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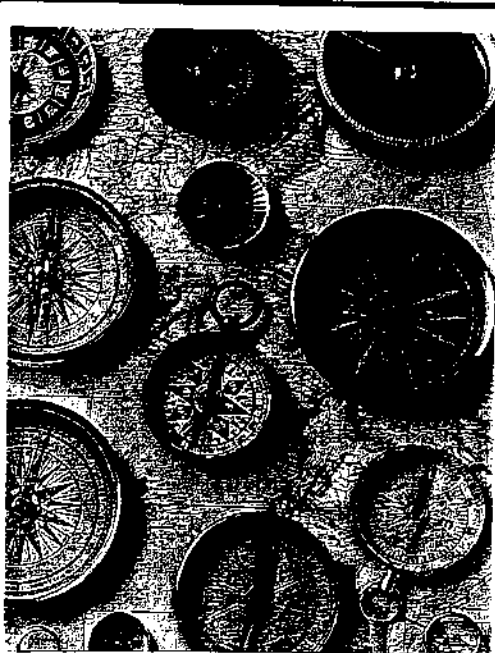
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# Strategies for Promoting Ethics in Local Government

## Resource Materials

- 1) Promoting Public Confidence Through Ethics Codes
- 2) Ethics Code Menu/Worksheet
- 3) Ethics Law Bookmark
- 4) Ethics “Sticky Situations” Wallet Guide
- 5) Sample “Everyday Ethics” Column
- 6) Powerpoint Slides
- 7) Resource List

For more materials see [www.ilsg.org/trust](http://www.ilsg.org/trust)



The vast majority of public officials are committed to serving the public interest. They care deeply about their communities and view their public position as a trust. They have high aspirations for their own sense of ethics, as well as those of their fellow public servants.

# Promoting Public Confidence Through Ethics Codes

by JoAnne Speers

What can public officials do to underscore their agency's commitment to ethics and promote ethics within their own agency? Adopt ethics codes, which is exactly what a growing number of local agencies are doing.

## What Is a Code of Ethics?

An ethics code is a framework for day-to-day actions and decision-making by office-holders and, depending on how the code is written, an entire agency. The fundamental premise of an ethics code is that it's easier to do the right thing when we know what it is.

An agency usually has three goals for adopting an ethics code:

1. Encouraging high standards of behavior by public officials;
2. Increasing public confidence in the institutions that serve the public; and
3. Assisting public officials with decision-making.

Achieving these goals requires a well-conceived process for both adopting and implementing the code.

*continued*

### Looking for Footnotes?

A fully footnoted version of this article is available online at [www.westerncity.com/articles](http://www.westerncity.com/articles).

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JoAnne Speers is executive director of the Institute for Local Self Government.

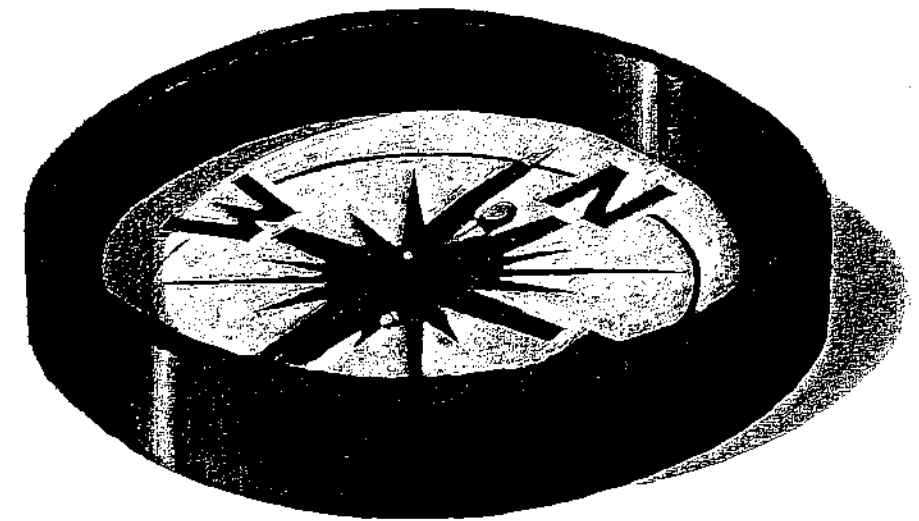
### ILSG's New Guide to Ethics Codes Can Help

The League's nonprofit research arm, the Institute for Local Self Government (ILSG), recently published a guide to adopting ethics codes for local agencies. A key theme of the guide is that the process the agency uses to adopt and implement an ethics code is just as important as the actual product. This is because the objective is not simply to adopt a code; the goal is to build an organizational culture — from the top down — that demonstrates ethics are important.

Production of the guide was made possible through the generous support of the Waste Management Charitable Foundation. For more about Waste Management's efforts with respect to ethics codes, see "Institute Partner Focuses on Integrity," page 19.

### Values Versus Rule-Based Codes

ILSG's guide promotes the notion that an ethics code is a positive statement and a pledge of commitment — more a list of "do's" rather than "don'ts." Ethics codes are a commitment to uphold a standard of integrity and competence



beyond that required by law, and complement California's rather complex maze of ethics laws. An ethics code identifies those areas in which agency officials set their sights higher than the bare minimum requirements of the law.

"Our Code of Conduct helps council members understand their roles and responsibilities. The approach is proactive, not punitive," observes Sunnyvale Council Member Jack Walker.

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The most important part of the ethics code adoption process is implementation.

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### JOIN THE ETHICS CODE HALL OF FAME

As part of its ongoing effort to promote the good work public agencies do in the ethics area, ILSG has created a special section on its website for local agencies that have adopted or updated their ethics codes within the last two years. To have your agency listed, e-mail ILSG at <ilsg@cacities.org> with the link to your code on your website (or an electronic version) as well as the date of adoption or last review.

If your agency has not adopted an ethics code (or reviewed and updated it recently), ILSG encourages you to consider doing so. A lengthy list of agencies with current ethics codes will underscore local agencies' commitment to ethics in government.

The fundamental premise of an ethics code is that it's easier to do the right thing when we know what it is.

### Whose Values?

The process of adopting and reviewing an agency's ethics code enables officials to identify public service ethical values and link them to standards of conduct. Whenever someone proposes that local officials engage in a conversation about values, there is some likelihood that participants in the discussion will take offense and view this as an effort to "impose" one group's values on another. Research indicates, however, that a core set of human values transcend cultural, socioeconomic and national boundaries. These values are:

- Honesty;
- Fairness;
- Respect;
- Compassion; and
- Responsibility.

Indeed, many of the ethical dilemmas faced by local officials can be characterized as conflicts between two "right" sets of values.

### What the Guide Provides

To assist local agencies with adopting an ethics code, ILSG's guide offers a menu of values and what those values mean in the practice of public service. Consistent with the guide's process-oriented approach, agencies are encouraged to develop their own ethics codes rather than simply review and adopt another agency's code.

Of course, the most important part of the ethics code adoption process is implementing the code. The guide offers a number of implementation strategies, such as ethics training, which La Mesa Mayor Art Madrid says is "critical."

### Sample Code Provisions

ILSG's guide suggests that there should be three dimensions to any value expressed in an agency's ethics code:

1. A core value;
2. An expression of that value or what that value looks like in practice; and
3. Opportunities to put that value into practice.

*continued on page 34*

## INSTITUTE PARTNER FOCUSES ON INTEGRITY

The Institute for Local Self Government gratefully acknowledges the Waste Management Charitable Foundation for providing funding in support of *Developing a Local Agency Ethics Code: A Process Oriented Guide*. The partnership is especially appropriate, given Waste Management's commitment to its own code of ethics and values. Waste Management is California's largest solid waste company, providing collection, recycling, transfer and landfill services to residential, commercial and industrial customers in more than 260 California communities.

