Registration Code*.
15. **Disclosure of Former LAUSD Employees.** To prevent former LAUSD employees from using their relationship with the LAUSD, a LAUSD department or current LAUSD employees to improperly influence procurement decision-making, all bidders, proposers and contractors are required to disclose any of their employees, subcontractors or consultants who, within the last three years, have been or are employees of the LAUSD. The disclosure will be in accordance with current LAUSD contracting/procurement guidelines, but will include (at a minimum) the name of the former LAUSD employee, a list of the LAUSD positions the person held in the last three years, and the dates the person held those positions.

LAUSD will not contract with any bidder, proposer or contractor that compensates any former LAUSD employee or consultant to influence any action on a matter pending with LAUSD if that employee, within the last twelve (12) months, held a LAUSD position in which they personally and substantially participated in that matter.

LAUSD will not contract with any bidder, proposer, contractor or sub-contractor that employs a former LAUSD employee or consultant who, while serving in a LAUSD position within the last 2 years, substantially participated in the development of the contract's RFP, requirements, specifications or in any part of the contract's contracting process.

The LAUSD General Superintendent or his/her designee upon a showing of good cause may waive this prohibition in writing with notification to the Board prior to awarding the contract.

16. **Submitting Proposals After Developing Specifications.** No contractor or consultant who participates in the development of a scope of work, solicitation documents, contractual instruments or technical specifications on behalf of the District may participate as a proposer or sub-proposer or perform any work on that particular procurement. The LAUSD General Superintendent or his/her designee upon a showing of good cause may waive this prohibition in writing.
17. **Conflicts Of Interest.** A conflict of interest may exist when an LAUSD Board Member, employee or consultant has a financial interest in or towards a person or entity, which results in a real or apparent advantage to that person or entity. The existence of a financial relationship between a contractor and any LAUSD Board Member, employee or consultant, or a member of that employee's immediate family, who has participated in an LAUSD action or in the making of an LAUSD decision concerning that contractor, constitutes a conflict of interest. A conflict of interest may also exist if the contractor has previously employed, or is currently offering employment to, or considering the employment application of, any LAUSD staff or his or her immediate family.

If the contractor has a financial relationship with any LAUSD Board Member, employee or consultant, the contractor shall disclose this fact in writing to the General Superintendent or his/her designee as soon as this potential conflict of interest is known. The Contractor is under a continuing duty to advise the LAUSD of any conflicts of interest that arise during the term of the contract.

While not all conflicts will cause a contractor to be disqualified, failure to disclose a known conflict may justify disqualification and/or sanctions. **BE SAFE - DISCLOSE.**

The General Superintendent or his/her designee, in consultation with legal counsel, shall determine whether a conflict of interest exists and recommend appropriate action for resolution. If it is determined that an actual or apparent conflict of interest exists, the LAUSD General Superintendent or his/her designee shall notify the contractor in writing of this finding and the action that the LAUSD shall take to resolve this conflict of interest.

18. **Sanctions.** The LAUSD encourages good faith reporting of all suspected violations of this *Code of Conduct*. There shall be no adverse consequences suffered by anyone for making a good faith report of a suspected violation nor shall there be any adverse consequences suffered by anyone accused of violating these standards and subsequently found not to have violated this *Code of Conduct*. The identity of any persons reporting violations of these standards shall be kept confidential to the extent permitted by law.

All suspected violations shall be reported immediately to the Office of the Inspector General or the Ethics Office for investigation. If the Inspector General determines that the allegations have merit, the matter will be referred to the appropriate authorities. The LAUSD may take one or more of the following actions:

- a) Meeting with the contractor to discuss the violation;
- b) Suspending the contract or subcontract involving the offending contractor;
- c) Directing the prime contractor to remove the offending subcontractor from the project;
- d) Rescinding, voiding or terminating the contract; and/or
- e) Any other reasonable sanction deemed appropriate.

