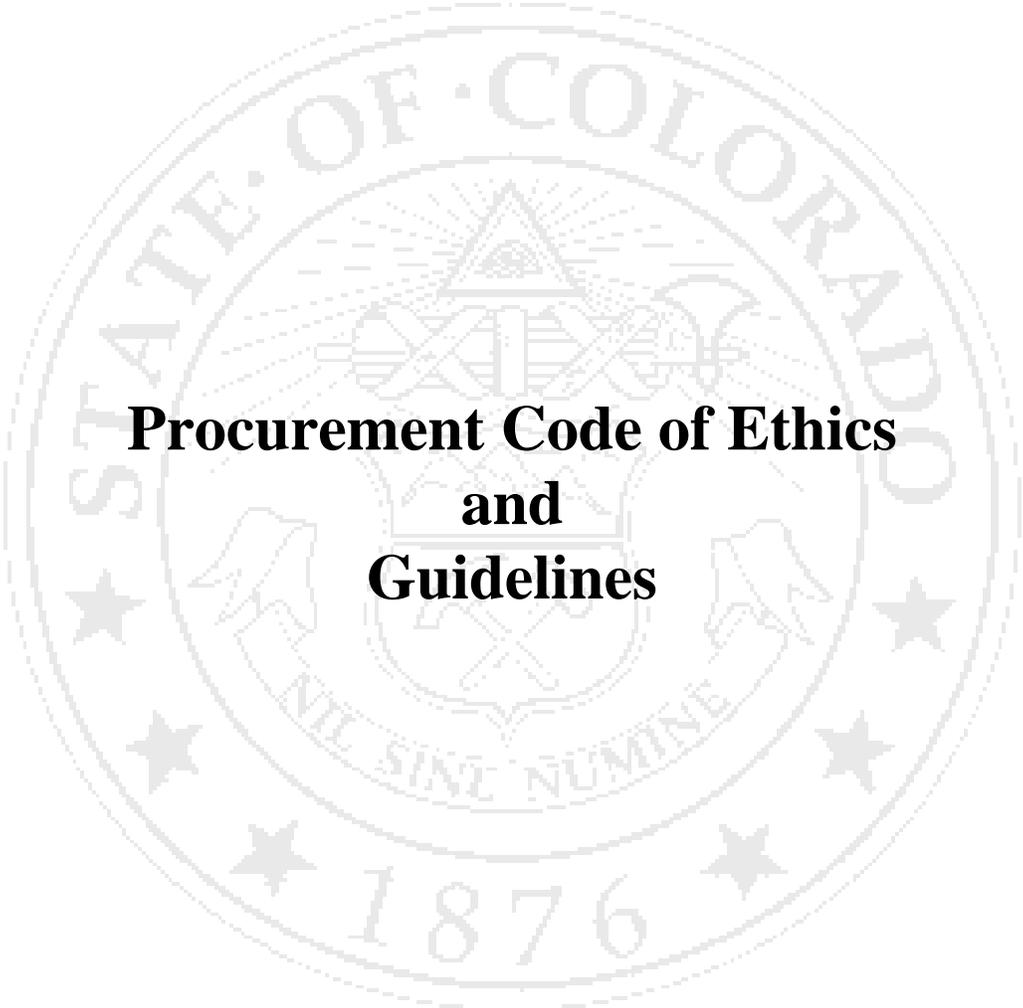


# State of Colorado

The seal of the State of Colorado is a circular emblem. It features a central shield with a mountain range, a river, and a plow. Above the shield is a triangle containing a sunburst. The shield is flanked by two figures, one holding a pickaxe and the other a hammer. The shield is set against a background of a grid. The outer ring of the seal contains the text "STATE OF COLORADO" at the top, "1876" at the bottom, and the Latin motto "NIL SINE NUMINE" on a banner across the middle. There are seven stars around the inner border of the seal.

## **Procurement Code of Ethics and Guidelines**

# **State of Colorado**

## **Procurement**

### **Code of Ethics**

Any person employed by the State of Colorado who purchases goods and services, or is involved in the purchasing process, for the state, shall be bound by this code and shall:

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
2. Demonstrate loyalty to the State of Colorado (state organization where employed) by diligently following the lawful instructions of the State of Colorado while using professional judgement, reasonable care, and exercising only the authority granted.
3. Conduct all purchasing activities in accordance with the laws, while remaining alert to, and advising the State of Colorado (state organization where employed) regarding the legal ramifications of the purchasing decisions.
4. Refrain from any private or professional activity that would create a conflict between personal interests and the interests of the State of Colorado (C.R.S., 18-8-308).
5. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved.
6. Never solicit or accept money, loans, credits, or prejudicial discounts, and avoid the acceptance of gifts, entertainment, favors, or services from present or potential suppliers which might influence, or appear to influence purchasing decisions.
7. Promote positive supplier relationships through impartiality in all phases of the purchasing cycle.
8. Display the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the State of Colorado and the public being served.
9. Provide an environment where all business concerns, large or small, majority or minority owned, are afforded an equal opportunity to compete for State of Colorado business.
10. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standards of ethical behavior.