Waste Management's code outlines the company's core values of honesty, respect, responsibility, citizenship, environmental stewardship and excellence, and emphasizes the need for fair and honest business dealings in all aspects of the company's business. The company regularly communicates these values to its employees through its "Focus on integrity" program. For more information about Waste Management's commitment to ethics and diversity, visit its website at [www.wm.com](http://www.wm.com).

Core Value	What This Value Looks Like	Opportunities to Practice
Community Service/Pursuit of Public's Interests Rather Than Personal Interests	I do not accept gifts, services or other special considerations because of my public position.	When someone invites me to dinner because of my position, I will either decline or pay for my part of the meal.
Respect for Fellow Officials, Staff And the Public	I treat my fellow officials, staff and the public with courtesy and civility, even when we disagree on what is best for the community.	During meetings, I will listen actively, attentively and politely to all speakers, even those who are arguing against the position I believe is right.
Vision	I consider the broader regional and statewide implications of the agency's decisions and issues.	When I sit on regional boards as a representative of my agency, I balance what will serve my jurisdiction's interests best against what will maximize benefits for those served by the regional board as a whole.

This process helps translate values into behavioral principles, making the code a useful source of guidance for agency officials. "It is better to have a formal document to refer to rather than rely on council norms," notes Mountain View Mayor Michael Kasperzak. He also says the code has helped the council work well together, even after adding new members.

The ILSG guide contains a menu of potential values and expressions of what those values look like to help guide the conversation. The three values, expressions and examples are illustrated in the table on page 19.

The guide also suggests that each ethics code include a preamble, which serves as an introduction to the code. The preamble answers these questions:

- Why is the code important?
- What is the code's purpose?
- To whom does the code apply?
- What will happen as a result of this code?

Two other useful provisions are an implementation section that 1) requests that each official covered by the code sign a statement agreeing to the code; and 2) commits the agency to reviewing the code.

### Conclusion

An ethics code is not a silver bullet for solving the ethics issues for an agency. But it is a positive and meaningful step officials can take to demonstrate their commitment to ethics in public service. It is also a way to "walk the ethics talk."

Copies of the guide are available without charge from the ILSG website ([www.ilsg.org](http://www.ilsg.org)). Printed versions are available for \$20 plus shipping and sales tax from the League's CityBooks service at (916) 658-8257 or [www.cacities.org/store](http://www.cacities.org/store). ☐

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The time to adopt an ethics code is *before* your agency encounters an ethical challenge or after an ethical crisis has been resolved and put behind you.

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### WHEN *Not* TO ADOPT A CODE

*Whoever supermoralizes unmoralizes.* — Samuel Taylor Coleridge, English poet and language critic (1772–1834)

There is an "unethical" use of ethics codes that must be acknowledged: when political opponents use ethics and the adoption of an ethics code as a means of embarrassing their political rivals. In *The Ethics Challenge in Public Service*, author Carol Lewis calls this "vigilante ethics" — using ethics to intimidate rather than inspire.

The political use of ethics gives ethics a bad name. It undermines the efforts of those who truly care about promoting the consideration of ethical values in public service. It also undermines one of the key goals of adopting an ethics code, which is to foster public trust in the institution as a whole, not just those who promote a code.

The time to adopt an ethics code is *before* your agency encounters an ethical challenge or after an ethical crisis has been resolved and put behind you. Adopting a code during an ethical crisis will be difficult and divisive. It also leaves those who are promoting the code open to accusations of political opportunism, which gives the public and the media an opportunity to discount the agency's effort.

# ETHICS CODE MENU/WORKSHEET

## INSTRUCTIONS:

Review

1) Review **values** menu. Are any values that are important to public service missing?

Mark

2) Mark the box next to the **four values** you think are most important for public servants. (Please feel free to write in additional values in the space provided.)

The group will have a discussion on which values belong in the agency's code.

Review

3) For those four values, review the "**expressions**" of what those values mean in practice. (Please feel free to write in additional expressions in the space provided.)

Mark

4) Mark the box next to the two expressions of each value you think are most important for your jurisdiction.

The group will have a discussion on which expressions belong in the agency's code.

Think

5) Think about **positive examples** of this kind of behavior in action.

## ETHICS CODE MENU/WORKSHEET



**Which four values are most important to you in your public service?**

- Integrity/Honesty**
- Responsibility/Community Service**
- Fairness**
- Respect for fellow officials, staff and the public**
- Compassion**
- Proper efficient use of public resources  
(another form of responsibility)**
- Loyalty to the Agency**
- Vision**
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

**Instructions:** In the table below, please identify *two* expressions of ethical values in the left-hand column that are most important to you as a public official. The expressions are derived from the ethics codes of the agencies identified in parentheses. Please feel free to modify these expressions or add your own in the space provided.

### Integrity/Honesty



*Which two expressions are most important?*

---

- I am honest with my fellow elected officials, the public and others. (*Santa Clara*)
- I do not promise what I believe to be unrealistic. (*Santa Clara*)
- I am prepared to make unpopular decisions when my sense of the public's best interests requires it. (*Santa Clara*)
- I take responsibility for my actions, even when it is uncomfortable to do so. (*Ventura*)
- I credit others' contributions to moving our community's interests forward. (*Sunnyvale*)
- I do not knowingly use false or inaccurate information to support my position or views. (*Ventura*)
- I do not leave false impressions. (*Ventura*)
- I support ethics within my agency. (*Mountain View*)
- I disclose suspected instances of corruption to the appropriate authorities. (*Mountain View*)
- \_\_\_\_\_
- \_\_\_\_\_



## ETHICS CODE MENU/WORKSHEET

### Responsibility/Community Service



*Which two expressions are most important?*

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- I do not accept gifts, services or other special considerations because of my public position. *(International City/County Management Association)*
- I refrain from any action that might appear to compromise my independent judgment. *(Santa Clara)*
- I support merit-based processes for the award of public employment and public contracts. *(International City/County Management Association)*
- I excuse myself from participating in decisions when my or my family's financial interests may be affected by my agency's actions. *(International City/County Management Association)*
- As a representative of the community, I serve as a model of leadership and civility. *(Fresno)*
- I do not use information that I acquire in my public capacity for personal advantage. *(International City/County Management Association)*
- Consistent with my role as a steward of the public trust, I do not represent third parties' interest before either my agency or those of neighboring jurisdictions. *(Sunnyvale)*
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Fairness



*Which two expressions are most important?*

---

- I support the public's right to know and participate in the conduct of the public's business.  
*(Woodside)*
- I am impartial when making decisions, avoiding the temptation to favor those who have supported me and disfavor those who have not. *(Pinole)*
- I promote non-discrimination in public agency decisionmaking. *(Pinole)*
- I recognize that I am an agent for the democratic process, not the owner of authority. *(Pinole)*
- I provide services at or above established standards without favoritism or prejudice. *(Ventura)*
- I will promote meaningful public involvement in the agency's decision-making processes.  
*(American Institute of Certified Planners)*
- I treat all persons, claims and transactions in a fair and equitable manner.  
*(Mountain View)*
- If I receive substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, I publicly share it with my fellow governing board members and staff. *(Sunnyvale)*
- I make decisions based on the merits of the issue. *(Sunnyvale)*
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Respect for fellow officials, staff and the public



