

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

Procurement Integrity Requirements

Prohibition on Disclosing Procurement Information

(a) Museum employees shall not knowingly disclose contractor bid or proposal information or source selection information before the award of a procurement contract to which the information relates, except to persons who have been authorized, in accordance with applicable law and Museum procedures, to receive such information.

(b) Employees who are involved in discussions with offerors are restricted as previously described and as follows:

- One offeror may not be favored over another.
- Technical data or solutions unique to an offeror may not be revealed to another.
- An offeror's price may not be revealed to another offeror without the offeror's permission. (An offeror may be informed that its price is considered too high or too low, and may be told the results of the analysis supporting that conclusion. It is also permissible to reveal to offerors the cost or price that the Museum's price analysis, market research, and other reviews have identified as reasonable.)
- Names of individuals providing reference information about an offeror's past performance may not be revealed.

Prohibition on Obtaining Procurement Information

(a) Only Museum employees involved in a procurement activity shall obtain contractor bid or proposal information or source selection information (collectively, "procurement information") before the award of a Museum contract to which the information relates, except as authorized by an applicable law or as follows:

- The Ethics Officer may authorize an employee outside of the Procurement Division to obtain procurement information.
- The Internal Auditor and the attorneys in the General Counsel's Office may obtain procurement information at any time upon request.

(b) An employee who is not certain whether he or she is authorized to obtain procurement information or who inadvertently receives procurement information shall consult the Procurement Director or the relevant contracting officer, who shall further consult the Museum's Ethics Officer as necessary.

Actions Required of Employees Involved in Procurement Activities when Contacted by Offerors Regarding Outside Employment

If a Museum employee who is participating personally and substantially in a Museum procurement for a contract in excess of \$100,000 contacts or is contacted by a person who is a bidder or offeror in that procurement regarding possible outside employment for the employee, the employee shall

- promptly report the contact in writing to his or her supervisor and to the Museum's Ethics Officer, and
- either 1) reject the possibility of outside employment or 2) disqualify himself or herself from further participation in the procurement until such time as the Museum has authorized him or her to resume participation in the procurement, in accordance with applicable law and Museum procedures.

Certain Restrictions on a Former Employee's Acceptance of Compensation from a Contractor

An employee who is involved in procurement actions that result in the award of a Museum contract in excess of \$10,000,000 should consult the Ethics Officer regarding certain restrictions on his or her employment by that contractor after the employee leaves Museum employment.

Other Conflict of Interest Standards Affecting Employees Involved in Procurement Actions

Museum employees involved in procurement activities shall also be mindful of the restrictions on receipt of gifts from prohibited sources in Section 1 of the Standards of Ethical Conduct, the requirement of prior clearance before award of a Museum contract to related parties in Section 5.18, and the prohibitions on official actions affecting employees' financial interests in Section 7.

Definitions

"Procurement information" includes contractor bid or proposal information and source selection information, as defined below.

"Contractor bid or proposal information" means and includes any of the following information, if such has not previously been made available to the public or disclosed publicly.

- Cost or pricing data, including any factual information that a prudent buyer and seller would reasonably expect to affect price negotiations significantly.
- Indirect costs and direct labor rates.
- Proprietary information about manufacturing processes, operations, or techniques marked by a contractor as being proprietary in accordance with applicable law or regulation.
- Information marked by the contractor as "contractor bid and proposal information," in accordance with applicable law and regulation.

- Information marked by a contractor as “...not to be disclosed outside the Museum” or with some other legend that indicates the information is not to be used except for the purposes of evaluating the contractor’s proposal.

“Source selection information” means and includes

- bid prices,
- proposed costs or prices,
- source selection plans,
- technical evaluation plans,
- technical evaluation of proposals,
- cost or price evaluations of proposals,
- competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract,
- rankings of bids, proposals, or competitors,
- the reports and evaluations of source selection panels, boards, or advisory councils, and
- any other information designated as source selection information based on a case-by-case determination by the Director of Procurement that its disclosure would jeopardize the integrity or successful completion of the procurement to which the information relates.