Principles and Standards for Ethical Procurement

ITS has adopted the following overriding principles and standards to guide individual and group decisions and actions related to technology procurements. These principles and standards are established to (1) encourage adherence to uncompromising ethical behavior, (2) increase awareness and acceptance of ethical conduct, and (3) emphasize the role of ethics when formulating decisions.

These standards are guidelines for everyone involved in technology procurements, whether they represent ITS, an ITS customer, or a technology vendor.

These principles and standards, along with the attached Code of Ethics and Code of Conduct, should be applied with good judgment, management support, and personal conscience when making decisions concerning actions that affect or influence public procurement.

Principles and Standards:

1. Perceived Impropriety: Prevent the intent and appearance of unethical or compromising conduct in relationships, actions, and communications. Interactions among ITS, customers, and vendors must be honest and fair-minded. Avoid actions that appear to, or actually, diminish ethical conduct. Consequences of a perceived impropriety can be the same as consequences of an actual impropriety.

2. Conflicts of Interest: Ensure that any personal, business, or other activity does not conflict with the interests of the State or your role in technology procurement. Persons responsible for technology procurements must not use their positions to induce another person to provide inappropriate benefits to themselves or others. This standard applies to family, business, personal, or financial relationships. Even the appearance of a conflict must be avoided.

3. Issues of Influence: Avoid behaviors or actions that may negatively influence, or appear to influence, procurement decisions. Avoid any activity that reduces the objectivity of the decision-making process.

4. Responsibilities to the State: Uphold your responsibilities using reasonable care and granted authority to deliver value to the State. As employees of the State and public servants, technology procurement professionals serve the interests of the State of Mississippi to the exclusion of personal gain.

5. Vendor and Customer Relationships: Promote positive vendor and customer relationships. ITS procurement staff members are responsible for developing and maintaining effective business relationships with vendors and ITS customers. Impartiality across all business interactions enhances the reputation of ITS and of the public procurement process.

6. Confidential and Proprietary Information: Protect confidential and proprietary information and share it with others only when needed. ITS procurement staff members

should ensure that recipients of confidential and proprietary information know that they have an obligation to protect it.

7. Applicable Laws and Procedures: Know and follow the letter and spirit of Mississippi public procurement statutes, as well as the processes, procedures, rules, and guidelines applicable to technology procurement. ITS procurement staff members should develop and maintain an understanding of the statutory requirements for technology procurement for the State of Mississippi. Customers and vendors should seek to understand the basic guidelines and legal constraints inherent to public procurement in Mississippi.

(Source: *Principles and Standards of Ethical Supply Management Conduct with Guidelines*, Institute for Supply Management, Inc. ™, ©2008. Used by permission.)

ITS Procurement Code of Ethics

Section 1: Background and Purpose

1.1 Section 25-4-101, Mississippi Code of 1972, as amended states, "The legislature declares that elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments."

1.2 ITS expects and promotes full compliance with the statutory directives in Mississippi Code Sections 25-4-101 through 25-4-119, by all ITS staff members, ITS customers, and members of the vendor community who do business with ITS. This Code of Ethics and associated Code of Conduct are provided as a reminder to each of these groups of the high ethical standards to which they and their actions are held by the members of the public; the legislative, executive, and judicial branches of Mississippi government; and the executive management and board of ITS. This policy is intended to be applied in conjunction with and shall not be considered as superseding any laws or regulations administered and enforced by the Mississippi Ethics Commission.

Section 2: Expectations of ITS Procurement Staff

2.1 ITS considers public employment to be a public trust and expects each ITS employee, including but not limited to those involved in the procurement process, to exhibit the highest standards of honesty, integrity, impartiality, courtesy and ethical conduct in all actions and decisions.

2.2 ITS procurement staff will work professionally, cooperatively, and respectfully with ITS customers and with prospective and incumbent vendors.

2.3 ITS procurement staff will manage procurements fairly and in a transparent manner, adhering to all statutes, policies, and rules.

2.4 ITS management will promote and foster the highest standards of professional competence and knowledge for all personnel involved in the procurement process.

2.5 ITS procurement staff will seek to work as efficiently as possible while producing a quality product that meets the objectives of the State of Mississippi, minimizing delays and costs for both vendors and customers.

2.6 ITS procurement staff will work with the customer and, if applicable, the vendor community, to develop responsible and realistic project schedules and then to ensure commitments are fulfilled in a timely manner to meet published procurement schedules.

2.7 ITS procurement staff will protect confidential and proprietary information throughout the procurement process.

2.8 ITS procurement staff will not solicit or accept gifts, gratuities, loans, offers of employment, or anything else of monetary value from a vendor.

2.9 ITS procurement staff will identify any procurement situation which creates a potential conflict of interest or appearance of such conflict for the staff member. ITS management will take measures to appropriately mitigate the conflict. Conflict of interest is defined as any personal interest, directly or indirectly, through business, family, friend, or other associations, that may influence or may reasonably appear to others to influence a person's judgment and impartiality, in any matter relevant to that person's duties.