*Which two expressions are most important?*

- I treat my fellow officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community. (*Mountain View*)
- I focus on the merits in discussions of issues, not personalities, character or motivations. (*Mountain View*)
- I respect others' time by coming to meetings prepared and offering observations only when I believe it will move the discussion forward. (*Mountain View*)
- I work towards consensus building and gain value from diverse opinions. (*Santa Clara*)
- I make decisions and recommendations based upon research and facts, taking into consideration short and long-term goals. (*Santa Clara*)
- I respect the distinction between the role of office holder and staff. (*Mountain View*)
- I follow through on my commitments, keeping others informed, and responding in a timely fashion. (*Santa Clara*)
- I am approachable, open-minded and willing to participate in dialog and I work to convey this to others. (*Santa Clara*)
- I engage in effective two-way communication by listening carefully, asking questions, and determining an appropriate response that adds value to conversations. (*Santa Clara*)
- In my interactions with constituents, I am interested, engaged, and responsive. (*Santa Clara*)
- I involve staff in meetings with individuals, those with business before the agency, officials from other agencies and legislators to ensure proper staff support and to keep staff informed. (*Mountain View*)
- I support a positive work environment for agency staff and others who serve the agency. (*Sunnyvale*)
- When campaigning, I avoid personal attacks on issues unrelated to my fellow candidates' ability to discharge the duties of the office that we both seek. (*California Code of Fair Campaign Practices*)

\_\_\_\_\_

\_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Compassion



*Which two expressions are most important?*

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- I recognize government's responsibilities to society's less fortunate. (*American Institute of Certified Planners*)
- I am sensitive to the fact that some people in the community are intimidated by public officials and public agencies and try to make their interactions with our agency as stress-free as possible. (*Sunnyvale*)
- I convey the agency's care for and commitment to its community members. (*Santa Clara*)
- I am attuned to, and care about, the needs and issues of citizens, public officials and agency workers. (*Santa Clara*)
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Proper/efficient use of public resources (another form of responsibility)



*Which two expressions are most important?*

- I recognize that the responsibility for making both large and small decisions about the use of public resources is a public trust. (*Santa Clara*)
- I actively promote the efficient and economical use of public resources. (*Santa Clara*)
- I do not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes. (*Sunnyvale*)
- I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability. (*Santa Clara*)
- I make decisions on hiring and contracting based on merit and value to the agency, rather than favoritism and/or family or personal relationships. (*International City/County Management Association*)
- I demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures. (*Santa Clara*)
- I provide friendly, receptive, courteous service to everyone. (*Santa Clara*)
- I make good financial decisions that seek to preserve programs and services for agency residents. (*Santa Clara*)
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Loyalty to the Agency



*Which two expressions are most important?*

---

- I respect the confidentiality of information concerning the agency's property, personnel or affairs. (*Santa Clara*)
- I do not disclose confidential information without proper legal authorization. (*Mountain View*)
- I represent the official policies or positions of the agency to the best of my ability when authorized to do so. (*Mountain View*)
- When presenting my individual opinions and positions, I explicitly state that my opinions do not represent the agency's position and I will not allow the inference that they do. (*Sunnyvale*)
- \_\_\_\_\_
- \_\_\_\_\_

## ETHICS CODE MENU/WORKSHEET

### Vision



*Which two expressions are most important?*

---

- I exhibit a proactive, innovative approach to setting goals and conducting the agency's business. (*Santa Clara*)
- I display a style that maintains consistent standards, but is also sensitive to the need for compromise, "thinking outside the box," and improving existing paradigms when necessary. (*Santa Clara*)
- I promote intelligent and thoughtful innovation in order to forward the agency's policy agenda and agency services. (*Santa Clara*)
- I consider the broader regional and statewide implications of the agency's decisions and issues. (*Santa Clara*)
- \_\_\_\_\_
- \_\_\_\_\_

## THREE DIMENSIONS OF AN ETHICS CODE

*(Based on Santa Clara Model)*

<b>Core Value</b>	<b>Potential Expressions/ What This Value Looks Like</b>	<b>Examples of When This Issue Arises</b>
Community Service/ Pursuit of public's interests as opposed to personal interests	I do not accept gifts, services or other special considerations because of my public position.	When someone invites me to dinner because of my position, I will either decline or pay for my part of the meal.
Respect for fellow officials, staff and the public	I treat my fellow officials, staff and the public with courtesy and civility, even when we disagree on what is best for the community.	During meetings, I will listen actively, attentively and politely to all speakers, even those that are arguing against the position I believe is right.
Vision	I consider the broader regional and statewide implications of the agency's decisions and issues.	When I sit on regional boards as a representative of my agency, I balance what will serve my jurisdiction's interests best against what will maximize benefits for those served by the regional board as a whole.





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## KEY ETHICS LAW PRINCIPLES FOR PUBLIC SERVANTS

The following **principles** drive California's ethics laws. If you find yourself in a situation that implicates one of these principles, talk with your agency counsel as soon as possible about the specifics of what the law does and does not allow.

### Personal Financial Gain – Appearing to Influence Decisions

Public Officials:

- Must disclose their financial interests.
- Must disqualify themselves from participating in decisions that may affect (positively or negatively) their financial interests (see reverse for list of types of financial interests).
- Cannot have an interest in a contract made by their agency.
- Cannot request, receive or agree to receive anything of value or other advantages in exchange for a decision.
- Cannot influence agency decisions relating to potential prospective employers.
- May not acquire interests in property within redevelopment areas over which they have decision-making influence.

### Personal Advantages and Perks Relating to Office

Public Officials:

- Must disclose all gifts received over \$50 and may not receive gifts aggregating to over \$340 (2004) from a single source in a given year.
- Cannot receive compensation from third parties for speaking, writing an article or attending a conference.
- Cannot use public agency resources (money, travel expenses, staff time and agency equipment) for personal or political purposes.
- Cannot participate in decisions that may affect (positively or negatively) their personal interests.
- Cannot accept free transportation from transportation companies.
- Cannot send mass mailings at public expense.
- Cannot make gifts of public resources or funds.
- Cannot receive loans over \$250 from those within the agency or those who do business with the agency.

### Fairness, Impartiality and Open Government

Public Officials:

- Cannot participate in decisions that will benefit their immediate family (spouse or dependent children).
- Cannot participate in quasi-judicial proceedings in which they have a strong bias with respect to the parties or facts.
- Cannot simultaneously hold certain public offices or engage in other outside activities that would subject them to conflicting loyalties.
- Cannot participate in entitlement proceedings – such as land use permits – involving campaign contributors (does not apply to elected bodies).
- Cannot solicit campaign contributions of more than \$250 from permit applicants while application is pending and for three months after a decision (does not apply to elected bodies).
- Must conduct the public's business in open and publicized meetings, except for the limited circumstances when the law allows closed sessions.
- Must allow public inspection of documents and records generated by public agencies, except when non-disclosure is specifically authorized by law.
- Must disclose information about significant (\$5000 or more) fundraising activities for legislative, governmental or charitable purposes.

# A PUBLIC OFFICIAL'S CONFLICT OF INTEREST CHECKLIST

## Key Concepts:

- A public agency's decision should be based solely on what best serves the public's interests.
- The law is aimed at the perception, as well as the reality, that a public official's personal interests may influence a decision. Even the temptation to act in one's own interest could lead to disqualification, or worse.
- Having a conflict of interest does not imply that you have done anything wrong; it just means you have financial or other disqualifying interests.
- Violating the conflict of interest laws could lead to monetary fines and criminal penalties for public officials. Don't take that risk.

**Basic Rule:** A public official may not participate in a decision – including trying to influence a decision – if the official has financial or, in some cases, other strong personal interests in that decision. When an official has an interest in contract, the official's agency may be prevented from even making the contract.