The General Superintendent or his/her designee shall state in writing to the contractor his/her findings regarding the violation and, if appropriate, recommend sanctions. The contractor may request an informal hearing with the General Superintendent or his/her designee to explain the contractor's position regarding the alleged violation and/or sanctions prior to the General Superintendent or his/her designee taking action. This request must be made in writing and received by the General Superintendent or his/her designee within ten (10) working days of the recommendation for sanctions. If no request is received within the ten (10) working day period the recommended action shall be taken.

If a timely request for a hearing is received, the informal hearing shall take place within ten (10) days after the General Superintendent or his/her designee receives the request. The contractor may be represented by legal counsel at the contractor's own expense at the hearing. Within ten (10) working days after the informal hearing, the Superintendent or his/her designee shall advise the contractor in writing the outcome of the hearing at which time the decision becomes final.

If the sanctions imposed by the General Superintendent or his/her designee are anything more than a conference with the offending contractor, the offending contractor may:

- a) File an appeal to the Los Angeles Board of Education, which reserves the right to determine whether to hear the appeal. The Los Angeles Board of Education's decision to hear an appeal is within its sole discretion.

b) Request a full hearing before the American Arbitration Association (AAA) pursuant to its rules and regulations. This request must be in writing and directed to the General Superintendent or his/her designee. This request must be received within ten (10) working days after the General Superintendent's decision becomes final.

The contractor shall bear the costs associated with the arbitration. The hearing shall take place in the County of Los Angeles, State of California and shall take place as soon as possible. Any decision rendered by the AAA shall be binding on all parties.

In the case of a procurement in which a contract has not yet been awarded, the LAUSD shall determine whether to terminate the procurement or take other appropriate action.

APPENDIX – DEFINITIONS

For the purposes of the *LAUSD Contractors and Consultants Code of Conduct* and the *Lobbyist Registration Code*, the following definitions shall apply:

“Activity Expense” means any expense incurred, payment made or contribution given, including any gifts, by a lobbyist, lobbying firm, or lobbyist employer, or arranged by a lobbyist, lobbying firm, or lobbyist employer, which benefits in whole or in part any LAUSD official, or a member of the immediate family of an LAUSD official.

“Administrative Testimony” means influencing or attempting to influence LAUSD action undertaken by any person or entity who does not seek to enter into a contract or other arrangement with the LAUSD by acting as counsel in, appearing as a witness in, or providing written submissions, including answers to inquiries, which become a part of the record of any proceeding of the LAUSD which is conducted as an open public hearing for which public notice is given.

“Board Member” includes Members of the LAUSD Board of Education.

“Contribution” means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the request of a candidate, committee, or elected officer is a contribution to the candidate, committee, or elected officer unless full and adequate consideration is received for making the expenditure.

“Contribution” also includes purchasing tickets for events such as dinners, luncheons, rallies, and similar fundraising events; using the candidate's own money or property on behalf of his or her candidacy; granting discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; paying compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

“Contribution” also includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

“Contribution” does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

“Contribution” does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

“Contribution” does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

“Consultant” means an individual, contractor, subcontractor, advisor or expert whom, pursuant to a contract with the LAUSD makes or participates in the making of an LAUSD decision or participates in taking an LAUSD action.

“Contractor” means any construction company, engineering firm, consultant, legal firm, or any company, supplier, or business entity who is presently engaging in or plans to engage in any business with the LAUSD or any owner or employee of such entities and all entities who have submitted a bid or proposal for an LAUSD contract. “Contractor” shall also include “consultant” as defined in this code of conduct.

“Contracting Process” means that process that begins with a request for proposal, a request for qualifications or any other document initiating a contract, and ends with the public recommendation by District staff for execution of the contract.

“Designated Authority or LAUSD Official” means any officer, employee, member, or consultant of the LAUSD whose position with the LAUSD involves the making or participation in the making of decisions which may have a reasonably foreseeable material effect on any financial interest. Such employees are designated in the LAUSD’s Conflict of Interest Code.