Section 3: Expectations of ITS Customers

3.1 ITS expects customers, as public servants, to exhibit the highest standards of integrity and ethical conduct in all aspects of the procurement process.

3.2 ITS expects customer staff to work professionally, cooperatively, and respectfully with ITS and with vendors.

3.3 ITS expects customers to be fully open and forthcoming with all information related to an acquisition, including but not limited to customer executive's objectives, direction and support; budget and funding; business and technical issues and objectives; vendor contacts; and all other influences, drivers, expectations, schedules, and other potential influences on the procurement process or outcome.

3.4 ITS expects customer entities to provide requested information in a complete and accurate form and in a timely manner.

3.5 ITS expects customers to maintain the confidentiality of information acquired during the procurement process as appropriate.

3.6 ITS expects customers to accurately represent their true business requirements and to work with ITS to ensure specifications are open and competitive.

3.7 ITS expects customers to uphold the public trust by procuring solutions that meet their business needs without paying for features that exceed the procuring entity's true requirements.

3.8 ITS expects customers to initiate only procurements the customer has a clear intent to award.

3.9 ITS expects customers to responsibly and proactively manage vendors and project contracts to ensure all provisions are upheld and to protect the interests of the State.

3.10 ITS expects customers to identify any situation with a potential conflict of interest or appearance of such conflict related to the procurement process. Conflict of interest is defined as any personal interest, directly or indirectly, through business, family, friend, or other associations, that may influence or may reasonably appear to others to influence a person's judgment and impartiality, in any matter relevant to that person's duties.

Section 4: Expectations of Prospective and Incumbent Vendors

4.1 Vendors are expected to promote the highest standards of ethical behavior in all business dealings and in every phase and aspect of the procurement process.

4.2 Vendors are expected to fully respect the need for public sector procurement to be conducted in a structured, consistent, fair, open, and transparent manner.

4.3 Vendor representatives are expected to work professionally, cooperatively, and respectfully with ITS and ITS' customers, providing information in the form requested and in a timely manner.

4.4 Vendors are expected to raise valid issues or concerns regarding a procurement vehicle or process as soon as they become aware of the issue and to work with the State's representatives to resolve issues in a constructive manner.

4.5 Vendors are expected to present complete and accurate information concerning their experience, products, and capabilities and to propose only solutions they can successfully deliver for the cost and within the timeframe proposed.

4.6 Vendors are expected to read, understand, and comply with ITS' procurement policies and procedures, as well as all instructions and requirements in the specific procurement vehicle to which the vendor is responding.

4.7 Vendors are expected to negotiate project contracts in good faith and to uphold all commitments made in a project proposal, including but not limited to project timeframes, costs, and staffing, and to ensure projects are resourced and supported to a successful outcome.

4.8 Vendors must not attempt to unduly influence any part of the procurement process or content in a manner that violates generally accepted business ethics.

4.9 Vendors must not work in concert with any competing vendor when preparing a bid or proposal.

4.10 Vendors must not distribute marketing or sales-related information related to an ITS procurement instrument, contract, project, or award without the prior review and written permission of ITS. Vendors who violate this provision, especially if the information distributed is fraudulent or misleading, are subject to disqualification or other penalties.

4.11 Vendors must not offer, give or agree to give a gratuity, gift, or anything of monetary value, including any offer of employment, to anyone involved in the procurement process within one year of the conclusion of the procurement process. ITS will consider any such offer a breach of process, and the offering vendor will be subject to disqualification and other penalties.

Section 5: Expectations for the Procurement Process

5.1 Every procurement overseen by ITS will be conducted in accordance with all applicable statutes and with the policies and procedures of ITS.

5.2 Procurements will be conducted using a competitive process. Exceptions will require substantial and compelling documentation.

5.3 Specifications developed for technology procurements will be open and competitive and will represent the actual business requirements of the customer entity. The process will not favor or exclude qualified vendors other than by criteria that are true requirements of or value to the State.

5.4 The procurement process will be transparent, with appropriate information shared with stakeholders in a timely manner.

5.5 The selection in a procurement process will be based on the best combination of cost and value to the State and will be determined based on the criteria defined in the underlying procurement vehicle.

5.6 All potential vendors will be treated fairly and equitably and will have equal access to information throughout the procurement process.

5.7 Contractual terms will be clear and fair, taking into account the interests of the vendor while protecting the substantial interests of the State.

5.8 The procurement process will offer and encourage opportunities for both successful and unsuccessful candidate vendors to receive feedback that is specific and relevant to the vendor's offering and the procurement process, with the objective of improving future offerings by that vendor and of incorporating applicable vendor feedback into the procurement process.

ITS Procurement Code of Conduct

1. ITS Statutory Responsibilities and Charge

1.1 ITS is dedicated to providing the best possible service to government customers. ITS strives to balance the following aspects of our role in government:

- the need to develop strong partnerships with vendors who provide IT hardware, software, and services to government;
- the need to deliver quality IT hardware, software, and services for the lowest possible cost to the State as a whole; and
- the requirement to manage open and competitive procurement efforts for IT hardware, software, and services.

