

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 4E

Council Meeting Date: August 18, 2026

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: Richard Weaver, Chief Administrative Officer
Peter Abide, City Attorney

SUMMARY EXPLANATION:

Resolution adopting Ethics Policies and Procedures for the City of Biloxi

Resolution ☒ Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract _____ Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Ethics Policies and Procedures

Submittal Authorization: Council President _____ Mayor ☒

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	Councilmember	Yes	No	AFR	ABST	Councilmember	Yes	No	AFR	ABST
	Gray	_____	_____	_____	_____	Tisdale	_____	_____	_____	_____
	Marshall	_____	_____	_____	_____	Glavan	_____	_____	_____	_____
	Nail	_____	_____	_____	_____	Shoemaker	_____	_____	_____	_____
	Creel	_____	_____	_____	_____					

ACTION TAKEN:

081826qcon

Resolution No.

RESOLUTION ADOPTING ETHICS POLICIES AND PROCEDURES FOR
THE CITY OF BILOXI

WHEREAS, elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust (§25-4-1 Miss. Code Ann.);

WHEREAS, the City of Biloxi (the “City”), as a political subdivision of the State of Mississippi, must uphold ethical standards of conduct, as a matter of law;

WHEREAS, the acceptance of federal funds requires the City to have written standard of conduct governing employees engaged in contract administration;

WHEREAS, as noted in the City’s Audit Report for fiscal year ending September 30, 2025, the City should have documentation of adopted procurement policies and procedures that address procurement standards and a written standard of conduct governing employees engaged in contract administration, as required by Uniform Guidance;

WHEREAS, it is in the best interest of the City to adopt written policies and procedures regarding the ethical conduct of all City officials and employees which are compliant with the requirements of the State of Mississippi and the federal government;

WHEREAS, the City’s policies and procedures should foster exceptional stewardship of the public trust through adherence to ethical standards;

WHEREAS, it is the recommendation of Mayor A. M. Gilich, Jr., Richard Weaver, Chief Administrative Officer, and Peter C. Abide, City Attorney, that the City adopt the Ethics Policies and Procedures, in substantially the form attached hereto as Exhibit “A.”

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

SECTION ONE: The findings, conclusions and statements of fact contained in the preamble are hereby adopted, ratified and incorporated herein.

SECTION TWO: The Ethics Policies and Procedures for the City of Biloxi, attached hereto as Exhibit "A," are hereby adopted.

SECTION THREE: This Resolution shall take effect and be in force from and after its adoption.



POLICIES AND PROCEDURES OF THE CITY OF BILOXI, MISSISSIPPI

As of August 18, 2026

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CHAPTER 1: ETHICS

1.1 STATEMENT OF POLICY

It is essential to the proper operation of democratic government that public officials and employees be independent and impartial; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for private gain other than the remuneration provided by law; that there be public confidence in the integrity of government; and that public officials be assisted in determinations of conflicts of interest.¹

Elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments.²

It is the policy of the City of Biloxi to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the City. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City.

To achieve the purpose of this chapter, it is essential that those doing business with the City also observe the ethical standards prescribed herein.

1.2 CONTRACT RESTRICTIONS AND OTHER PROHIBITED CONDUCT; PENALTIES³

- (1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.

¹ §25-4-1 Miss. Code Ann

² § 25-4-101 Miss. Code Ann

³ § 25-4-105 Miss. Code Ann

- (2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.
- (3) No public servant shall:
 - (a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.
 - (b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.
 - (c) Be a purchaser, direct or indirect, of any claim, certificate, warrant or other security issued by or to be paid out of the treasury of the governmental entity of which he is an officer or employee.
 - (d) Perform any service for any compensation during his term of office or employment by which he attempts to influence a decision of the authority of the governmental entity of which he is a member.
 - (e) Perform any service for any compensation for any person or business after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.
- (4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:
 - (a) May be an officer or stockholder of banks or savings and loan associations or other such financial institutions bidding for bonds, notes or other evidences of debt or for the privilege of keeping as depositories the public funds of a governmental entity thereof or the editor or employee of any newspaper in which legal notices are required to be published in respect to the publication of said legal notices.
 - (b) May be a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where such contract is let to the lowest and best bidder after competitive bidding and three (3) or more legitimate bids are received or where the goods, services or property involved are

reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

- (c) May be a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where the primary contract is let to the lowest and best bidder after competitive bidding or where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.
 - (d) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent:
 - (i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or
 - (ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.
 - (e) May purchase securities issued by the governmental entity of which he is an officer or employee if such securities are offered to the general public and are purchased at the same price as such securities are offered to the general public.
 - (f) May have an interest less than a material financial interest in a business which is a contractor, subcontractor or vendor with any governmental entity.
 - (g) May contract with the Mississippi Veteran's Home Purchase Board, Mississippi Housing Finance Corporation, or any other state loan program, for the purpose of securing a loan; however, public servants shall not receive favored treatment.
 - (h) May be employed by or receive compensation from an authority of the governmental entity other than the authority of the governmental entity of which the public servant is an officer or employee.
 - (i) If a member of the Legislature or other public servant employed on less than a full-time basis, may represent a person or organization for compensation before an authority of the governmental entity other than an authority of the governmental entity of which he is an officer or employee.
 - (j) If a constable, may be employed and receive compensation as a deputy sheriff or other employee of the county for which he serves as constable.
- (5) No person may intentionally use or disclose information gained in the course of or

by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

- (6) Any contract made in violation of this section may be declared void by the governing body of the contracting or selling authority of the governmental subdivision or a court of competent jurisdiction and the contractor or subcontractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or the services furnished prior to the date of receiving notice that the contract has been voided.
- (7) Any person violating the provisions of this section shall be punished as provided for in Sections 25-4-109 and 25-4-111.