**When to Seek Advice from Your Agency Counsel:** The rules are very complex. Talk with your agency counsel 1) early and often 2) when an action by your public agency 3) may affect (positively or negatively) 4) any of the following:

- Income.** Any source of income of \$500 or more (including promised income) during the prior 12 months for you or your immediate family (spouse and dependent children).
- Business Management or Employment.** An entity for which you serve as a director, officer, partner, trustee, employee, or manager.
- Real Property.** A direct or indirect interest in real property of \$2000 or more that you or your immediate family (spouse and dependent children) have, including such interests as ownership, leaseholds (but not month-to-month tenancies), and options to purchase. Be especially alert when any of these are located within 500 feet of the subject of your decision.
- Personal Finances.** Your or your immediate family's (spouse and dependent children) personal expenses, income, assets, or liabilities.
- Gift Giver.** A giver of a gift of \$340 or more to you in the prior 12 months to you, including promised gifts.
- Lender/Guarantor.** A source of a loan (including a loan guarantor) to you.
- Contract.** You or a member of your family would have an interest (direct or indirect) in a contract with the agency.
- Business Investment.** An interest in a business that you or your immediate family (spouse and dependent children) have a direct or indirect investment worth \$2000 or more.
- Related Business Entity.** An interest in a business that is the parent, subsidiary or is otherwise related to a business where you:
  - Have a direct or indirect investment worth \$2000 or more; or
  - Are a director, officer, partner, trustee, employee, or manager.
- Business Entity Owning Property.** A direct or indirect ownership interest in a business entity or trust of yours that owns real property.
- Campaign Contributor.** A campaign contributor of yours (applies to appointed decision-making bodies only).
- Other Personal Interests and Biases.** You have important, but non-financial, personal interests or biases (positive or negative) about the facts or the parties that could cast doubt on your ability to make a fair decision.

**What Will Happen Next?** Agency counsel will advise you whether 1) you can participate in the decision and, 2) if a contract is involved, whether the agency can enter into the contract at all. Counsel may suggest asking either the Fair Political Practices Commission or the State Attorney General to weigh in.

**Even If It's Legal, Is It Ethical?** The law sets only minimum standards. Ask yourself whether members of the public whose opinion you value will question whether you can act solely in the public's interest. If they might, consider excusing yourself voluntarily from that particular decision-making process. Remember, good ethics is good politics.

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## Level I: First Three Questions

- Is this a right-versus-wrong situation? Is the issue simply that doing the “right” thing involves significant personal costs?
  - ➔ Ethics involves doing the right thing, regardless of the personal costs.
- Is this a situation where one course of action arguably conflicts with your legal obligations?
  - ➔ Do what the law requires
  - ➔ Remember, the law is only a minimum standard.
- Would you be embarrassed to read about your action in your local newspaper?

## Level II: Additional Helpful Questions

- Which course of action will most build/preserve the general public’s confidence in your agency and your personal leadership?
- Which course of action is most consistent with your agency’s ethics code? (for more information about ethics codes, visit [www.ilsg.org/trust](http://www.ilsg.org/trust))
- Which decision would your mother be most proud of you for making?

- Which decision would you prefer other people in your situation to make? What should be the common practice?
- Is one decision more consistent with the Golden Rule (do unto others as you would have others do unto you)?
- Are there stakeholders or other members of the public who should be invited to be part of the decision making process?

## Level III: For More Complex Situations

Difficult situations typically involve competing sets of “right” values. When these situations arise, ask yourself:

- ➔ Which ethical values are in conflict (honesty, compassion, loyalty, responsibility, fairness, respect or some other value)?
- ➔ What are the facts? What are the benefits to be achieved or the harm to be avoided by a particular decision?



- ➔ What are your options?  
Is one course of action most consistent with both sets of values? Is one course of action more consistent with a value that is particularly important to you?

For example:

- Does one decision involve keeping a promise or your word?
- Which decision best reflects your responsibility as an officeholder to serve the interests of the community as a whole?
- Is there a decision that does more good than harm?
- Which decision is most respectful of individual rights?

- Which decision is most fair?
- Which decision is most compassionate?
- Sometimes it is helpful to make a list of pros and cons or find a trusted, unbiased person to act as a sounding board.



[www.ilsg.org/trust](http://www.ilsg.org/trust)

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LOCAL OFFICIALS  
ETHICS  
CHECKLIST:

## Questions to Ask in Sticky Situations



INSTITUTE for LOCAL  
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## Let's Make a Deal: Securing Goods and Services for Your Agency

### QUESTION

*I am very frustrated with our agency's contracting processes. There's a ton of red tape and it takes forever for vendors to go through the process and then for us to make a decision. Lots of businesspeople I know simply chose not to go through the process because it costs them so much for so little return. Since my own company does business with these folks, I can personally attest that they would give the agency quality results at a competitive price. What am I missing here in terms of what best serves the public's and the agency's interests?*

### ANSWER

To be sure, the process an agency uses to determine from whom it will purchase goods and services can seem both cumbersome and time-consuming. Like so many ethical issues for public officials, the public's perceptions and expectations play a significant role in the procurement process. There are two aspects to these expectations: 1) that the agency will get the best deal for its money, and 2) the process will be fair. Let's look at each issue.

#### Getting the Best Deal

Getting the best deal for the agency is part of one's responsibility as a public official to be a prudent steward of scarce public resources. How does one determine whether an agency is getting the best deal? Typically this means receiving materials or services of appropriate quality for a competitive price.

A key way to assure the public of this fact is for an agency to use a competitive and comparative process that enables it to evaluate both price and quality. A risk of "sole-sourcing" is that the agency has no way of knowing whether there would have been a better deal out there for the agency.



This is not to say that an agency should put all contracts out to bid. The question for public officials to ask themselves, however, is whether the processes the agency uses to select contractors provides assurance to the public that the public is receiving the best value for its money.

## A Fair Process

Getting the best deal is important, but perhaps an even more important aspect of the process is its fairness. As one seasoned public servant John Larson of Seal Beach observes, there are always Monday morning quarterbacks that say they could have beat the price of the prevailing bidder. Maybe they could have and maybe they couldn't; a public agency owes a special responsibility to both bidders and the public to assure the agency's contracting processes are fair.

Some elements of a fair vendor selection process include:

- ❑ Widely publicizing the opportunity to compete for the agency's business;
- ❑ Providing the same information to all businesses, so that no one business has an advantage;
- ❑ Applying the evaluation criteria consistently to all bidders; and
- ❑ Making sure the contract is administered in such a way that the agency gets the full benefit of its bargain.

For example, red flags tend to go up when an agency makes multiple demands for "best and final" offers after all bids have been opened and the numbers have been made public and shared with other bidders. According to one private sector representative,

## Top Ten Things to Know About Contracting and the Law

*Prepared with the Assistance of Kevin Ennis, City Attorney, Artesia  
Richards, Watson and Gershon*

**1. Key Principles.** Public contracting laws--including those adopted at the local level--are designed to give all interested parties the opportunity to do business with the government on an equal basis. This keeps contracts from being steered to businesses or individuals because of political connections, friendship, favoritism, corruption or other factors. It also assures that the public receives the best value for its money by promoting competition among businesses so the public can receive the best deal.<sup>1</sup>

**2. Competitive Bidding Requirements.** Many competitive bidding requirements are locally imposed, for example by charter cities as part of their municipal affairs authority.<sup>2</sup> State law also authorizes local agencies to adopt procedures for acquisition of supplies and equipment.<sup>3</sup> Most of these purchasing ordinances require competitive bids for contracts in excess of designated dollar amounts.