“Direct communication” means appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquiries from, any LAUSD official or employee, either personally or through an agent who acts under one’s direct supervision, control or direction.

“District or LAUSD” means the Los Angeles Unified School District.

“Ethics Officer” means the individual employed as “ethics officer” by the LAUSD with whom statements and reports required by this Code shall be filed.

“Financial Interest” means, with regard to a Board Member, LAUSD employee or consultant, or a member of his or her immediate family, a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, or on:

- a) Any business entity or real property in which the Board Member, LAUSD employee or consultant has a direct or indirect investment worth one thousand dollars (\$1,000) or more; or
- b) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the general public without regard to official status aggregating three hundred dollars (\$300) or more, provided to, received by, or promised to the Board Member, LAUSD employee or consultant within twelve (12) months prior to the time the decision is made; or
- c) Any business entity in which the Board Member, LAUSD employee or consultant is a director, officer, partner, trustee, or holds any management position; or
- d) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating one hundred dollars (\$100) or more in value provided to, received by, or promised to a Board Member, LAUSD employee or consultant within twelve (12) months prior to the time when the decision is made; or employee knows or has reason to know that a party to the contract is a person with whom the Board Member, LAUSD employee or consultant, or any member of his or her immediate family, has engaged in any business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property, or the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more within twelve (12) months prior to the time the official action is to be performed.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

“Gift” means:

- a) except as provided in subdivision (b), any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason or receipt of consideration has the burden of proving that the consideration received, is of equal or greater value.

b) The term "gift" **does not include**:

- (1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."
- (2) Gifts that are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes.
- (3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or significant other; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (4) Campaign contributions required to be reported under Chapter 4 of the Political Reform Act.
- (5) Any devise or inheritance from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or significant other; provided that a device or inheritance from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

"Immediate Family" means the spouse and dependent children.

"LAUSD Action" means the drafting, introduction, consideration, modification, enactment, or defeat of a policy, resolution, contract, report or decision by the governing board of an organizational unit of the LAUSD, or by an LAUSD official, including any action taken, or required to be taken, by a vote of the members of the LAUSD or by the members of the governing board of an organizational unit of the LAUSD.

"LAUSD Employee" means any individual who receives compensation from the LAUSD for full or part-time employment.

"Lobbying Activities" includes the following and similar compensated conduct, other than administrative testimony, when that conduct is related to a direct communication to influence any LAUSD action:

- (1) engaging in, either personally or through an agent, written or oral direct communication with a LAUSD official or their staff;
- (2) drafting rules, policies or resolutions;
- (3) providing advice or recommending strategy to a client or others;
- (4) research, investigation and information gathering;
- (5) seeking to influence the position of a third party on an LAUSD action or an issue related to an LAUSD action by any means, including but not limited to engaging in community, public or press relations activities; and
- (6) attending or monitoring district board meetings, hearings or other events.

"Lobbying Firm" means any entity, including an individual lobbyist, which receives or becomes entitled to receive \$4,000 or more in monetary or in-kind compensation for engaging in lobbying activities (either personally or through its agents) during a calendar quarter, for the purpose of attempting to influence LAUSD actions on behalf of any other person, provided any partner, owner, shareholder, officer or employee of the entity qualifies as a lobbyist. Compensation does not include reimbursement of or payment for reasonable travel expenses. An entity receives compensation within the meaning of this definition whether or not the compensation is received solely for activities regulated by this code or is received for other activities as well; however, only that portion of compensation received for the lobbying activities shall count toward the qualification threshold. An entity "becomes entitled to receive

compensation" when the entity agrees to provide services regulated by this code, or performs those services, whether or not payment is contingent on the accomplishment of the client's purposes.

