

EARLY ISD
Child Nutrition Food Services Department

Code of Conduct

2021-2022 School Year

This Code of Conduct has been created to establish and maintain effective oversight over the EARLY ISD Food Services Department's financial management system that provides reasonable assurance that the EARLY ISD Food Services Department is managing the program in compliance with all federal, state, and local regulations and terms and conditions of the program award and;

To establish and maintain effective oversight over those definitive actions related to the procurement process, establish standards of ethical conduct for procurement actions, and provide full and open competition in all procurement actions.

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EARLY, TX.76802

(325-643-2339)

EARLY ISD – Child Nutrition Food Service Department
Code of Conduct

As representatives of the EARLY ISD Food Services Department, all employees are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity and the use of good judgment. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the EARLY ISD.

The following Code of conduct shall govern the performance, behavior and actions of the EARLY ISD Food Services Department, including employees, directors, officials, or agents who are engaged in any aspect of procurement, including – but not limited to – purchasing goods and services; awarding contracts; or the administration and supervision of contracts.

Code of Conduct

- No employee, directors or agent of the EARLY ISD Food Services Department shall participate in the selection, award or administration of a bid or contract supported by federal funds if a conflict of interest is real or apparent to a reasonable person.

- Conflicts of interest may arise when any employee, directors or agent of the EARLY ISD Food Services Department has a financial, family or any other beneficial interest in the vendor selected or considered for an award.

- No employee, directors or agent of the EARLY ISD Food Services Department shall award contracts to, or show favoritism toward a member of his/her immediate family, spouse's family or to any company, vendor or concern who either employs or has any relationship to a family member; or award a contract or bid which violates the spirit or intent of Federal, State and local procurement laws and policies established to maximize free and open competition among qualified vendors. Those circumstances where interests, financial or otherwise, are not substantial or are within the limits of applicable Federal, State and local laws and the policies and procedures of the EARLY ISD, the Superintendent's Cabinet shall determine whether the conflict is material under the circumstances.

- The EARLY ISD Food Services Department employees, directors, and agents will not solicit gifts, including but not limited to travel packages or other incentives, and/or donations from prospective contactors. However, incentive language may be included as part of the competitive procurement (formal bid and request for proposal) solicitation language to acquire the most favorable terms for the operation and benefit of the non-profit food service account. Such incentives include but are not limited to volume rebates, timely payment discounts, program promotion assistance, upfront savings, etc...

Incentives, Gratuities, or Kickbacks

In accordance with the State of Texas Department of Agriculture (TDA) "Administrative Review Manual" (ARM) Section 16, 16.18, EARLY ISD Food Services Department employees; officials; agents acting on the EARLY ISD Food Services Department behalf; any member of the immediate family of the EARLY ISD

Food Services Department employee, officer, or agent acting on the EARLY ISD Food Services Department behalf; or business partner of the employee, officer, or agent acting on EARLY ISD Food Services Department behalf cannot accept anything of value from a vendor. Incentive, gratuities, or kickbacks include, but are not limited to, personal gifts or gratuities that may be construed to have been given to influence the purchasing process.

Although such practices may be accepted in the private sector, giving and receiving gifts in the public sector may constitute a violation of law. Gift to a Public Servant is a Class A misdemeanor offense if the recipient is a government employee who exercises some influence in the purchasing process of the governmental body.

An EARLY ISD Food Services Department employee or former employee must not knowingly use confidential SNP information for the actual or anticipated personal benefit or benefit for any person or entity.

EARLY ISD will apply disciplinary actions for violations of above stated standards by EARLY ISD Food Services Department employees, officers, or agents acting on the EARLY ISD Food Services Department behalf.

EARLY ISD Food Services Department will provide guidance to each employee, officer, or agent acting on the EARLY ISD Food Services Department's behalf at the time of hire on how to avoid undue influence. EARLY ISD Food Services Department will offer training and provide all employees, officers, and agents acting on behalf of EARLY ISD Food Services Department a copy of EARLY ISD's Employee Manual that addresses professional and ethical standards.

EARLY ISD Food Services Department requires any employee, officer, or agent acting on behalf of EARLY ISD Food Services Department to disclose in writing any possible situations where there is an appearance of incentives, gratuities, or kickbacks being received.