1.3 GENERAL CONDUCT

A. General Ethical Standards for Employees

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust. In order to fulfill this general prescribed standard, employees must also meet the specific standards set forth in: Section 1.4, Section 1.7, Section 1.8 and Section 1.10 .

B. Procedures

The director of each City department, or such official's designee, is encouraged to explain and to discuss at least annually with such official's employees the provisions of these policies and regulations.

1.4 EMPLOYEE CONFLICT OF INTEREST

This conflict of interest policy is intended to help ensure that when actual or potential conflicts of interest arise, the City has a process in place under which the affected individual will advise the governing body about all the relevant facts concerning the situation.

A. Conflict of Interest

Employees are not to engage in any activity in either a private or official capacity where a conflict of interest may exist. All activities that could affect an employee's objectivity in job performance or in making job-related decisions should be avoided. It shall be a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:

- 1. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
- 2. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
- 3. Any other person, business, or organization with whom the employee or any

member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Membership in professional and civic organizations are encouraged by the City, provided the participation does not adversely affect the individual's role as a public servant.

If an employee has a question concerning involvement in any organizations or about situations which may involve a conflict of interest, he or she should discuss it with his or her immediate supervisor.

B. Discovery of a Perceived, Potential or Actual Conflict of Interest

Many conflicts are normal life situations. The risk comes from failing to disclose them or failing to apply controls that protect decision integrity.

A conflict of interest happens when someone's personal, financial, or outside interests could interfere with their ability to make objective decisions at work. It doesn't require wrongdoing. A conflict can be potential, or even just perceived, and still damage public trust if it isn't disclosed and managed.

Perceived conflict: Others could reasonably believe a competing interest is affecting decisions, even if it isn't. Even when decisions are fair, appearances can undermine confidence - especially in procurement, hiring, promotions, investigations, and financial decisions. Example: a leader approves an exception for a close friend.

Potential conflict: A competing interest could influence decisions in the future. Example: an employee is considering future employment with a vendor.

Actual conflict: A competing interest is currently influencing — or very likely influencing — a decision. Example: a manager selects a vendor owned by their spouse.

A conflict of interest exists when an employee's judgement, decisions, or actions could be influenced by a competing interest, such as a relationship, a side business, a financial stake, or a personal benefit.

Employees should consider the following:

1. Am I making decisions on behalf of the City? Or am I influencing or attempting to influence such decisions?
2. Could my personal relationship be perceived as affecting my decisions? Are my relationship actually affecting my decisions?
3. Will I, or any member of my immediate family, receive a financial benefit from my decisions as an employee? Or potentially receive?
4. Am I considering future employment with a party? Do I believe that my decisions and/or actions as a City employee will impact such future employment?

Early disclosure is almost always the simplest way to avoid reputational or

disciplinary issues later. Employees are encouraged to disclose any relationships that intersect with reporting lines or decision-making, outside roles or consulting work, financial interests tied to suppliers, gifts or hospitality, and any situation that might reasonably look questionable to others. When in doubt, disclose.

C. Self-Disclosure Procedure

All employees who feel that he or she has a conflict of interest must timely submit a Conflict of Interest Disclosure Form (included as Appendix A) to the Mayor's office and withdraw from further participation in transactions with conflict, pending review by the City Attorney and the Chief Administrative Officer.

Upon receipt of a Conflict of Interest Disclosure, the City Attorney and the Chief Administrative Officer will review and potentially investigate the matter. Based on their findings, the City Attorney and Chief Administrative Office will issue instructions, in writing, to the employee and copied to their immediate supervisor, to manage and mitigate the conflict.

D. Conflict Management and Mitigation

1. Identification.

Employees hide conflicts when they fear that disclosing them will result in punishment. Good conflict management reinforces that disclosure is expected, controls will be applied fairly and consistently, and retaliation for raising concerns will not be tolerated.

Identification of conflicts and early disclosure by employees is essential to managing and mitigating risk, as well as protecting the reputation of the City and employees. As conflict is inevitable, City management must not create a culture that discourages conflict reporting. Early disclosures which occur before the conflict rises to the level of an ethic violation, should not result in punitive action or perceived punitive action.

2. Assessment.

A consistent assessment framework ensures fair treatment. Consider role sensitivity (procurement, finance, leadership, investigations), decision proximity, materiality, transparency, and whether existing controls already mitigate the risk.