## Acknowledgements

When the State of Colorado, Procurement Advisory Council, Ethical Standards Committee began the task of creating a Code of Ethics and Guidelines for the State of Colorado it was determined early on that parts of both the National Association of Purchasing Management (NAPM) and National Institute of Governmental Purchasing (NIGP) code of ethics would be of use. Both organizations have kindly granted us permission to use parts of their code. For this we are most grateful.

The Procurement Advisory Council members who developed the State of Colorado Code of Ethics and Guidelines included:

John R. Schneider, C.P.M.  
Director of Purchasing  
Colorado State University

Charles E. Walden, CPPO  
Supervising Purchasing Agent  
Colorado Department of Highways

Marjorie Louthan  
Director of Purchasing  
University of Northern Colorado

Eva Reynolds  
Purchasing Agent  
Pikes Peak Community College

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# Index

<b>Topic</b>	<b>Page</b>
<a href="#">Code of Ethics.....</a>	<a href="#">1</a>
<a href="#">Acknowledgements.....</a>	<a href="#">2</a>
<a href="#">Index.....</a>	<a href="#">3</a>
<a href="#">Preamble.....</a>	<a href="#">4</a>
<a href="#">Code of Ethics Number 1.....</a>	<a href="#">5</a>
<a href="#">Code of Ethics Number 2.....</a>	<a href="#">6</a>
<a href="#">Code of Ethics Number 3.....</a>	<a href="#">7</a>
<a href="#">Code of Ethics Number 4.....</a>	<a href="#">8</a>
<a href="#">Code of Ethics Number 5.....</a>	<a href="#">9</a>
<a href="#">Code of Ethics Number 6.....</a>	<a href="#">10</a>
<a href="#">Code of Ethics Number 7.....</a>	<a href="#">12</a>
<a href="#">Code of Ethics Number 8.....</a>	<a href="#">13</a>
<a href="#">Code of Ethics Number 9.....</a>	<a href="#">14</a>
<a href="#">Code of Ethics Number 10.....</a>	<a href="#">15</a>

**Preamble**  
**State of Colorado**  
**Procurement**  
**Code of Ethics**

The credibility of Purchasing in the State of Colorado depends upon recognition of the concept that government exists for the benefit of all the people, to be administered without fear or favor.

The Procurement Advisory Council, which exists to act as an advisory group to all purchasing agencies of State of Colorado, believes that it must play a vital role in the preservation of fair and honest purchasing practices in the State of Colorado.

In fulfilling its responsibilities, the Procurement Advisory Council has determined the need for a standard "Code of Ethics" for purchasing employees in the State of Colorado. Not every situation can be foreseen, but fundamental, ethical principals must exist to guide all State of Colorado purchasing employees through the procurement process.

The Code of Ethics is established to encourage an uncompromising adherence to a level of integrity which will create a heightened awareness and acceptance of appropriate conduct. The Procurement Advisory Council's "Code of Ethics" points the way to be followed by all purchasing employees in the State of Colorado.

The Procurement Advisory Council has established this "Code of Ethics". The Code is designed to be a guide for minimum standards. The accepted standards and expected conduct of purchasing employees in the State of Colorado in their relationships with the public and the Government of the State of Colorado is so stated.

The Code shall be mandatory for all purchasing employees. The Code states the minimum level of conduct for purchasing employees. It shall be uniformly applied to all purchasing employees, regardless of the nature of their activities.

## **1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.**

The results of a perceived impropriety may become, over time, more disruptive or damaging than an actual transgression. It is essential that any activity or involvement between purchasing professionals and active or potential suppliers which in any way diminishes, or even appears to diminish, open and fair treatment of suppliers be strictly avoided. Those who do not know an individual will judge that individual on appearances. One must be consider this and act accordingly. If a situation is perceived as real, then it is in fact real in its consequences. Therefore any action which might reasonably result in the *perception* of impropriety must be avoided as carefully as if it were real.