EARLY ISD will consult with their attorney or legal counsel if there is a question about whether a specific situation is a conflict of interest.

Benefits Received

EARLY ISD Food Services Department employees; officials; agents acting on the EARLY ISD Food Services Department behalf; any member of the immediate family of the EARLY ISD Food Services Department employee, officer, or agent acting on the EARLY ISD Food Services Department's behalf; or business partner of the EARLY ISD Food Services Department employee, officer, or agent acting on EARLY ISD Food Services Department's behalf must not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

When incentives are offered by the contractor and accepted by an individual, the incentive must become the property of EARLY ISD Food Services Department. Under no condition can the incentive become the property of an individual. The

EARLY ISD Food Services Department use the following written procedures on how it will avoid unallowable practices based on benefits received:

1. School district officials and employees cannot accept anything of value (\$25 or more) from a vendor, such as personal gifts or gratuities, which may be construed to have been given to influence the purchasing process. This includes, but is not limited to meals, trips, tickets for entertainment, or gifts of any value. This is a violation of the law. If you have to ask yourself if this is acceptable, then you probably need to refuse the “gift”.
2. Etc...

Certification Regarding Lobbying

Lobbying certification requirements are applicable to grants, sub-grants, cooperative agreements, and contracts exceeding \$100,000 in federal funds.

EARLY ISD Food Services Department uses the following procedures

1. **Documentation:** EARLY ISD Food Services Department will take actions to ensure that the proper documentation is prepared, shared as required, and retained.
2. **Use of Funds:** EARLY ISD Food Services Department requires that federal funds must not be paid by or behalf of the EARLY ISD Food Services Department to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

Debarment and Suspension

EARLY ISD and their subcontractors must not make or permit any award, sub-award, sub-grant, or contract with an individual or entity that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs, per the TDA Administrative Review Manual (ARM), Section 16.20.

- EARLY ISD Food Services Management Department will Include the following debarment and suspension certification in every written agreement with subcontractors:
“{name of subcontracting organization } certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency or by the State of Texas. { name of subcontracting organization } shall immediately provide written notice to EARLY ISD Food Services Management Department if at any time the {name of subcontracting organization} learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. EARLY ISD may rely upon a certification of a subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the

covered contract, unless it knows that the certification is erroneous.

- EARLY ISD Food Service Management Department will require the subcontractor to sign and submit the TDA form entitled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts (H2048)12” and maintain the signed form with its contract record.
- EARLY ISD Food Service Management Department will print the page from the System for Award Management (SAM) which indicates the subcontractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and will maintain that document on file with the contract documents. The System for Award Management can be accessed at www.sam.gov/portal/SAM/#1

Staff Purchase of Items on Awarded Contracts

EARLY ISD Food Service Management Department does not allow any employee, officer or agent acting on behalf of EARLY ISD Food Service Management Department to take advantage of EARLY ISD Food Service Management Department’s procurement by purchasing off an awarded contract.

Per the ARM, Section 16.22, Confidentiality and Program Integrity, this type of activity as actually accepting the cash difference between the bid or discount price and the amount the individual would have paid for the item in the regular retail market. This is a financial incentive. When an individual pays for the purchase, the payment does not remove the financial incentive. Even if the contractor were to charge retail price, the individual would still be receiving the convenience of a personal delivery and would be accepting a favor from the contractor—therefore, this is an unallowable practice.

Contracting with Persons and Companies for Assistance in Developing a Solicitation

Per the ARM, Section 16.22, Confidentiality and Program Integrity, when acquiring goods and services, contracting entities (CEs) may contract with agents or companies that provide technical information in drafting procurement specifications and/or technical requirements. This provision is intended to encourage program administrators to obtain information from as many sources as possible to assist them in drafting procurement documents.

- **Potential Offerors or Interested Parties Involved in Developing a Solicitation**
EARLY ISD Food Service Management Department will not accept a contractor or other interested party’s offer if the contractor or other interested party assisted with or drafted the procurement specifications and/or technical requirements, procedures, or documents.

Food Taken From Schools

EARLY ISD Food Service Management Department does not allow any employee, officer, or agent acting on behalf of the EARLY ISD Food Service Management Department to take food or leftover food

(including milk) from the premises for personal use, personal gain, or benefit to another person or entity.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, SW

Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

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