



OFFICE OF THE CHIEF PROCUREMENT OFFICER
ONE WEST STREET, 1ST FLOOR
MINEOLA, NEW YORK, 11501

MEMORANDUM

To: All Department Heads and DCCOs

From: Robert Cleary,  Chief Procurement Officer

C: John Chiara, Deputy County Executive For Compliance

Re: Policy Regarding Selection Committee Certifications

Date: October 28, 2019

I. INTRODUCTION

Appendix V of the Countywide Procurement & Compliance Policy includes selection committee member certification documents that are to be signed by all committee members prior to receiving proposals. These certifications are essential to ensure that all participants conduct themselves ethically and confidentially in all regards with respect to the procurement, and to ensure that no conflict of interest exists between the selection committee member and the potential or actual proposers. This memorandum expands the scope of this requirement to include consultants and other non-County individuals with access to confidential solicitation information during the vendor selection and vetting process to ensure that no conflict of interest exists.

II. CURRENT POLICY

Current policy requires that all voting and nonvoting selection committee members including technical and price advisors must sign all required certifications included in the policy. Membership of the committee is defined broadly to include any individual attending selection committee meetings and also any individual that receives confidential information regarding the solicitation as part of the proposal evaluation process. Under current policy, committee members and advisors that are not County employees also must execute the three forms in the policy.

III. EXPANDED REQUIREMENT

In addition to requiring all selection committee members and technical and price advisors that are County employees to execute the required certifications, the requirement is revised to require all consultants and other non-County individuals that will be given access to bids, proposals or related information during the vendor selection process for any purpose, including but not limited to assessment of a vendor's capacity or fitness for consideration, the revised forms attached herewith. The requirement to execute these revised forms applies to any vendor consulted in the review of offers regardless of whether that review is conducted as part of a selection committee process, and includes but is not limited to review of construction and other types of bids. The purpose of the revised forms for non-County employees is to ensure that neither the individual nor his or her firm has any conflict of interest related to a solicitation.

This policy is effective immediately. Please feel free to contact me should you have any further questions in this regard.



COMPETITIVE PROPOSAL SOLICITATION RULES AND CODE OF ETHICS FOR CONSULTANTS

Selection Committee members and consultants reviewing vendor offers and/or qualifications on behalf of Nassau County shall agree to abide by and conduct themselves in accordance with the Nassau County Charter, Executive Orders and the County's Procurement and Compliance Policy rules on ethics, conflicts of interest and proper conduct when evaluating proposals received for County contracts which are summarized below.

By signing below, you agree to and acknowledge your responsibilities as a consultant providing services to the County for the selection of a vendor for:

1. **Codes of Ethics** - The highest ideals of integrity are required when evaluating proposals. You are to treat your evaluation of all vendors fairly and equally.
2. **Independent Decision Making** - You agree not to collude with other selection committee members, vendors, or decision-makers for the purpose of steering this contract to a particular vendor. You may not use any unethical persuasion tactics, or allow yourself to be persuaded unethically. You are to act independently as an authorized representative of Nassau County.
3. **Evaluation** - Evaluating proposals may involve a multi-step process that requires individually rating proposals and discussing amongst the committee in several different steps.
4. **Commitment** - You must be prepared and attend all meetings concerning this Solicitation as necessary.
5. **Respondents** - Direct contact with potential or actual vendors concerning this Solicitation is not permitted unless within the context of the solicitation procedures (oral interviews, etc.). You may not provide any direct information to vendors concerning the selection process or any other matter concerning the solicitation review process.
6. **Justification** - You will be required to justify your decision in writing.
7. **Confidentiality** - You agree to keep the bids or proposals and the subsequent evaluation process and any information that you obtain from the bids or proposals and the subsequent evaluation process strictly confidential.

If you cannot agree to the County's rules, laws, and procedures, or if you believe you have a conflict of interest, you must inform the authorized Department Contact Person immediately. You will be excused from the evaluation process.

ACKNOWLEDGMENT BY THE CONSULTANT

<i>Name</i>	<i>Signature</i>	<i>Department</i>	<i>Tel. No.</i>	<i>Date</i>



**CERTIFICATION OF CONSULTANTS PARTICIPATING IN THE SELECTION,
NEGOTIATION OR AWARD OF CONTRACTS**

This certification applies to County consultants or agents who participate on behalf of the County in the selection, negotiation or award of a contract.