3. Mitigation.

Mitigation should be proportionate and practical. Common options include recusal from relevant decisions or negotiations, reassignment of roles, independent review or committee sign-off, role or reporting-line changes, disclosure conditions (for example, no vendor interaction), divestment or restriction for high-risk financial interests, and prohibition where the risk cannot be managed.

4. Documentation and Communication.

A conflict that is managed but undocumented is difficult to defend. Record what was disclosed, when, and by whom; the risk assessment outcome; the

mitigation actions agreed upon. Communicate conditions clearly to the employee and relevant managers, without oversharing personal details.

E. Mandatory Disclosure

In connection with any Federal award, the City must disclose in writing any potential conflict of interest to the Federal agency or pass-through entity in accordance with the established Federal agency policies.⁴

Upon a finding of creditable evidence that any employee of the City of Biloxi, in connection with any Federal award (including any activities or subawards thereunder), committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729-3733), the City must promptly disclose such violation in writing to the Federal agency, the agency's Office of Inspector General, and pass-through entity (if applicable).⁵

F. Restrictions on Employment

Except as may be permitted by advisory opinions regulations or rulings of the Mississippi Ethics Commission, it shall be a breach of ethical standards for any City employee who is participating directly or indirectly in the procurement process to become or be, while employed by the City, the employee of any person contracting with the City.

1.5 ELECTED OFFICIALS CONFLICT OF INTEREST

While the policies stated in Section 1.4 apply to elected officials, in many ways, elected officials have a heightened duty to ensure compliance with the City's conflict of interest policy, as well as the statutory provisions of the Mississippi Code of 1972. In accordance with §25-4-25, "Persons elected by popular vote, excluding United States Senators and United States Representatives, to any office, whether it be legislative, executive or judicial, and whether it be statewide, district, county, municipal or any other political subdivision, with the exception of members of boards of levee commissioners and election commissioners" shall file a statement of economic interest with the Mississippi Ethics Commission.

Miss. Code Ann. § 25-4-119 states:

No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected or appointed official's duties under Sections 21-19-33, 27-109-1, 27-109-3, 27-109-7, 27-109-9, 67-1-71, 87-1-5, 95-3-25, 97-33-1, 97-33-7, 97-33-9, 97-33-17, 97-33-25, and 97-33-27. Any person convicted of a violation of this section shall be punished pursuant to the provisions of this article.

Should an elected official discover that he or she has an actual or potential conflict of interest, he or she shall promptly file a written statement of disqualification and shall withdraw from further

⁴ §200.112 Code of Federal Regulations

⁵ §200.113 Code of Federal Regulations

participation in the transaction involved. Elected officials may, at the same time, apply to the Mississippi Ethics Commission for an advisory opinion.

1.6 CONTRACTOR/CONSULTANT CONFLICT OF INTEREST

A. Independent Contractors and Consultants

It is the policy of the City of Biloxi to identify, avoid or mitigate conflicts of interest in contracting with independent contractors and consultants for services related to the subsequent competitive acquisition of commodities as defined in Section 31-7-1(e), Mississippi Code of 1972, Annotated.

The underlying principles of this policy are:

1. Preventing the existence of conflicting roles that may bias a contractor's or consultant's judgment in its work for the City; and
2. Preventing unfair competitive advantage.

An independent contractor or consultant hired by the City for the purpose of preparing or furnishing complete or essentially complete specifications which are to be used in competitive acquisition for the furnishing of the same services or equipment shall not:

1. Be awarded a contract in the subsequent competitive acquisition of commodities; or
2. Be a subcontractor or consultant to a bidder participating in the competitive acquisition of the same.

B. Prohibition Against Contingent Fees⁶

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide agency for the purpose of securing business.

"Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or

⁶ FAR 52.203-5 Covenant Against Contingent Fees

concern has in securing a Government contract.

“Improper influence,” as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

C. Debarment and Suspension

The suspension and debarment process protects the Federal government from fraud, waste and abuse by avoiding doing business with non-responsible contractors. The Federal government may suspend or debar a contractor for any of the following:

1. Commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal laws, receiving stolen property, an unfair trade practice;
2. Violation of antitrust statutes;
3. Willful, or a history of, failure to perform;
4. Violation of the Drug-Free Workplace Act;
5. Delinquent Federal taxes (more than \$3,000);
6. Knowing failure to disclose violation of criminal law; or
7. Any other cause that affects present responsibility.

The City of Biloxi cannot and does not utilize federal funds to contract with any organization or individual who has been suspended or debarred. To guard against contracting with a suspended or debarred party, when utilizing federal funds, the Grant Manager responsible for said funds must utilize the System for Award Management (SAM) to confirm that the contractor is not debarred, suspended, or otherwise excluded by federal agencies, or declared ineligible under statutory or regulatory authority prior to entering a contract. Further, all subcontractors must be checked to ensure that they are not suspended or debarred.

SAM is accessible online at <https://sam.gov/search>.