"Lobbyist" means any individual who receives or becomes entitled to receive at least \$4,000 in monetary or in-kind compensation for engaging in lobbying activities that include at least one direct communication with a board member, the superintendent, or any other LAUSD official, or any member of their staffs, conducted either personally or through agents, for the purpose of attempting to influence LAUSD action on behalf of any other person, during any calendar quarter.

Compensation does not include reimbursement of or payment for reasonable travel expenses. A person receives compensation within the meaning of this definition whether or not the compensation is received solely for activities regulated by this code or is received for both lobbying activities and other activities as well. However, only the compensation for the lobbying activities shall be calculated to determine whether an individual qualifies as a lobbyist. An individual "becomes entitled to receive compensation" when the individual or the entity in which the individual is an employee, partner, owner, shareholder or officer, agrees to provide services regulated by this code, or performs those services, regardless of whether payment is contingent on the accomplishment of the client's purposes.

A lobbyist includes a person who owns an investment in a business entity if that person attempts to influence LAUSD action on behalf of the business entity and if the person acquires the investment as compensation for his or her lobbying services or in contemplation of performing those services.

"Lobbyist Employer" means any person or entity, other than a lobbying firm, that employs one or more lobbyists for the purpose of influencing LAUSD action.

"Official Responsibility" means the direct administrative or operating duties for the LAUSD, whether intermediate or final, and whether exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct LAUSD action.

"Participation In The Making Of An LAUSD Decision" in accordance with California Code of Regulations, sections 18702.1 through 18702.4, means a Board Member, LAUSD employee or consultant who:

a) acting within his or her LAUSD position:

- (1) Votes or engages in discussion on a matter;
- (2) Appoints a person;
- (3) Obligates or commits his or her agency to any course of action;
- (4) Enters into any contractual agreement on behalf of the LAUSD;
- (5) Determines not to act, within the meaning of subparagraphs (1), (2), (3), or (4), unless such determination is made because of his or her financial interest. When the determination not to act occurs because of his or her financial interest, the official's determination must be accompanied by disclosure of the financial interest, made part of the LAUSD's official record or made in writing to the official's supervisor, appointing power or any other person specified in a conflict of interest code adopted pursuant to Government Code §87300.

b) A public official as defined hereafter or designated employee "participates in the making of an LAUSD decision" when, acting within his or her LAUSD position, he or she:

- (1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
- (2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:
 - (A) Conducting research or conducting any investigation which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision; or
 - (B) Preparing or presenting any report, analysis or opinion, orally, or in writing, which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision.

- c) Making or participating in the making of an LAUSD decision shall not include:
- (1) Actions of public officials which are solely ministerial, secretarial, manual or clerical;
 - (2) Appearance by a public official as a member of the general public before a governmental agency in the course of prescribed governmental function to represent himself or herself on matters related solely to his or her personal interests; or
 - (3) Actions by public officials, employees, or employee representatives relating to their compensation or the terms or conditions of their employment or contract.

“Person” means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

“Public Official” means every member, officer, employee or consultant of a state or local government agency, but does not include judges and court commissioners in the judicial branch of government. “Public official” also does not include members of the Board of Governors and designated employees of the State Bar of California, members of the Judicial Council, and members of the Commission on Judicial Performance, provided that they are subject to the provision of Article 2.5 (commencing with §6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in §6038 of that article.

“Significant Other” means an individual with whom a Board Member or LAUSD employee participates in a dating relationship.