For public works projects, state law defines when general law cities and counties must use competitive bidding. For general law cities, public works projects over \$5,000 are subject to the state's competitive bidding requirements.<sup>4</sup> For county projects, the threshold is based on population: \$6,500 (counties with populations of 500,000 or over), \$50,000 (counties with populations of 2 million or over) and \$4,000 (all other counties).<sup>5</sup> Note that it is a misdemeanor to split projects to avoid competitive bidding requirements.<sup>6</sup>

**3. Achieving an Open Process.** In order to give all interested parties an opportunity to do business with the agency and get the best price for the public, the agency has to publicize the opportunity. This is typically accomplished by the publishing a notice inviting bids in a newspaper of general circulation that is printed or published in the jurisdiction, or if there is none, posting the notice in at least three public places in the jurisdiction.<sup>7</sup> Trade publications can also be a helpful way to reach a wide segment of the contracting industry.

**4. Uniform Bidding Instructions and Information.** A key component of a fair bidding process is to ensure that the bid documents and specifications are complete and identical for all bidders. Any modifications to the bidding package that are made before bidding deadline should be provided promptly to all bidders. For example, agencies must extend the time for submission of bids if an agency issues any material changes, additions or deletions to the bidding documents later than 72 hours prior to the bid closing.<sup>8</sup> Creating a "level playing field" is important not only to achieve a fair process but to also ensure a defensible decision in awarding the contract and an enforceable contract with the successful bidder.

**5. Contracts Awarded to the Lowest Responsive Bidder in a Sealed Bid Process.** For public works projects, a bidder who meets the contractor licensing requirements, submits a bid that conforms to the terms of the bid package, and submits the lowest monetary bid in a sealed bid process, is generally entitled to be awarded the bid.<sup>9</sup> If an agency has concerns about a contractor's competence or previous billing practices with the agency, it must give the contractor an opportunity to rebut information about the contractor's inability to perform the work (called a non-responsibility hearing).<sup>10</sup>

**6. Considerations of Price versus Skills.** For certain kinds of services, price will not be the only or main consideration. For example, for architectural, landscape architectural, engineering, environmental, land surveying or construction project management services, the selection of a firm must be based on demonstrated competence and professional qualifications necessary for satisfactory performance of the services required.<sup>11</sup> Local agencies may adopt ordinances specifying how this goal is achieved.<sup>12</sup> Price can be a consideration after competence and qualification requirements are met.<sup>13</sup>

**7. Consideration of Other, Non-Price Issues in Awarding Contracts.** One special district found itself in legal hot water when it decided it would not do business with a firm because of concerns about the firm's labor relations practices.<sup>14</sup> The court found that the federal law preempted the agency from imposing additional penalties on the bidder (disqualifying it from doing business with the agency). Local preferences<sup>15</sup> and "Buy American" requirements<sup>16</sup> may also run into legal troubles. At least one commentator has observed that these kinds of requirements can be manipulated to engage in the kind of favoritism at odds with the principles of fairness underlying public contracting laws in general.<sup>17</sup>

**8. "Wining and Dining" By Prospective Contractors Must be Disclosed and May Disqualify an Official from Participating in the Contracting Process.** Local officials subject to reporting requirements<sup>18</sup> must disclose meals, sporting event tickets and other such gifts adding up to \$50 or more from a single source on their Annual Statement of Economic Interests.<sup>19</sup> These may not add up to more than \$340 in a calendar year.<sup>20</sup> (The gift limit is modified every two years to reflect changes in the Consumer Price Index; the Fair Political Practices Commission website typically has current information on the gift limitation). Receiving gifts from potential contractors of \$340 or more in a twelve-month period prior to the contracting process creates a potentially disqualifying economic interest in the contract.<sup>21</sup>

**9. An Agency May Not Enter Into a Contract in Which One of Its Officials Has a Financial Interest.** A key question to ask oneself in evaluating your agency's contracts is: "will this contract affect my interests in any way?" If the answer is "yes," speak with your agency counsel immediately. A public official may not have a financial interest in any contract made by the council or board of which he or she is a member.<sup>22</sup>

A "financial interest" includes a direct or indirect financial interest. A direct financial interest is present when the official is the party contracting with the agency. An indirect financial interest involves an official who has a financial relationship with the contracting party or will receive some benefit from the making of the contract with the contracting party. It does not matter if the official's financial interest is positively or negatively affected.

When this prohibition applies, the agency may not enter into the contract in question unless certain exceptions apply.

The penalties for violating the prohibition against interests in contracts are severe. Willful violations are a felony and may be punished by fines, imprisonment and being disqualified from ever holding public office again.<sup>23</sup> The contract also is "void,"<sup>24</sup> which means that the local agency does not have to pay for goods or services received under the contract and the agency may also seek repayment of amounts already paid.<sup>25</sup>

**10. Receiving Any Kind of Gratuity for Awarding a Contract is a Crime.** A public official may not receive anything in return for the award of a contract by the agency. Depending on the circumstances, the official could be guilty of bribery and extortion. A bribe involves influencing an official's votes or actions by conferring a benefit on that official.<sup>26</sup> Asking for a bribe is illegal, of course, but so is receiving one or agreeing to receive one.<sup>27</sup>

A public official may not demand money or other favors in return for the performance of his or her official duties.<sup>28</sup> Note that this would include demanding campaign contributions in return for official action.

Bribery and extortion may be prosecuted by the district attorney or federal prosecutors. These are crimes, punishable by a combination of prison time, fines and losing one's office (and being forever disqualified from holding public office).<sup>29</sup> The official also may be ordered to pay the agency any amounts received as restitution.<sup>30</sup>

multiple calls for "best and finals" raise concern about the fairness of the process and gives the impression the local agency will keep asking bidders to resubmit until the agency gets the bidder it wants into the position of being low bid.

Former mayor and Markkula Center Senior Fellow Judy Nadler also counsels against succumbing to the pressures of tight budgets and the need to be "creative" in finding ways to make things happen within an agency. Although such results-oriented thinking can be laudable, it can also get one into trouble if it results in shortcuts in the agency's decision-making processes that have the effect of excluding vendors or giving preferences to insiders.

With respect to the contract administration issue, the goal is to avoid having a would-be vendor submit an unrealistically low bid, only to propose amendments to the contract that would increase costs. Of course, this would be unfair to a vendor who would have stuck to an original, lower bid.

## Avoiding Favoritism

An aspect of fairness is making sure that would-be vendors do not have advantages merely because of their friendship with local officials, their past history of support for someone's campaign, or a family relationship. The favoritism issue is an area where public service ethics differ markedly from those in the private sector.

In the private sector, for example, it can be appropriate to give preference to a business associate or accept meals or entertainment as part of a business relationship.

In the public sector, however, giving preference to friends is likely to be characterized as cronyism<sup>31</sup> at best and corruption at worst. See sidebar on page 5 for some of the pitfalls local officials have experienced in this area.



## But Hey, What About Trust?

When confronted with charges of unethical practices, public officials are likely to be surprised and hurt that anyone would claim that the officials were acting with anything but the public's best interests in mind. Why do the media and the public instantly gravitate towards thinking the worst of someone's intentions?

There is a fundamental distinction between personal and public ethics. As one scholar explains, personal ethics are based on face-to-face, personal relationships with individuals.<sup>32</sup> Public ethics, on the other hand, tends to involve relationships that are more removed and aggregate in most communities. Most constituents simply don't know a public official well enough to form an opinion on the official's ethics.

As a result, the reality is that the public cannot know *how* an official sorted through all the efforts--proper and improper--to influence his or her decision-making process on contracts.

### Typical Steps in the Procurement Process

Step	
1	Establish a need for a good or service not otherwise available to agency with internal resource
2	Determine the parameters or specifications for the good or service in question
3	Invite vendors to submit proposals to perform the work or deliver the service
4	Evaluate the proposals according to evenly applied parameters and select winner
5	Negotiate contract
6	Vendor performs according to contract terms

As a result, the media and the public tend to judge public officials' ethics by the *circumstances* surrounding those officials' actions. If the circumstances are such that improprieties *could* have occurred, the public will conclude that improprieties likely *did* occur.