1.6 LOBBYING

In connection with any federal award, the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) requires that any contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The form of such certification is included as Appendix B.

1.7 GRATUITIES

A. Gratuities Prohibited

Employees must not utilize their positions to obtain benefits in the form of money, property, commercial interest or any other economic gain for themselves, their relatives, or any family business interests. Employees should never disclose information obtained from their employment with the City in any way which might result in any of these benefits. Employees must also guard themselves against the appearance of such conflicts.

Employees or members of their immediate families are not permitted to accept gratuities or favors from individuals and/or groups who conduct business with, or whose business interests are affected by the City or any of its functions.

B. Meals and Hospitality

1. City staff members may sometimes be required to conduct business during meals or to participate in modest hospitality as a courtesy in a business relationship. Staff members will avoid frequent meals with the same vendor and avoid any situation in which he/she might be perceived to have been influenced as a result of accepting or participating in a particular vendor's hospitality. However, any and all vendor contacts with City procurement staff and/or others involved in the procurement must be discontinued during any active procurement process in which the vendor is a potential proposer for the City's project.
2. City staff may participate in lunch-and-learn and similar meetings sponsored by vendors.

C. When Prohibition Against Gratuities Not Applicable

The following does not constitute acceptance of gratuities:

1. The solicitation or acceptance of anything of monetary value from a friend, parent, spouse, child, or other close relative when the circumstances make it clear that the motivation for the transaction is unrelated to any procurement with the City and is based upon a personal or family relationship;
2. The participation in the activities of, or the acceptance of an award for, a meritorious public contribution or achievement from a charitable, religious, professional, social, or fraternal organization, or from a non-profit educational, recreational, public service, or civic organization;
3. Acceptance only on current customary terms of finance of a loan from a bank or other financial institution for proper and usual activities of state employees, such as home mortgage loans; or
4. Acceptance of unsolicited advertising products or promotional material, such as pens, pencils, note pads, calendars, and other such items.

D. Meals and Hospitality

Employees may sometimes be required to conduct business during meals or to participate in modest hospitality as a courtesy in a business relationship. Employees will avoid frequent meals with the same vendor and avoid any situation in which he/she might be perceived to have been influenced as a result of accepting or participating in a particular vendor's hospitality. However, any and all vendor contacts with City procurement staff and other employees participating in procurement must be discontinued during any active procurement process in which the vendor is a potential proposer or bidder.⁷

City employees may participate in lunch-and-learn and similar meetings sponsored by vendors.

1.8 DONATIONS

A “donation” is a transfer of money or other thing of value from the owner to another without any consideration.⁸ While the City is authorized to accept donations from private individuals and organization, it is imperative that the City guard against the appearance that any such donation is being made on a *quid pro quo* basis or for the purposes of inducing the City to take a specific action.

Mississippi Attorney General Opinions have provided guidance for the acceptance of donations, which includes the following:

1. Once funds are donated to the municipality, they then become public funds. The governing authorities must account for them and expend them in accordance with statutes governing municipal funds.⁹
2. Governing authorities may only accept donations of funds for purposes which are functions of city government and are authorized by statute. Once the funds are donated to the municipality, they become public funds and must be accounted for and expended as municipal funds.¹⁰
3. The governing authorities may accept a donation for unspecified purposes and may place the funds in the municipal treasury and then appropriate the funds in accordance with the intent of the donor(s) as long as the funds are used for statutorily authorized purposes. However, the governing authorities may not accept a donation and place the funds in a special account designated as a “benevolent” fund to be used for purposes beyond those authorized by statute for police and fire departments. Individuals and companies may make donations to private, nonprofit organizations, such as a police wives' auxiliary, which may then use funds in accordance with the bylaws or goals of the organizations for the benefit of the municipality, and

⁷ 36 Miss. Code R. §2-10-210.1-2

⁸ *Craig v. Mercy Hospital-Street Memorial*, 209 Miss. 427, 45 So.2d 809, 814 (1950).

⁹ MS AG Op. Bruni (May 15, 1998)

¹⁰ MS AG Op. Jones (March 14, 2014); MS AG Op., Matthews (November 3, 2006); MS AG Op., Bruni (May 15, 1998)

- these funds are not subject to statutes governing municipal expenditures.¹¹
4. Donations cannot be accepted by the City for the benefit of an individual or group of individuals, but must be for a lawful municipal purpose. For example, the City cannot accept the donation of a vehicle with the restriction that the vehicle is for the use of a specific officer of the police department.¹²

To ensure that no donation to the City is, or has the appearance of, being improper or offered as an inducement, it is the policy of the City of Biloxi that no individual official, employee or department may accept a donation on behalf of the City. All donations must be accepted by the City's governing authorities through an adopted resolution of the City Council.

1.9 POLITICAL ACTIVITIES

Employees are afforded a work environment free from political influence or coercion. To maintain this work environment, employees are prohibited from engaging in any political activities during normal working hours. Employees are also prohibited from participating in a political campaign which would directly imply that the City of Biloxi has endorsed a particular candidate. An example of this would include making an endorsement of a candidate using the affiliation with the City of Biloxi.