Benefits Summary from Contracting Integrity Policy Enhancements

Dimension	Existing Policy & Program (2002 Contractors Code)	Revised Policy & Program (2006 Contractor Code)	Benefits
EXECUTIVE SUMMARY			
Synopsis	<p>Weaknesses:</p> <ul style="list-style-type: none"> ▪ Limited context provided to Contractors on the importance of business integrity, especially with respect to the public sector ▪ Isolated focus on the contracting process only ▪ Portions of Code considered difficult to understand by various stakeholders ▪ Portions of Code outdated due to policy changes and updates ▪ Enforcement options considered to be at extremes 	<p>Enhancements:</p> <ul style="list-style-type: none"> ▪ Reference to other federal, state, local laws and key LAUSD policies that promote a stronger business and ethics environment ▪ Improved clarity and readability with examples, diagrams and clearer writing ▪ Proactive disclosure and conflict management ▪ Training built into the Code ▪ Broader range of progressive enforcement options 	<p>LAUSD's enhanced Contracting Integrity Policy and Program integrates best practices from leading public agencies and private organizations to promote better ethical conduct and more responsible use of limited resources by:</p> <ul style="list-style-type: none"> ➤ Clarifying the standards and requirements contractors must abide by ➤ Holding contractors accountable and responsible for any misconduct ➤ Supporting contractors with better training options
INTEGRITY BASELINE			
Standards	<p>Primary focus on procurement integrity:</p> <ul style="list-style-type: none"> • Provisions mostly centered on requirements of competitive contracting process 	<p>Wider incorporation of other local, state and federal laws and standards promoting responsible business and ethics practices, including:</p> <ul style="list-style-type: none"> ▪ Equal Employment Opportunity standards ▪ Health and Safety standards ▪ Drug Free Environment standards ▪ Harassment-Free Environment standards ▪ LAUSD Sweat-Free Policy ▪ Updated Lobbying Disclosure Code ▪ California False Claims Act ▪ Conflict of Interest Provisions from California's Political Reform Act and Government Code Section 1090 <p>Highlight on critical ethical responsibilities:</p> <ul style="list-style-type: none"> ▪ Effective use of scarce public tax dollars (past performance, financial solvency, ability to provide services that support LAUSD's mission of "educating students", etc.) ▪ Truthful communications ▪ Confidentiality requirements ▪ Protection of LAUSD's assets (including physical resources, time, logo, marks and other intellectual property) 	<ul style="list-style-type: none"> ➤ Leveraging the Federal Sentencing Guidelines, Sarbanes Oxley, and other federal, state and local laws and standards promotes a better overall business ethics environment ➤ Broadening responsibility considerations enables LAUSD to find the most reliable contractors

Transparency	Attention on Lobbying Policy	Additional incorporation of existing state-mandated financial disclosure (Statement of Economic Interests) requirements for consultants meeting definitions under Political Reform Act.	➤ Better compliance with state law ensures better state audit results for LAUSD
EDUCATION SUPPORT			
Available Resources	Limited support: <ul style="list-style-type: none"> ▪ Code with communication shortcomings • Pre-proposal conference overview 	Robust toolkit of resources: <ul style="list-style-type: none"> ▪ More readable Code with examples and diagrams ▪ Near implementation: Awareness brochure, online training video, online training quiz, outreach letter, press summary, contractor ethics guide, contractor ethics workshop 	➤ Multiple education tools developed in different media will ensure better communication and thus more effective implementation of the policy
ISSUE RESOLUTION			
Conflicts of Interest	Focus on what constitutes conflict and the need for a level of disclosure	Added emphasis on proactive disclosure, operational aspects of disclosing and managing potential conflicts, and legal consequences: <ul style="list-style-type: none"> ▪ “Meaningful Conflict Disclosure” that provides disclosure of potential conflicts <i>in writing</i> to contract sponsor, Ethics Office and the Procurement Services Group of Facilities Contracts Branch ▪ Revamped ethics certification to better identify potential conflicts on an ongoing basis ▪ Articulation of penalties for 1090 violations 	<ul style="list-style-type: none"> ➤ Operational focus on conflict disclosure will enable more effective conflict management and resolution ➤ Incorporation of other criminal penalties underscores the importance of conflict management and helps contractors understand that they have a strong self interest in avoiding conflicts
Other Issues	NA	Emphasis on proactive resolution of issues	➤ Identification of specific resolution channels could prevent expensive formal disputes.
REVOLVING DOOR COOLING PERIOD REQUIREMENTS			
Lobbying Restriction	Indirect reference by way of Lobbying Code “No former LAUSD official shall become a lobbyist for a period of one year after leaving the LAUSD.” (from 2002 Lobbyist Registration Code)	Specific integration “LAUSD will not contract with any entity that compensates a former LAUSD official who lobbies LAUSD before a one (1) year period has elapsed from that official’s last date of employment.”	➤ Incorporation of Lobbying policy requirements into Contractors Code eases a contractor’s ability to learn about and comply with LAUSD’s lobbying cooling period provision