This certification is to be completed by members of the Selection Committee, technical advisors, cost/price analysis participants, financial data reviewers, and any other personnel who may be assigned to assist in the procurement process.

1. I, the undersigned, a participant in the procurement process for the solicitation for _____, certify that I will not discuss or reveal any information concerning these selection proceedings to anyone who is not also participating in the same selection, and then only to the extent that such information is required in connection with such proceedings on a need-to-know basis or as officially authorized communication to all vendors necessary for the conduct of the solicitation. This limitation is effective for the entire period of this selection process.

2. I further agree that if at any time I discover that I have either a real or an apparent interest in, or connection with, a company or individual submitting a proposal for evaluation for this solicitation, I shall promptly report, in writing to the authorized point of contact for the solicitation, the fact of my interest or connection, and the nature of it, to the Department Chief Contracting Officer through the individual who has appointed me to these proceedings. I recognize that a reportable interest or connection includes but is not limited to the following:
 - a. Ownership of a company's securities by myself, a member of my immediate family, or my firm;

 - b. Past employment, by myself, with either the prime consultant, contractor or vendor or with a proposed sub consultant, subcontractor or supplier;

- c. Present employment by a member of my immediate family with either the prime consultant, contractor or vendor or with a proposed subconsultant, subcontractor or supplier; and
 - d. Any other interest or connection between myself and/or my firm with a company or individual which might tend to subject the County to criticism on the basis that such interest or connection would impair my objectivity in participating in the selection process for this solicitation.
3. To ensure that evaluation committee members with prior experience working directly for any vendor that currently does business with the County are sufficiently separated from the prior employer and have no conflict of interest, the following guidelines are to be followed:
 - Evaluation committee members must not have worked directly within the year preceding the publication of any solicitation for any firm that may participate in the solicitation for professional services, including but not limited to engineering, architectural, surveying, accounting, legal, medical, computer programming, consulting, or other such services.
 - Evaluation committee members that were previously employed at a firm responding to the solicitation to be evaluated must not have any form of deferred compensation due from that firm or any ownership interest in that firm. This prohibition excludes interests in any retirement account, 401K, or similarly intended savings account established and funded during the evaluation committee member's former employment with the proposing firm.
 - Evaluation committee members that previously worked directly for a firm that may participate in the solicitation may not have any spouse, parent, child or domestic partner employed as a director, officer, executive, or agent by the former employer.
 - Evaluation committee members that previously worked directly for a firm that is likely to or does participate in a solicitation to be evaluated must not have any other apparent or potential conflict of interest related to the former employer. For example, there could be certain situations where an evaluation committee member has a non-immediate family member who works for or has an ownership interest in a proposing firm which might create an appearance of a conflict. If an evaluation committee member is uncertain if he or she has such a potential conflict of interest, he or she should seek the guidance of the Chief Procurement Officer who will make a prompt determination.

4. In addition, I fully realize that any violations of County rules and regulations or applicable statutory provisions may subject me to discipline and/or expose me to civil or criminal penalties.

Participant's Signature

Date

Participant's Name (Print)

Title

Firm



Conflict of Interest Affirmation For Consultants

By signing below, I am certifying that I have reviewed the list of Proposers for the

and neither I nor my firm knowingly has a conflict of interest regarding my serving in this vendor selection process.

Name (print)

Firm

Signature

Date



Conflict of Interest Affirmation for Principal of Consultant Firm

For the purpose of completing this form, “firm” is defined as any consultant or other non-County entity which is assigned to review one or more vendors and/or their offers related to the solicitation indicated below. In this context, the firm includes in addition to the entity itself, any wholly controlling entity or individual, and any combination of partially controlling entities and/or individuals holding more than 50% ownership of the submitting firm. This form must be certified by a principal of the firm.

By signing below, I _____, am certifying that I have reviewed the list of bidders/proposers for the

and the below-named firm (my firm) does not to my knowledge have a conflict of interest regarding any of the bidders/proposers, nor do I or any employee of my firm serving in this vendor evaluation process have a conflict of interest. I further certify that, except as indicated below:

1. This firm has no financial interest in, connection to, or relationship with any bidder or proposer.
2. This firm has no projects planned or in progress with any bidder or proposer.
3. This firm has not performed work with any bidder or proposer in the prior 12 months.
4. No employee of the firm that has any interest in, connection to, or relationship with any bidder or proposer for the above-named solicitation shall be assigned to perform work related to the solicitation.

Any exception to the above statements must be stated below:

Name (print)

Title

Firm

Signature

Date