Media coverage and the existence of those who do in fact abuse the public's trust exacerbate the public perception issue. For example, during March of 2004, four different newspapers in different parts of the state featured coverage critical of local official behaviors vis-à-vis contract issues.<sup>33</sup> The public is also well aware of instances (typically rare) in which an unscrupulous public official will steadfastly claim to have the most sterling character. Regrettably, this "bad apple" syndrome creates almost a presumption of untrustworthiness.

*An aspect of fairness is making sure that would-be vendors do not have advantages merely because of their friendship, their past history of support for someone's campaign, or a family relationship.*

This is where the maxim comes from that public officials are wise to avoid even the *appearance* of impropriety. If the public is inclined to infer wrongdoing merely from circumstances that *could* have involved wrongdoing, the most reliable way to promote the public confidence is to avoid those circumstances in the first place. One scholar goes so far to assert that, because the appearance of impropriety erodes public trust, the appearance of impropriety constitutes a breach of an official's responsibility to promote public trust in government.

## On Bribery and Kickbacks . . .

Faced with the temptation of receiving a bribe, it can be easy to underestimate the chances of being caught, let alone successfully prosecuted. Fortunately, bribery is fairly rare.

However, be assured that state and federal prosecutors stand ready to prosecute such crimes, particularly as they relate to contracting processes. For example, *Governing Magazine* reported in 2003 that

"For those keeping score, 2001 was another typically busy year in the Public Integrity Section of the U.S. Department of Justice . . . Contract steering turns up often on the recent lists of state and local officials accused of violating the public trust . . ."<sup>34</sup>

Federal prosecutors have prosecuted instances in which local officials recommended the payment of substantial amounts money to specified consultants to achieve a favorable action on a particular proposal. It appeared, after investigation, that there was a financial relationship between the consultant and the officials.

In some instances, prosecutors learn about illicit activities from informants from within an agency. In other instances, disappointed bidders will turn officials in. Don't assume no one will know about a bribe or rely on a code of silence. Once the specter of prosecution appears, those implicated in any bribery schemes will often be inclined to negotiate a plea bargain for themselves by offering to testify against others.

### Bright Idea: Communicating Agency's Ethics to Vendors

The City of Seattle has a section on its website that explains the city's ethics code provisions as they relate to the procurement process. See [www.ci.seattle.wa.us/ethics/etpub/et\\_cont.htm](http://www.ci.seattle.wa.us/ethics/etpub/et_cont.htm) The webpage helps vendors avoid missteps and lets vendors know whom to contact in the event someone steps over the line. It also sends an important message to the agency's constituents about the agency's commitment to its processes.



## About Those Contracting Processes . . .

So, in essence, the answer to the opening question is that the public agency contracting process is generally *not* designed for speed. Instead, the process is designed to reassure the public that the process is fair and competitive. To be sure, this can result in businesses declining to participate in the process and a missed opportunity for the public to receive a better product at a more competitive price.

*In the public sector, however, giving preference to friends is likely to be characterized as cronyism at best and corruption at worst.*

Moreover, some of the checks and balances in the contracting process are designed to assure that no one individual plays too great a role in contracting decisions. These layers to the process limit any one official's ability to skew the outcome based on personal interests, as opposed to the public's interests.

Perhaps the ultimate explanation is that the public is willing to incur the costs associated with minimizing the opportunities for mischief in the contracting process, even if the process turns away some would-be contractors. Moreover, the fact that the contracting process takes time allows for other public values to be factored into the analysis on how to best meet the public's needs. The theory is that, in the long run, fair processes prevent improprieties and increase the likelihood that the public's best interests are served over time. □

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For more "Everyday Ethics" issues and other ethics resources for local officials, visit [www.ilsg.org/trust](http://www.ilsg.org/trust).

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## Traps for the Unwary

The following are some examples of scenarios that have attracted unfavorable attention in terms of contracting practices. They are "traps for the unwary" because they can involve instances in which an official is criticized for the appearance of impropriety as opposed to any actual impropriety. They also can involve situations in which the norms of the public sector differ from the private sector.

**Vouching for the Qualifications of a Business.** Putting in a good word for a contractor can be hazardous, mostly because it is challenging to know everything about a firm's history and business practices. In one instance, a city official found himself receiving unwanted media attention when a firm he was promoting to his fellow city officials was under investigation by the district attorney for embezzling public funds. For elected officials, the wisest course of action can be to have the companies' records as presented in the bidding process speak for themselves.

**Receipt of Gifts or Special Favors from Would-Be Contractors.** Similarly, when a would-be vendor buys meals or bestows other types of gifts on a public official, critics can charge the vendor with trying to curry favor. These same critics can also charge the public official with putting the receipt of personal benefits ahead of the public's interests in having a scrupulously fair and competitive selection process. As harsh as it may seem, critics may also analogize such special benefits to bribery.

**Campaign Contributions from Would-Be Contractors.** Mix in campaign contributions and the unfavorable media attention can become even more charged, as one state agency found recently when a decision-making on a contract for computer services coincided with receipt a sizeable campaign contribution from the would-be contractor. Even when the timing is not so close, accusations of "quid pro quo" (this in return for that) and "pay to play" are easy for critics to make.

Even if correlation is not causation (as any beginning statistics student will be quick to recite), disproving causation can be difficult. A newspaper editorial from earlier this year illustrates this dynamic when it concluded an editorial with the observation that "actions speak louder than words."<sup>35</sup> The editorial was critical of, among other things, a local official's support for easing competitive bidding requirements. The editorial implied that campaign contributions had an influence on that support, even though the official specifically denied such influence.

**City Hall Insiders-Turned-Contractors.** Suspicions of unfair selection processes can arise when a public agency does business with a firm that has hired a former employee or official of that agency. Although the agency's decision may have been driven exclusively by merit (who could know and serve an agency's needs better than a former and well-respected insider?), the perception can be that the insider used his public position for personal advantage and that the agency engaged in favoritism in deciding to do business with that particular firm or individual. State law also has express prohibitions concerning use of one's public position to benefit future employers.<sup>36</sup>

**Underestimating the Importance of Governmental Transparency and Other Ethics Requirements.** In *The Ethics Edge*, one author notes that people from the private sector who come to government service can get into trouble by not taking ethics restrictions seriously.<sup>37</sup> The author explains: "Being respectable in their own communities and corporations, they find it hard to understand why they should take these more restrictive standards seriously, especially since they do not have as much respect for government as they do in the private sector." A word to the wise: Take these ethics issues seriously. The media, your political rivals and the public will be all over you if you don't.

