

Communication and Integrity Policy

Background

The City of San Leandro Municipal Code Section 3-6-300 et seq., empowers the City Council to, at its sole discretion and upon such terms as it may prescribe, award an exclusive franchise or contract to any qualified person to provide collection of solid waste, recyclables, and green waste for commercial and industrial establishments and residential properties in the City. Such franchise or contract may include collection, processing, and/or disposal of solid waste, recyclables, and organics as defined in Chapter No. 2021-001 of the Alameda County Waste Management Authority, titled “Organics Reduction and Recycling Ordinance,” and adopted in Chapter 3-24 of the San Leandro Municipal Code.

Purpose

The City of San Leandro (“City”) is engaged in developing and conducting a procurement process for solid waste, recyclables, and organics services (“the process”). As such, the City has an obligation to the public to ensure transparency and fairness at all stages of the process from initial City staff discussions with Council through award of a new (or renewed) solid waste collection, processing, and/or disposal contract(s). In such situations, it is common practice for public entities to adopt a policy such as the one defined herein. The intent of this policy is to create an impartial climate throughout the process; to describe the characteristics of appropriate communications between the City and prospective contractor(s) during the process; and to ensure that the terms of any contract(s) that City may approve (if any) are the most favorable to the City and its residents.

This policy applies to “the City team” (City staff and City’s agents including consultants), prospective contractor(s), and all elected and appointed City officials.

Code for Communication

The prospective contractor(s) shall be required to sign a statement agreeing to the following:

- Direct all questions and communications regarding the process to the designated member(s) of the City team; and
- Refrain from distributing materials door-to-door or by mail; or using newspaper, radio, television, internet, public space advertisements, or social media to influence public views regarding contract negotiations; and
- Refrain from meeting individually with the Mayor or any individual Councilmember throughout the negotiations.

Nothing precludes prospective contractors from conducting or distributing informational outreach to their customers regarding current program and service offerings.

These provisions apply to all parties or individuals engaged to develop or support a proposal for the contractor(s) including employees, agents, consultants, or lobbyists, whether such persons are paid or volunteer.

The Mayor and Council members shall:

- Notify the City Manager of any potential conflicts of interest;
- Include another Councilmember and a designated member of the City team in any non-public meetings between the prospective contractor(s) and Councilmembers and should listen to but not make commitments to proposers in such meetings; and
- In accordance with Section IV of the City Council Handbook (rev. 2022), report ex parte communications. Ex parte communications are communications outside of a public meeting with an appellant or an applicant seeking a contract or entitlement from the City. Such communications are not encouraged when the communication is designed to influence the official decision or conduct of the official in order to obtain a favorable decision or treatment to advance personal or private interests. Councilmembers who have ex parte communications with a party that appears before them at a meeting should disclose that he/she had ex parte communication with the party. Any written ex parte communication received by an official in matters where all interested parties should have an equal opportunity for a hearing shall be made a part of the record by the recipient.

The City team shall:

- Direct all communications concerning the process through the City team. The policy is limited to only those conversations that relate in any way to the process. It is not intended to apply to casual or social communications or other communications unrelated to the process.

Questions or comments regarding the process, or other inquiries from prospective contractors shall be made to a designated member of the City team in writing. City procurement documents may provide additional detail regarding City communications to and from prospective contractors during the process.

The process shall terminate when the City team reports to City Council regarding the award of a contract(s) and the corresponding staff report is officially released. If Council intent is to award multiple contracts, the process shall continue until all awards are completed.

Allegations of Violations

Prior to the award of any contract, any allegations of a violation of this policy may be reported to the:

1. City Manager, or their designee, regarding any City staff or City agent. The City Manager may investigate the alleged violation in consultation with the City Attorney and shall document the resulting determination, including the making of findings.

2. The City Council may investigate any alleged violation in consultation with the City Attorney regarding any elected or appointed official and shall document the resulting determination, including the making of findings.

Any evidence that indicates a prospective contractor, including its employees, agents, consultants, lobbyists or other parties or individuals engaged in any aspect of the process, has failed to adhere to any section of this Communication Policy may result in the City disqualifying the respondent from the process at the City's sole discretion.

Nothing in this policy is intended to prohibit anyone from communication with the City Manager, City Attorney, the Mayor, or any other councilmember about any alleged violation of this policy.

Sanctions

Any prospective contractor who does not comply with this policy will be disqualified and cannot be awarded a contract.

Any staff person who does not comply with this policy may be subject to discipline, up to and including termination.

Any agent of the City who does not comply with this policy may be subject to the termination of their agreement with the City.

Any elected or appointed official who does not comply with this policy may be sanctioned.