### **The following are recommended guidelines in dealing with perception:**

- Situations may occur in which, through uncontrollable circumstances, one finds oneself in a business relationship with a personal friend. The perception (as well as the potential) of a conflict of interest should be discussed with one's superior, and a reassignment of buying responsibility should be considered.
- Business meeting locations should be carefully chosen if environments other than the office may be perceived as inappropriate by the business community or by co-workers.
- Displays of affection more personal than a handshake may give an impression of impropriety and should be avoided.

**2. Demonstrate loyalty to the State of Colorado (state organization where employed) by diligently following the lawful instructions of the State of Colorado while using professional judgement, reasonable care, and exercising only the authority granted.**

The purchasing professional's foremost responsibility is to achieve the legitimate goals established by the State of Colorado. It is the duty of the purchasing professional to ensure that actions taken as an agent for the State of Colorado will benefit the long-term best interests of the State of Colorado to the exclusion of personal gain. This requires application of sound judgement and consideration of both the legal and the ethical implications of our actions.

**The following are recommended guidelines in dealing with responsibilities to the State of Colorado:**

- Understand the authority granted and apply the legal and ethical concepts embodied in the agency relationship with the State of Colorado.
- Obtain the maximum benefit for monies expended as agents for the State of Colorado.
- Avoid any activities which would compromise or form the perception of compromising the long-term best interests of the State of Colorado.
- Promote free and open competition to reduce the potential for real or perceived preferential treatment.
- Ensure exercise of reasonable care by maintaining up-to-date knowledge of applicable laws, purchasing techniques, and management responsibilities.

**3. Conduct all purchasing activities in accordance with the laws, while remaining alert to, and advising the State of Colorado (state organization where employed) regarding the legal ramifications of the purchasing decisions.**

Obey all relevant laws and remain alert to the legal ramifications of purchasing decisions.

Purchasing professionals should pursue and retain an understanding of the essential legal concepts governing our conduct as agents of the State of Colorado. Some of the laws with which we should be acquainted include, in addition to the Colorado Procurement Code, the Uniform Commercial Code, Sherman Anti-Trust Act, Robinson-Patman act, and the Federal Acquisition Regulations. Numerous current textbooks, handbooks, and purchasing references are available which deal with these subjects.

**The following are recommended guidelines for abiding by Federal, State, and Local Laws:**

- Advice of legal counsel should be sought in interpretation of law.
- Situations where legal counsel needs to be sought should be identified, bearing in mind that the best use of counsel is in preventive analysis and planning, rather than defense for action taken.

#### **4. Refrain from any private or professional activity that would create a conflict between personal interests and the interests of the State of Colorado (C.R.S., 18-8-308).**

Purchasing professionals have the right to engage in activities which are of a private nature and outside their employment. However, purchasing professionals must not use their positions in any way to induce another person to provide any benefit to themselves, or persons with whom they have family, business, personal or financial ties. Even though technically a conflict as set forth in this section may not exist, purchasing professionals must avoid the appearance of such a conflict through compliance with both the spirit and the literal interpretation of these guidelines.

#### **The following are recommended guidelines in dealing with conflicts of interest:**

##### ***Conduct which must be avoided:***

- Engaging in outside business, or employment by an outside company, which may encroach upon their primary responsibility of loyalty to the goals of their employer.
- Refrain from any private or business relationships or activities which could result in a conflict of interest or could reasonably be perceived as a conflict of interest.
- Engaging in business with, or employment by a company, which is a supplier to the State of Colorado.
- Lending money to or borrowing money from any customer or supplier.

##### ***Personal Investment***

Ownership of stock in a supplier of goods or services, or customer is not in itself wrong, provided that the interest is solely of an investment nature. However, such ownership should be reported to the employer for review and guidance to avoid the potential for any impropriety. Indirect interests are considered to be of the same significance as direct ownership where the interest is held by members of the immediate family of the purchasing professional.

##### ***Outside activities***

Prior approval by the State of Colorado should not be required for outside educational, professional, political, philanthropic, social, or recreational activities in which an employee may engage on their own time and at their own expense. Purchasing professionals must not make use of a State of Colorado position in any of these activities, or permit any association with such activities which might be detrimental to the State of Colorado's business or reputation.

##### ***Self-Evaluation Procedure***

Purchasing professionals should continually evaluate their outside interests which have the potential of being at variance with the best interests of the State of Colorado.

## **5. Identify and strive to eliminate participation of any individual in operational situations where a conflict of interest may be involved.**

It is common for individuals in operational situations to have personal contact with vendors regarding new products and services, demonstrations of equipment or assistance with writing of specifications for bidding purposes. It is imperative that persons who are in a position of specifying products to be purchased by the State of Colorado be governed by the same regulations as a purchasing professional.