Regarding political activity, in addition to §15-3-10 of the Code of Ordinances, the City of Biloxi adopts the provisions of §27-120-5.9 of the Mississippi Administrative Code:

1. No City employee may be obliged, by reason of his or her employment, to contribute to a political fund or to render political service, and he or she may not be removed or otherwise prejudiced for refusal to do so.
2. No City employee may use his or her official authority or influence to coerce the political action of a person or body
3. The City will assure fair treatment of applicants and employees that is free from coercion for partisan or political purposes. State law requires a personnel system that assures employees are free from coercion for partisan or political purposes and shall receive fair treatment in all aspects of personnel administration without regard to political affiliation.
4. Any attempt to direct or coerce any employee to vote or not to vote and from either discharging or threatening to discharge, changing the salary of, or promoting or demoting any employee because of the employee's vote or failure to vote for any particular candidate or group of candidates is prohibited.
5. State law further prohibits the City from giving out or circulating any statement or report that is calculated to intimidate, coerce, or otherwise influence any employee as to the employee's vote. If any such statement or report is circulated, the City must publicly repudiate it or will be deemed to have circulated the statement.
6. The City is also prohibited from requesting, directing or allowing any employee to canvas for or otherwise render any services for or against any candidate or group of candidates during working hours or while an employee is on vacation or other

¹¹ MS AG Op. Bruni (May 15, 1998)

¹² MS AG Op. Lawrence (December 1, 2000)

- leave of absence at the expense of the City.
7. No City employee, at the expense, in whole or part, of the City, may take any part whatsoever in any election campaign except the time necessary to cast his or her vote.
 8. No one who has any control over, directly or indirectly, the expenditure of any public funds in the City of Biloxi may suggest or intimate either publicly or privately that any such expenditure will in any way depend on or be influenced by the vote of any person or groups of persons.
 9. No person may, in order to promote his or her own candidacy or that of any other person for public office in Mississippi, directly or indirectly promise to appoint or secure or assist in securing the appointment, nomination or election of another person to any public position or employment or the employment of any person under any public contract or the expenditure of any public funds in the personal behalf of any particular person or group.
 10. No state service employee or state official is allowed to directly or indirectly give, render, pay, offer, solicit or accept any money, service or other valuable in consideration for or on account of any appointment/promotion (actual or proposed), or any other employment advantage concerning a state service status position.

The Hatch Act regulations which are applicable to State and local employees may be found in the Code of Federal Regulations at 5 C.F.R. § 151.101 et seq. In cases where the Hatch Act is applicable, the City of Biloxi may additionally place more strict prohibitions on the political activity of its employees. Additional information about the Hatch Act can be found at <http://www.osa.gov>.

City employees whose principal employment is in connection with an activity financed in whole or in part by loans or grants from the United States or an agency thereof, must abide by the provisions of the Federal Hatch Act¹³. This Act restricts political activities such as solicitation of contributions or utilization of the official position to influence or interfere with the outcome of an election or nomination.

A State or local officer or employee may not (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; (2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes or (3) if the salary of the employee is paid completely, directly, or indirectly, by loans or grants made by the United States or a Federal agency, be a candidate for a partisan elective office. Under federal guidelines, all State or local employees regardless of funding may be a candidate in a nonpartisan election.

1.10 FRAUD, WASTE AND ABUSE

It is the policy of the City of Biloxi to thoroughly investigate all suspected cases of fraud, waste and abuse. All reports of suspected fraud, waste and abuse will be handled in the strictest confidence. Informants may remain anonymous, but are encouraged to cooperate

¹³"Hatch Act," 5 U.S.C. §§ 1501 et seq.

fully with investigators and provide as much detail and evidence of the suspected fraud, waste or abuse as possible. State law grants certain protections to whistleblowers, and any retaliation against employees who report suspected fraud, waste and abuse is strictly prohibited¹⁴. (See Section 1.12).

1. Fraud.

Fraud is defined as the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets. Fraud requires an intentional act of deceiving, concealing or misrepresenting information to obtain unauthorized benefits. Examples of fraud include breach of fiduciary duty, bribery, concealment of material facts, theft of money or physical property, theft of secrets or intellectual property, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, obtaining contracts through collusive arrangements, and other statutory offenses.

2. Waste.

Waste is defined as the loss or misuse of City resources that results from deficient practices, system controls, or decisions and relates primarily to mismanagement, inappropriate actions, and inadequate oversight.

Waste includes inappropriate action or omission by those with controls over City resources that results in taxpayers not receiving reasonable value for money in connection with any City-funded activities. Waste, directly or indirectly, results in unnecessary costs to the City.

Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources and is not always intentional, but drains valuable resources.

3. Abuse.

Abuse is defined as the intentional, wrongful, or improper use of resources or misuse of rank, position, or authority that causes the loss or misuse of resources, such as tools, vehicles, computers, copy machines, etc. Examples of abuse are receiving favors for awarding contracts to certain vendors, preferencing certain vendors based on a personal relationship, requesting employees to perform personal errands for a supervisor or manager, and misusing the employee's position for personal gain.