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## Notes

- <sup>1</sup> See Cal. Pub. Cont. Code § 100.
- <sup>2</sup> *Smith v. City of Riverside*, 34 Cal. App. 3d 529, 110 Cal. Rptr. 67 (1973). See also Cal. Pub. Cont. Code § 11007.
- <sup>3</sup> Cal. Gov't Code §§ 54201 and following.
- <sup>4</sup> Cal. Pub. Cont. Code §§ 20160-20162.
- <sup>5</sup> Cal. Pub. Cont. Code §§ 20120-20123.
- <sup>6</sup> Cal. Pub. Cont. Code § 20163.
- <sup>7</sup> See, e.g., Cal. Pub. Cont. Code § 21064.
- <sup>8</sup> Cal. Pub. Cont. Code § 4104.5.
- <sup>9</sup> Cal. Pub. Cont. Code § 20162; Cal. Bus. & Prof. Code § 7030.5.
- <sup>10</sup> *City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court*, 7 Cal.3d 861(1972).
- <sup>11</sup> Cal. Gov't Code § 4526.
- <sup>12</sup> Cal. Gov't Code § 4526.
- <sup>13</sup> Cal. Gov't Code § 4526.
- <sup>14</sup> *CF&I Steel v. Bay Area Rapid Transit District*, 2000 WL 1375277 (N.D.Cal.), 142 Lab.Cas. P 59,131 (N.D. Cal. 2000).
- <sup>15</sup> *Associated General Contractors of California, Inc. v. City and County of San Francisco*, 813 F.2d 922 (9th Cir. 1987) (finding preferences for firms based in city are only permitted if council can legitimately find local firms are disadvantaged because doing business within city limits is more expensive than doing business outside city). But see *United Building & Construction Trades Council of Camden County & Vicinity v. City of Camden*, 465 U.S. 208, 104 S. Ct. 1020, 79 L. Ed. 2d 249 (1984) (declaring an ordinance requiring preference for hiring local residents on public works contracts violates federal constitution's privileges and immunities clause). See also 72 Cal. Op. Att'y Gen. 86 (1989) (opining local preference ordinances do not conflict with state public bidding statutes, but not discussing *Associated Contractors*).
- <sup>16</sup> The "California Buy America Act", and the "California Preference Law" (Cal. Gov't Code §§ 4300 *et seq.*) have been declared invalid as an interference with the federal government's power over foreign affairs. *Bethlehem Steel Corp. v. Board of Commissioners of the Department of Water and Power of the City of Los Angeles*, 276 Cal. App. 2d 221, 80 Cal. Rptr. 800 (1969); 53 Cal. Op. Att'y Gen. 72 (1970).
- <sup>17</sup> See Cal. Pub. Cont. Code Section 100 and "Trustworthiness in Public Contracting: Back to Boss Tweed? CF&I Steel v. Bay Area Transit District," Scott J. Kaplan, 31 Pub. Cont. Law Journal, 237 (2002).
- <sup>18</sup> See Cal. Gov't Code § 89503.
- <sup>19</sup> Cal. Gov't Code § 87207(a)(1) (requiring public officials to report sources of gifts aggregating \$50 or more and a general description of the business activity of the gift giver).
- <sup>20</sup> 2 Cal. Code of Regs. § 18940.2.
- <sup>21</sup> Cal. Gov't Code § 82028, 87103(e); 2 Cal. Code of Regs. 18703.4.
- <sup>22</sup> Cal. Gov't Code § 1090 and following.
- <sup>23</sup> See Cal. Gov't Code § 1097.
- <sup>24</sup> *Thomson v. Call*, 38 Cal. 3d 633, 214 Cal. Rptr. 139 (1985).
- <sup>25</sup> See Cal. Gov't Code § 1092.
- <sup>26</sup> Cal. Penal Code §§ 7 (definition number 6), 68.
- <sup>27</sup> See Cal. Penal Code § 68.
- <sup>28</sup> See Cal. Penal Code § 518; *In re Shepard*, 161 Cal. 171 (1911) (in the context of removal-from-office proceedings for misconduct).
- <sup>29</sup> See generally Cal. Penal Code § 68; Cal. Gov't Code §§ 3060-3074..
- <sup>30</sup> *U.S. v. Gaytan*, 342 F.3d 1010 (9<sup>th</sup> Cir. 2003).
- <sup>31</sup> Cronyism is a term attributed to the *New York Times* in the early 1950s. The newspaper used the term to criticize a presidential administration for appointing friends to positions in government without regard to their qualifications (the *Times* described the administration for having a "sorry reputation for corruption, cronyism, extravagance, waste and confusion".)
- <sup>32</sup> Thompson, Dennis F., "Paradoxes of Government Ethics," reprinted in *The Ethics Edge* (ICMA: 1998), at 47, 50-55.
- <sup>33</sup> See "DA Will Look Into Mayor-Firm Link" *The Daily Breeze*, March 2, 2004; "Mayor Reportedly Pitched Towing Firm to Officials," *The Daily Breeze*, March 16, 2004; "Airing Out a City Hall Stink" *Los Angeles Times* Editorial, March 10, 2004; "Money and Politics" *Long Beach Press Telegram*, March 11, 2004; "Mayor Works Around the Rules," *San Jose Mercury News* Editorial, March 21, 2004.
- <sup>34</sup> *Governing Magazine*, May 2003 at page 14.
- <sup>35</sup> "Mayor Works Around the Rules," *San Jose Mercury News* Editorial, March 21, 2004.
- <sup>36</sup> See Cal. Gov't Code § 87407; Cal. Code of Regs. § 18747. Note that other conflict of interest prohibitions against having an economic interest in a matter an employee works on or a contract may also apply.
- <sup>37</sup> Thompson, Dennis F., "Paradoxes of Government Ethics," reprinted in *The Ethics Edge* (ICMA: 1998), at 47, 51

**Strategies for Promoting Ethics in  
Public Service**



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**MISSION:**

**Developing resources  
to help local officials  
serve their communities**



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**OUR LEADERSHIP**

- **Present and former public officials**
- **Private sector/media  
representatives**
- **Liaisons with League Board and  
City Managers**

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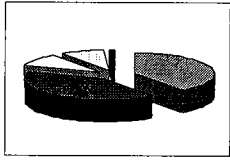
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## OUR FUNDING

- 40% Foundations
- 40% League
- 10% Publications Sales
- 9% Corporate
- 1% Individuals (endowment)



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## THREE BUSINESS LINES

1. Public confidence: ethics and civic engagement
2. Land use and housing issues
3. Fiscal stability of California cities

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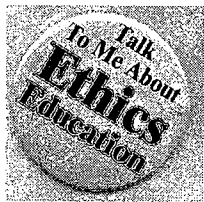
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## ETHICS ADVISORS

- Institute Advisory Panel
- League Ethics Education Task Force



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**TWO DIMENSIONS OF ETHICS ISSUES**

- **The Law: What we *must* do**
- **Ethics: What we *ought* to do**




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**THE CHALLENGES OF PROMOTING ETHICS LAWS COMPLIANCE**

- **Complexity/breadth of the law**
- **Goal ambiguity**
  - Teaching the law versus creating internal alarm bells
- **Overcoming tendencies to discount importance of the law**

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**A THEORY OF PUBLIC ETHICS LAWS**

- **A public official is expected to act *only* in the public's best interests**
- **Even *perceptions* of impropriety matter**

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**ETHICS LAWS: THREE GROUPS/PRINCIPLES**

1. Personal financial gain cannot appear to influence decisions
2. Personal advantages and perks relating to office are illegal
3. Fairness, impartiality and open government are essential

KEY ETHICAL LAWS FOR THE PUBLIC SERVICE

1. The public servant shall not use his or her position for personal gain or for the gain of any other person or organization.

2. The public servant shall not accept any gift or favor from any person or organization that may be perceived as an attempt to influence the public servant's official duties.

3. The public servant shall not engage in any financial transaction that may be perceived as an attempt to influence the public servant's official duties.

4. The public servant shall not engage in any activity that may be perceived as an attempt to influence the public servant's official duties.

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**THE RELATIONSHIP BETWEEN ETHICS AND THE LAW**

- The starting point for most ethical analyses is the law
- *Floor* for ethical conduct—not the ceiling ★
- Just because it's legal, doesn't mean it is ethical (or public will perceive it to be so)

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**BEYOND THE LAW: TWO TYPES OF ETHICAL DILEMMAS**

- Type I: Two competing "right values"
- Type II: Doing the right thing costs more than one wants to pay

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## WHOSE VALUES?