### **The following are guidelines for all state employees specifying materials, equipment and services to be purchased:**

- A state employee shall not maintain a controlling interest in a firm that does business with the employing state agency.
- A state employee shall not accept trips, lodging, meals (except as provided in section 6 under "Business Meals") or tickets from vendors or contractors. Attendance at seminars or courses conducted by potential or current contractors or vendors is not precluded by this provision.
- A state employee shall not provide inside information to prospective bidders.
- A state employee shall not "auction" between vendors to attain a better price.

Purchasing professionals who become aware of situations, such as those described, have an obligation to report and discuss the situation with the appropriate organizational officials.

**6. Never solicit or accept money, loans, credits, or prejudicial discounts, and avoid the acceptance of gifts, entertainment, favors, or services from present or potential suppliers which might influence, or appear to influence purchasing decisions.**

Gratuities include any material goods or services offered with the intent of, or providing the potential for, influencing a buying decision. As such, gratuities may be offered to a buyer, or to other persons involved in purchasing decisions (or members of their immediate families). Having any influence concerning the purchasing process constitutes involvement. Those in a position to influence the purchasing process must be dedicated to the long-term best interests of the State of Colorado. It is essential to avoid any activity which may diminish or even appear to diminish the objectivity of the purchasing decision-making process.

Gratuities may be offered in various forms. Some common examples are monies, credits, discounts, (including prejudicial discounts which are greater than those commonly given or are artificially created solely as a favor to the purchasing decision-maker), supplier contests, sales promotion items, product test samples, seasonal or special occasion presents (Christmas, birthday, weddings), edibles, drinks, household appliances and furnishings, clothing, loans of goods or money, tickets to sporting or other events, dinners, parties, transportation, vacations, cabins, travel and hotel expenses, and various forms of entertainment. Although it does not occur as frequently, the offering of gratuities by a purchaser to the State of Colorado is as unethical as the acceptance of gratuities from the State of Colorado. Extreme caution must be used in evaluating the acceptance of any gratuities even if of nominal value, and the frequency of such actions (the collective impact) to ensure that one is abiding by the letter and the spirit of these guidelines.

**The following are recommended guidelines in dealing with gratuities:**

*Gifts/Entertainment*

- Money, loans, credits, or prejudicial discounts must never be accepted.
- The solicitation of gratuities in any form, for yourself or the State of Colorado, is unacceptable.
- Items of nominal value are sometimes offered by vendors as a gesture of goodwill, or for public relations purposes. For purposes of clarification, nominal value should not exceed \$25.00. The occasional acceptance of such items (e.g., edibles other than meals, promotional items, or novelty items) may be justified if refusal would cause undue embarrassment or strain on the business relationship.
- Gifts offered exceeding nominal value should be refused, returned with a polite explanation, or if perishable, either returned or donated to a local charity in the name of the supplier.
- If concerned that a business relationship may be impaired by refusal of a gift, seek direction from management.
- In some circumstances, items which could be considered a gratuity in other instances may be a bona fide business activity. In the case of *any* gift or entertainment, extreme care should be taken to evaluate the intent and the perception of acceptance of such an offer to ensure:
  - It is legal.
  - It is in the best interests of the State of Colorado to participate in such an activity.

- It will not influence your buying decisions.
- It will not be perceived by your peers and by others to be unethical.
  
- Product test samples may be offered by suppliers. If test samples exceed nominal value, purchasing shall issue a document to cover the transaction. This document should clarify the responsibility for the cost of the samples and should address any obligation for sharing test results with the supplier.

***Business Meals***

- Generally, free meals should not be accepted. It is recognized, however, that the offer of a "business lunch" is a customary business practice. If acceptance does not appear inappropriate, seek approval from management.
  - State of Colorado purchasing employees may accept moderate hospitality if it is offered generally to the entire group at a conference, vendor open house, product show or seminar conducted by vendors.

## **7. Promote positive supplier relationships through impartiality in all phases of the purchasing cycle.**

It is the responsibility of the purchasing professional to set the tone for a mutually acceptable business relationship with all suppliers. The reputation and good standing of the State of Colorado, the purchasing profession, and the individual will be enhanced by affording all supplier representatives the same courtesy and impartiality in all phases of business transactions. Indications of rudeness, discourtesy, or disrespect in the treatment of a supplier will result in barriers to free and open communications between buyer and seller, and ultimately in a breakdown of the business relationship.

In addition to courtesy, the purchasing professional should extend the same fairness and impartiality to all legitimate business concerns who wish to compete for orders.