1.11 DUTY TO REPORT

Any employee who receives a report of suspected fraudulent activity must report this information immediately upon discovery. The report of suspected fraud, waste or abuse should not be mere speculation, and should be made in good faith. Any employee who knowingly makes a false report may be subject to disciplinary

¹⁴ § 25-9-173 Mississippi Code of 1972

action.

Reports of suspected fraudulent activity may be made to Departmental Directors, Human Resources, the Mayor's office, or to the City Attorney and must include enough information to support an investigation. A form for reporting is included as Appendix C.

The City recognizes that you may want to maintain your confidentiality when reporting suspected fraud. Below are the options available to you and the impact each will have on your report:

1. No Restrictions: You provide your identifying information (name, address, etc.) and your identity may be disclosed to others during the course of investigation. Reports with no restrictions may be submitted via hand-delivery, email or U.S. Mail. If mailing, please address as follows:
City of Biloxi
Attn: Whistleblower
Post Office Box 429
Biloxi, Mississippi 39533
2. Confidentially: You disclose your identity with the request that it not be shared outside of the party to whom you disclose. This option may hinder the City's ability to investigate and/or resolve the matter. Despite such request for confidentiality, the City cannot guaranty confidentiality as the investigation itself may reveal your identity; it may become necessary that your identity be shared during the course of investing the allegation; or revealing your identity may be required by law. Reports with confidentiality requested may be submitted via hand-delivery, email or U.S. Mail. If mailing, please address as follows:
City of Biloxi
Attn: Whistleblower
Post Office Box 429
Biloxi, Mississippi 39533
3. Anonymously: You opt not to provide any identifying information (name, address, etc.). You should know, however, that opting to remain anonymous precludes the City from investigating a complaint as a whistleblower retaliation complaint and may hinder the City from thoroughly reviewing and/or resolving the complaint's allegations. Reports submitted anonymously may only be delivered U.S. Mail, addressed as follows:
City of Biloxi
Attn: Whistleblower
Post Office Box 429
Biloxi, Mississippi 39533
4. All mail received addressed "Attn: Whistleblower," must be delivered to the Mayor's Office and remain sealed.

5. As appropriate, the City, the Office of the State Auditor or appropriate law enforcement entity shall conduct investigations of potential fraud by City employees, vendors, contractors, sub-recipients. If necessary, employees and others reporting fraudulent activity will be contacted for additional information.

Suspected fraud, waste and abuse may also be reported directly to the Office of the State Auditor through their website at <http://www.osa.state.ms.us/>. The contact form is located at <http://www.osa.ms.gov/fraud/>.

1.12 WHISTLEBLOWER PROTECTIONS

The Whistleblower Protection Act of 1989 (WPA or the Act) and §25-9-173 of the Mississippi Code of 1972 provide protections for most public employees who disclose government illegality, waste, corruption, and other misconduct. An employer cannot retaliate against you for exercising your rights under the whistleblower protection laws. Retaliation includes such actions as firing or laying off, demoting, denying overtime or promotion, or reducing pay or hours.

It is the policy of the City of Biloxi that an employee must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a City contract or grant, a gross waste of City funds, an abuse of authority relating to a City contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a City contract (including the competition for or negotiation of a contract) or grant.

The City of Biloxi specifically prohibits retaliation and adverse actions against employees who disclosure of information which the employee reasonably believes evidences any violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Retaliation occurs when an employer (through a manager, supervisor, or administrator) fires an employee or takes any other type of adverse action against an employee for engaging in protected activity.

An adverse action is an action which would dissuade a reasonable employee from raising a concern about a possible violation or engaging in other related protected activity.

The City of Biloxi must inform its employees in writing of employee whistleblower rights and protections¹⁵ under 41 U.S.C. 4712. See statutory requirements for whistleblower protections at 10 U.S.C. 4701, 41 U.S.C. 4712, 41 U.S.C. 4304, and 10 U.S.C. 4310.

Whistleblower protections do not extend to employees who knowingly make a false report. The is not precluded from taking any action in accordance with established personnel policies against an employee who knowingly and intentionally provides false information.

¹⁵ §200.217 CFR

1.13 RESTRICTION ON EMPLOYEES PURCHASING UNDER TERMS OF A STATE CONTRACT

Section 25-4-105(1), Mississippi Code of 1972, Annotated, states, "No public servant shall use his official position to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain or attempt to obtain pecuniary benefit for any relative or any business with which he is associated."

In layman's terms, this means that anyone purchasing a product is free to negotiate the best price possible with the seller but any attempt to tie the sale to a state contract based upon employment with a governmental entity could be considered to be a violation of the ethics law.

1.14 RESTRICTION ON EMPLOYEES BUYING SURPLUS PROPERTY

Section 25-4-105(3)(b), Mississippi Code of 1972, Annotated, states, "No public servant shall be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods and services when provided as public utilities or offered to the general public on a uniform price schedule." In the case of a sale by the City, no City employee may participate in the sale as a purchaser.