**Six universal values:**

- Trustworthiness
- Loyalty
- Responsibility
  - Community interest
- Respect
- Fairness
- Compassion

*Source: Institute for Global Ethics*

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## TOOLS TO PROMOTE ETHICS

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INSTITUTE for LOCAL  
SELF GOVERNMENT  
PUBLIC CONFIDENCE PROJECT

## POLITICAL SELF INTEREST

***Good ethics is good politics*** ★

- Prefer elected officials to be honest and fair, even at expense of getting best results for the public (71% strongly agreed)
- Can't trust most elected officials to do what is right anymore (30% strongly agreed and 40% agreed)

*Source: 1999 Lake Snell Perry & Associates Survey*

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## WALLET GUIDE

- What would make the public feel best/inspire public confidence?
- What would you want to read about on the front page?
- What would you be proud to tell your mother about?

LOCAL OFFICIALS  
ETHICS  
CHECKLIST:

Questions to  
Ask in Sticky  
Situations

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## VIDEO

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## ENCOURAGING POSITIVE CODES OF ETHICS

- List of "do's" rather than "don'ts"
- Demonstrate positive commitment to ethics
- Sharing perspectives
- Part of the process of creating an ethical culture
- Hall of Fame on website

DEVELOPING A LOCAL MERRY PRINCE CODE:  
A PROGRAM CHARTER GUIDE

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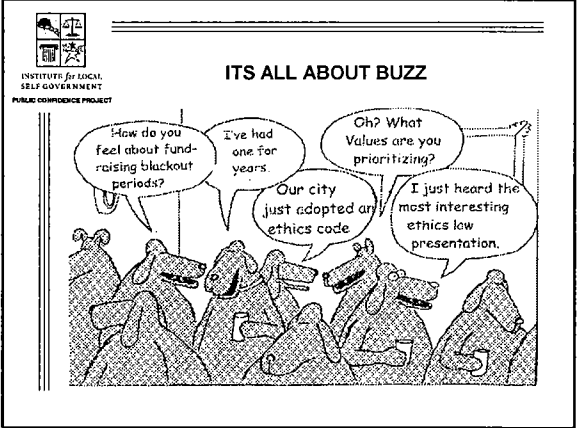
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INSTITUTE *for* LOCAL  
SELF GOVERNMENT

# Ethics Resources Available for Local Officials

The Institute for Local Self Government, the League of California Cities' nonprofit research arm, has been hard at work developing a number of educational tools to assist local officials on ethics issues. All of the Institute's publications are designed to be both practical and easy to read for busy local officials. A theme running throughout these resources is that the law sets the floor—and not the ceiling—for ethical conduct.

**Local Official Ethics Checklist: Questions to Ask in Sticky Situations, 2004.** A wallet-sized checklist of questions designed to guide local officials through ethical dilemmas. **Item #1536 Price: \$5 for 5 pocket checklists**

**Developing a Local Agency Ethics Code: A Process-Oriented Guide, 2003.** This guide assists local agencies that want to adopt an ethics code. It features a menu of potential values and expressions of what those values look like. Agencies can use this menu to develop a code that expresses their values. **Item #1505 Price: \$20**

**Avoiding the Slippery Slope: Ethics and The Elected Official (Video), 2002.** An interactive video describing some of the ethical challenges local officials face, analyzing the dilemmas that pop up unexpectedly, and describing how local officials might respond. **Item #1299 Price: \$15**

**Campaigning Effectively for Local Office: Good People Can Finish First, 2004.** A nuts-and-bolts guide to running a campaign for local office ethically and effectively. **Item #1596. Price: \$20.**

**Of Cookie Jars and Fishbowls: A Public Official's Guide to Use of Public Resources, 2004.** The power to make decisions about the appropriate use of public resources is a trust for both elected and appointed officials. This guide explores ethical and legal considerations that bear on spending decisions, and features a sample expense policy. **Item #1556 Price: \$20**

**Key Ethics Law Principles for Public Servants, 2004.** Don't be caught unawares on ethics law issues. This handy "bookmark" (perfect to keep in agenda binders) alerts local officials to situations triggering a need to consult with their agency counsel on ethics legal issues. **Item #1604 Price: \$5 for 5 bookmarks**

**Ethics Law Training for Local Officials (Video), 2001.** This 90-minute video covers the range of ethics laws affecting local officials, including conflicts of interest, gifts and honoraria, travel paid for by others, misuse of public funds and incompatible activities. **Item #1367 Price: \$15**

**A Local Official's Guide to Ethics Laws, 2002.** This handy and easy-to-read reference guide contains vital information for local officials on ethics-related legal requirements. Topics covered include disclosure of economic interests, restrictions on loans, gifts, honoraria and travel reimbursements, conflicts of interest, campaign contributions, public contracts, dual office-holding and criminal misconduct. **Item #1181 Price: \$10**

## Additional Information

Written publications are available in electronic form without charge at [www.ilsg.org/trust](http://www.ilsg.org/trust).  
An order form for those wishing to purchase hard copies of ethics publications  
or videos is on the reverse for your convenience.



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# Ethics Resources Order Form

Title of Publications or Video	Item No.	Qty.	Unit Price	*Less 10% Quantity Discount	Total
<i>Key Ethics Law Principles for Public Servants (2004) (5 in a set)</i>	1604		\$5 for 1 Set		
<i>Campaigning Effectively for Local Office: Good People Can Finish First (2004)</i>	1596		\$20.00		
<i>Of Cookie Jars and Fishbowls: A Public Official's Guide to Use of Public Resources (2004—Includes Annotated Sample Policy)</i>	1556		\$20.00		
<i>Local Officials Ethics Checklist: Questions to Ask in Sticky Situations (2004) (5 in a set)</i>	1536		\$5 for 1 Set		
<i>Developing a Local Agency Ethics Code: A Process Oriented Guide (2003)</i>	1505		\$20.00		
<i>A Local Official's Guide to Ethics Laws (2002)</i>	1181		\$10.00		
<i>Ethics and The Elected Official: Avoiding the Slippery Slope (Video-2002)</i>	1299		\$15.00		
<i>Ethics Law Training for Local Officials (Video-2001)</i>	1376		\$15.00		
<b>Shipping/Handling Charges</b>			<b>Subtotal</b>		
Order Amount	Add				
\$1 - \$9.99	\$3.00				
\$10 - \$24.99	\$7.00				
\$25 - \$74.99	\$9.00				
\$75 - \$124.99	\$13.00				
\$125 - \$199.99	\$16.00				
\$200 - \$349.99	\$20.00				
\$350 and up	8% of total				
			<b>Shipping/Handling Charge (see table at left)</b>		
			<b>Total</b>		

\*QUANTITY DISCOUNT: 10% price discount for five or more units of the same set of resources

**Mail Publications to:**

**ORGANIZATION**

NAME \_\_\_\_\_ TITLE \_\_\_\_\_

ADDRESS (No P.O. Box Please) \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_ EMAIL \_\_\_\_\_

PAYMENT MUST BE INCLUDED TO PROCESS ORDER

<p><b>Send Payment with Order Form to:</b></p> <p>League of California Cities ATTN: Helen Marshall - CityBooks 1400 K Street, Suite 400, Sacramento, CA 95814</p> <p>Direct line to Publications: (916) 658-8257</p> <p>Fax credit card orders to: (916) 444-7535</p>	<p><input type="checkbox"/> Check    <input type="checkbox"/> VISA    <input type="checkbox"/> MasterCard</p> <p>Name of Cardholder: _____</p> <p>Credit Card Number: _____</p> <p>Expiration Date: ____ / ____</p> <p>Authorized Signature: _____</p>
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