### **The following are recommended guidelines for maintaining cooperative relationships with suppliers:**

- Establish parameters for bidding and/or re-bidding prior to issuance of a Invitation for Bid. This will help ensure the procedure allows fair, consistent, and unbiased treatment of each prospective bidder and that the process is understood by them prior to bidding. As a general rule when re-bidding, all initial bidders should be given the same opportunity to re-bid.
- Refrain from "auction" bidding which promotes playing one supplier against the other by allowing multiple opportunities to re-bid.
- Refrain from unreasonable demands for price cuts, special consideration, or unattainable delivery schedules.
- Achieve a prompt and fair resolution of problems regarding orders, service, or payment of invoices.
- Return telephone messages promptly and courteously.

A friendly, cooperative, and yet objective relationship extended to all suppliers will help to avoid the appearance of partiality in business dealings.

## **8. Display the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the State of Colorado and the public being served.**

Integrity is the keystone of any profession worthy of the name.

Integrity embodies the concepts of honesty, trustworthiness, and honor. Simply put, it means doing the right thing all the time, even when no one is looking, and even if doing the right thing may result in personal or professional cost - the stand up and be counted concept. What is doing the right thing? It can be as simple as being on time, doing what you say you will do, and giving an honest day's work for a day's pay. It can be as difficult as telling the truth, always treating others fairly, and never taking advantage of your position for personal gain.

If you have integrity, others know it and respect it. They will count on you, even when they can't count on themselves. Nothing else can replace it, and without it, no one can earn (or deserve) the respect, trust or confidence of others. In public purchasing the need for the highest standards of integrity is crystal clear, and every state employee involved in purchasing shall develop and exhibit such integrity in all public and personal relationships.

In summary, integrity is a priceless possession. Those who have it are admired, respected and trusted. Fortunately, it cannot be taken from you by others. It can only be given away - but keep in mind, once lost, it is difficult, if not impossible, to regain.

### **The following are recommended guidelines for developing and exhibiting integrity:**

- Be fair and objective in your personal and public relationships.
- Always do what you say you will do, when you say you will do it.
- Don't "bend the rules" for your advantage or give advantage to others.
- Don't engage in gossip or rumor spreading.
- Be meticulously honest in all that you do.
- It is difficult, if not impossible, to have "double standards" of integrity (one for the profession and one for your private conduct) and keep them separate. Therefore, strive always to conduct your public and private relationships with honor and in accordance with the highest ideals and standards of integrity. Never attempt to rationalize or justify marginal or questionable conduct with the argument "everybody else does it".

**9. Provide an environment where all business concerns, large or small, majority or minority owned, are afforded an equal opportunity to compete for State of Colorado business.**

It is generally recognized that all business concerns, large or small, majority- or minority-owned, should be afforded an equal opportunity to compete. However, most government entities and many corporations have developed specific guidelines and procedures to enforce policies designed to support and stimulate the growth of small business and those owned by minorities or other disadvantaged groups. Such businesses are dependent for their survival and expansion upon being given the opportunity to compete in the marketplace with their larger competitors. Thus, it is incumbent upon the purchasing professional to give them consideration in buying decisions by providing the opportunity to present products and services, and through opportunities to bid.

**The following are recommended guidelines for support of small businesses and those owned by minorities and other disadvantaged groups:**

- Adhere to all applicable laws and regulations.
- Actively support government policies and goals regarding purchases from small businesses and those owned by minorities and other disadvantaged groups.
- Participate in local and/or national organizations whose purpose is to stimulate growth of these entities.
- Seek new sources of supplies and services from them.
- If in a supervisory position, encourage employees to support small businesses, minority-owned, and those owned by other disadvantaged groups.

## **10. Enhance the proficiency and stature of the purchasing profession by adhering to the highest standards of ethical behavior.**

Like integrity, ethical behavior is fundamental to a profession. Purchasing professionals have an obligation to behave ethically in a manner above reproach, both publicly and privately. Additionally, they are obligated to promote the highest standards of ethical behavior in others.

State purchasing employees act on behalf of their organization and the state. Many state purchasing employees are also members of various professional groups and/or organizations. Activities of such entities are highly visible. State purchasing employees are obligated to support only those activities and organizations which uphold the highest ethical standards of the purchasing profession.

### **The following are recommended guidelines in dealing with the ethical responsibilities of the purchasing profession:**

- Support those professional organizations and activities which observe, foster and promote the highest standards of ethical behavior.
- Achieve and maintain technical, professional and ethical excellence through continuing education and certification. Certification is included in the belief that professional certification involves the education and testing of ethical as well as technical excellence.
- Seek to change, for the better, any policies, programs, practices or activities in your organization, and in organizations or groups to which you belong, which are not in accordance with the highest standards of ethical behavior.