1.15 NON-DISCRIMINATION

The City of Biloxi prohibits unlawful discrimination or harassment based upon race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, genetic information, status as a U.S. veteran, or any other status to the extent protected by applicable law. The City will not tolerate discrimination, harassment, or retaliation.

This policy applies to all City officials, employees, volunteers, vendors, contractors, or program participants. It prohibits discrimination and/or harassment on the basis of any of the protected characteristics cited above in any City program, service, opportunity, or activity. This policy also prohibits retaliation, which includes any intimidation, coercion, discrimination, threat, or other action against any individual that would deter a reasonable person from reporting, testifying, assisting, or cooperating with an investigation or proceeding.

All persons having a contract with the City of Biloxi must adhere to the City's policy concerning non-discrimination.

A copy of the City's Employment Policy, which covers non-discrimination in the workplace, is included as Appendix D.

1.16 SOCIAL MEDIA

Social media is defined as the various activities that integrate technology, social interaction, and content creation. Through social media, individuals or groups can create, organize, edit or comment networking, blogs, wikis, photo-sharing, video-sharing, podcast, social bookmarking, mash-ups, widgets, virtual worlds, microblogs, Really Simple Syndication (RSS) and more.

Any personal social media activity by City employees may not be represented as official City or agency social media activity. City email addresses shall not be used to register for personal social media activity. City employees should not pressure or coerce other employees to connect with them via social media.

It is considered to be protected expression for City employees to engage in social media activity concerning issues of public concern, while on personal time and in a personal capacity. City employees must make clear that any views concerning issues of public concern are those of the individual and do not reflect the views of the City or any department of the City. City employees maintain their First Amendment rights, but any speech or expression, even in a personal capacity, causing disruption or that undermines the effectiveness and/or operation of the workplace is prohibited.

Any of the following social media activity, comments, expression or posts by a City employee in his or her professional or personal capacity are also prohibited:

1. Content that is discriminatory, harassing or physically threatening, as toward other City employees;
2. Disclosure of City information that is confidential or proprietary;
3. Content that demonstrates unlawful conduct;
4. Content that is in violation of the City's conflict of interest policy;
5. Content that is in violation of the federal Hatch Act, 5 U.S.C Section 1501 et seq., and 5 C.F.R. Section 151.101 et seq.

Violations of this policy are subject to disciplinary action.

CHAPTER 2: DEFINITIONS

“Adverse action” means any action which would dissuade a reasonable employee from raising a concern about a possible violation or engaging in other related protected activity.

“Advisory boards or commissions” means committees created solely to provide technical or professional knowledge or expertise to a parent organization, and whose members exercise no direct authority to expend public funds other than reimbursement for personal expenses incurred as a result of a member’s service on the advisory board.

“Authority” means any component unit of a governmental entity.

“Benefit” means any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.

“Bona fide agency” means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

“Bona fide employee” means a person, employed by a contractor and subject to the contractor’s supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

“Business with which he is associated” means any business of which a public servant or his relative is an officer, director, owner, partner, employee or is a holder of more than ten percent (10%) of the fair market value or from which he or his relative derives more than Two Thousand Five Hundred Dollars (\$2,500.00) in annual income or over which such public servant or his relative exercises control.

“Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint-stock company, receivership, trust or other legal entity or undertaking organized for economic gain or a nonprofit corporation or other such entity, association or organization receiving public funds;

“Candidate for public office” means an individual who has filed the necessary documents or papers to appear as a candidate for nomination for election or election to any elective office existing under the laws of the State of Mississippi, including primary, special or general elections.

“City” means the City of Biloxi, Mississippi.

“Compensation” means money or thing of value received, or to be received, from any person for

services rendered.

“Confidential Information” means any information which is available to an employee only because of the employee's status as an employee of City and is not a matter of public knowledge or available to the public on request.

“Conspicuously” means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

“Contingent fee” means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

“Contract” means:

- (a) Any agreement to which the government is a party; or
- (b) Any agreement on behalf of the government which involves the payment of public funds.

“Direct or Indirect Participation” means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

“Employee” means

- (a) A person elected to a Mississippi office;
- (b) A non-elected person, whether appointed or selected through a personnel selection procedure, receiving a salary, wages, or other compensation from the State; and
- (c) A non-compensated or minimally compensated person who is performing personal services for the State.

The term "Employee" does not include a person who, as an independent contractor, performs professional, scientific, technical, or advisory service for a state agency and who receives a fee, honorarium, or similar consideration for the services performed.

“Financial Interest” means:

- (a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, monetary compensation or material gratuity;
- (b) Ownership of such interest in any property or any business as may be specified by the Mississippi Ethics Commission; or
- (c) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

“Government” means the state and all political entities thereof, both collectively and separately, including, but not limited to:

- (a) Counties;
- (b) Municipalities;

- (c) All school districts;
- (d) All courts; and
- (e) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

“Governmental entity” means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

“Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

“Immediate Family” means a spouse, children, parents, brothers and sisters, and such other relatives as may be designated by the Mississippi Ethics Commission.