<p>Insider Advantage Restriction</p>	<p>Complicated wording:</p> <p>“LAUSD will not contract with any bidder, proposer or contractor that compensates any former LAUSD employee or consultant to influence any action on a matter pending with LAUSD if that employee, within the last twelve months, held a LAUSD position in which they personally and substantially participated in that matter.”</p>	<p>Simplified phrasing :</p> <p>“LAUSD will not contract with any entity that compensates any current or former LAUSD official to work on a matter with LAUSD, if that official, within the preceding 12 months, held a LAUSD position in which they personally and substantially participated in that matter”.</p> <p>Addition of visual schematic, example, and public integrity context</p>	<p>➤ Clarified writing and illustration of this provision will enable better compliance.</p>
<p>Contracting Benefit Restriction</p>	<p>Burdened with operational challenges</p> <p>“LAUSD will not contract with any bidder, proposer, contractor or sub-contractor that employs a former LAUSD employee or consultant who, while serving in a LAUSD position within the last 2 years, substantially participated in the development of the contract’s RFP, requirements, specifications or in any part of the contract’s contracting process.”</p>	<p>Improved feasibility</p> <p>“LAUSD will not contract with any entity that employs any current or former LAUSD official who within the preceding two (2) years, substantially participated in the development of the contract’s RFP requirements, specifications, or any part of the contract’s procurement process, if the official will perform any services for the Contractor relating to LAUSD on that contract.”</p> <p>Addition of visual schematic, example, and public integrity context</p> <p>Elimination of waiver provision</p>	<p>➤ Making provision operational prevents Code from being undermined by non-compliance</p> <p>➤ Elimination of waiver mitigates for potential perception of loosened standard</p>
<p>Industry to Government Restriction</p>	<p>No mention of requirements of the Political Reform Act</p>	<p>Explicit incorporation of state law</p> <p>“In accordance with California law, Contractors and/or their Representatives who act in the capacity of LAUSD officials shall be disqualified from making any governmental decisions relating to a personal financial interest until a 12-month period has elapsed from the time the interest has been disposed or severed.”</p>	<p>➤ Incorporation of existing law into Contractors Code creates better awareness and improved compliance</p>

CORRECTIVE ACTIONS			
Enforcement Provisions	Core options: <ol style="list-style-type: none"> 1) Meeting with the contractor to discuss the violation; 2) Suspending the contract or subcontract involving the offending contractor; 3) Directing the prime contractor to remove the offending subcontractor from the project; 4) Rescinding, voiding or terminating the contract; and/or 5) Any other reasonable sanction deemed appropriate. 	Expanded progressive options: <ol style="list-style-type: none"> 1) Removal of offending Contractor or subcontractor; 2) Implementation of corrective action plan approved by LAUSD; 3) Submission of training plan for preventing future violations of the Code; 4) Probation for 1-3 years; 5) Rescission, voidance or termination of a contract; 6) Suspension from all LAUSD contracting for a period of time; 7) Prohibition from all LAUSD lobbying activities; 8) Compliance with deferred debarment agreement; 9) Debarment from all LAUSD procurement or contracting; or 10) Other sanctions available by law that are deemed reasonable and appropriate. 	 Wider range of enforcement options provides stakeholders with more incentives and LAUSD with more flexibility to take corrective actions