1.2 ITS employees conduct themselves in a manner to instill public confidence in the integrity of state government employees. It is impossible to anticipate every example of ethics decisions that may be presented to ITS employees. It is the responsibility of the employee to exercise good judgment and to be sensitive to any possible appearance of impropriety when conducting business with customers and vendors.

1.3 ITS employees are encouraged to err on the side of excess diligence regarding any business situation to avoid even the appearance of a violation of the public trust.

2. Gifts and Gratuities

2.1 ITS recognizes there is a cost for vendors to provide IT hardware, software, and services to government. ITS also recognizes that as the cost for a vendor to do business increases, the cost for government to do business increases. ITS employees strive to lower the cost of doing business wherever possible.

2.2 Acceptance of anything of tangible value from a vendor contributes to the vendor's expenses and unnecessarily presents an opportunity for misinterpretation of the relationship between the vendor and the employee. Therefore, ITS procurement staff members do not accept any offer of a product, service, or favor of tangible value from a vendor.

2.3 ITS procurement staff members refuse gifts and gratuities, including but not limited to, money, credit, loans, discounts not generally available, and entertainment. Some examples of unacceptable gifts and offerings are listed below:

2.3.1 Free tickets to the theater, sports events, or other entertainment venues.
2.3.2 Paid travel costs or accommodations.
2.3.3 Gift cards or gift certificates.

2.4 ITS procurement staff members do not accept offers of employment from any awarded vendor within one the conclusion of a procurement process in which that vendor and staff member mutually participated.

2.5 ITS procurement staff members do not solicit anything from vendors for any reason. Examples include, but are not limited to:

2.5.1 Purchases by vendors from side businesses in which the staff member is involved;
2.5.2 Donations by vendors for charitable and/or civic events or organizations in which the ITS employee and/or his/her immediate family is involved; and
2.5.3 Purchases by vendors from fund raisers in which ITS employees and/or their families are involved.

2.6 ITS procurement staff may accept items of nominal value offered by suppliers to a substantial number of their customers for public relations purposes when there could be no perception of monetary value, inappropriate influence, or other ethical breach. Examples might include a t-shirt, pen, notepad, or other inexpensive trinket.

2.7 ITS procurement staff members may sometimes be required to conduct business during meals or to participate in modest hospitality as a courtesy in a business relationship. Staff members will avoid frequent meals with the same vendor and avoid any situation in which he/she might be perceived to have been influenced as a result of accepting or participating in a particular vendor's hospitality. However, any and all vendor contacts with ITS procurement staff and ITS customer staff must be discontinued during any active procurement process in which the vendor is a potential proposer for the customer's project and/or the ITS procurement staff member is involved in the procurement project.

2.8 ITS procurement staff may participate in lunch-and-learn and similar meetings sponsored by vendors.

2.9 ITS procurement staff members may participate in raffles or drawings held by vendors in public forums but will not encourage or initiate a vendor raffle.

3. Confidential Information

3.1 The assigned ITS project manager is responsible for ensuring that all ITS and customer employees involved in the procurement process execute the appropriate confidentiality agreements in a timely manner and that these agreements are maintained in the project file.

3.2 The assigned ITS project manager is responsible for protecting and controlling the distribution of all proprietary or confidential materials throughout the

procurement process, including physical security of printed documents, security of electronic documents, and accounting for all copies of the same.

3.3 The assigned ITS project manager is responsible for instructing each team member regarding the need to protect and secure proprietary and confidential information.

3.4 The assigned ITS project manager is responsible for ensuring any external requests for project information are directed to and processed by the ITS Public Records Officer in accordance with the ITS Public Records Policy.

4. Conflict of Interest

4.1 ITS procurement staff members strive to collectively and individually maintain an open and competitive environment for awarding and conducting government business. An ITS procurement staff member with a perceived or actual conflict of interest in a certain procurement effort will make a formal declaration of disqualification and promptly withdraw from further participation in the procurement.

4.2 ITS procurement staff members avoid engaging in personal business with a vendor who provides IT hardware, software, or services to government in Mississippi.

4.3 ITS procurement staff members do not lend money to or borrow money from any vendor.

4.4 ITS procurement staff members avoid outside employment or other activities that might create demands incompatible with their procurement assignments, cast doubt on their ability to perform these assignments objectively, or otherwise create a conflict of interest.

4.5 Conflicts of interest for members of the procurement staff include but are not limited to:

4.5.1 The ITS procurement staff member or any member of that person's immediate family has a financial interest pertaining to the procurement and/or an association with any potential vendors;

4.5.2 A business or organization with which the ITS procurement staff member or any member of that person's immediate family is associated has a financial interest pertaining to the procurement and/or is a potential vendor; or

4.5.3 Any other person, business, or organization with whom the ITS procurement staff member or any member of that person's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.