“Improper influence” means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

“Income” means money or thing of value received, or to be received, from any source derived, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, forgiveness of debt, fee, royalty, commission or any combination thereof.

“Material financial interest” means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse, either individually or in combination with each other. Notwithstanding the foregoing, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

- (a) Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$1,000.00);
- (b) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$5,000.00);
- (c) The income as an employee of a relative if neither the public servant or relative is an officer, director or partner in the business and any ownership interest would not be deemed material pursuant to subparagraph (i) or (ii) herein; or
- (d) The income of the spouse of a public servant when such spouse is a contractor, subcontractor or vendor with the governmental entity that employs the public servant and the public servant exercises no control, direct or indirect, over the contract between the spouse and such governmental entity.

“Official Responsibility” means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct City action.

“Pecuniary benefit” means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.

“Person” means any individual, firm, business, corporation, association, partnership, union or other legal entity.

“Property” means all real or personal property.

“Public employee” means any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the Mississippi State Legislature or by the governing body of any political subdivision thereof, or any other body politic within the State of Mississippi.

“Public funds” means money belonging to the government, whether federal, state, district or local.

“Public servant” means:

- (a) Any elected or appointed official of the government;
- (b) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the State of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or
- (c) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

“Purchase Request” means that document whereby a City department requests that a contract be entered into for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation, suggested sources of supply, and information supplied for the making of any required written determination.

“Relative” means:

- (a) The spouse of the public servant;
- (b) The child of the public servant;
- (c) The parent of the public servant;
- (d) The sibling of the public servant; and
- (e) The spouse of any of the relatives of the public servant specified above.

“Retaliation” occurs when an employer (through a manager, supervisor, or administrator) fires an employee or takes any other type of adverse action against an employee for engaging in protected activity.

“Securities” means stocks, bonds, notes, convertible debentures, warrants, evidences of debts or property or other such documents.

“Social media” means the various activities that integrate technology, social interaction, and content creation. Through social media, individuals or groups can create, organize, edit or comment networking, blogs, wikis, photo-sharing, video-sharing, podcast, social bookmarking, mash-ups, widgets, virtual worlds, microblogs, Really Simple Syndication (RSS) and more.

CHAPTER 3: APPENDICES

APPENDIX A

3.1 CONFLICT OF INTEREST DISCLOSURE FORM

Instructions: This form should be used by employees to disclose any perceived, potential or actual conflict of interest. Once completed, this form must be submitted to the Mayor's office for review and/or investigation by the City Attorney and the Chief Administrative Officer. The employee should immediately withdraw from further participation in transactions with conflict. Following review/investigation, written instructions will be issued to the employee and copied to their immediate supervisor, to manage and mitigate the conflict. (See Section 1.4 of the City's Manual for more information.)

Employee Name: _____

Position: _____

Conflict Party: _____

Nature of the Conflict:

- ☐ I, or a member of my immediate family, has a financial interest pertaining to the procurement.
- ☐ I, or any member of my immediate family, has a financial interest in this business or organization.
- ☐ I, or any member of my immediate family is negotiating or has an arrangement concerning prospective employment with this person / business / organization.
- ☐ Other

Describe the conflict: _____

Signature

Date

APPENDIX B

3.2 BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000.00 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

APPENDIX A, 44 C.F.R. PART 18 - CERTIFICATION REGARDING LOBBYING-REQUIRED FOR CONTRACTS OVER \$100,000

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and

not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

APPENDIX C

3.2 FRAUD, WASTE AND ABUSE REPORT

To process your allegation(s), we will need you to provide as much information as possible. Your information should include the following:

- Who committed the wrongdoing (person, company, or organization)?
- What exactly did the individual or entity do?
- Where did the activity take place?
- When did it happen?
- How was the activity committed?
- Do you know why the person committed the wrongdoing?
- Who else has knowledge of the potential wrongdoing?

Without sufficient information we may be unable to act on your allegation. The more information you can provide, the better the chance we have of determining whether any wrongdoing has been committed. We are very interested in the information you have regarding waste, fraud, abuse, mismanagement, or misconduct in City programs.

Please select one:

- ☐ I request no restriction regarding my identity.
- ☐ I request that my identity not be shared and understand this option may hinder the City's ability to investigate and/or resolve the matter. Further, I acknowledge and agree that the City cannot guaranty confidentiality as the investigation itself may reveal your identity; it may become necessary that your identity be shared during the course of investing the allegation; or revealing your identity may be required by law.
- ☐ I wish to remain anonymous. I understand opting to remain anonymous precludes the City from investigating a complaint as a whistleblower retaliation complaint and may hinder the City from thoroughly reviewing and/or resolving my allegations

Complaint Summary (attach additional pages, if necessary): _____

DISCLOSURE OF YOUR IDENTITY IS OPTIONAL.

Your Name: _____

Your City Department: _____

Current Employment Position: _____

APPENDIX D

3.3 EMPLOYMENT POLICY

City of Biloxi EMPLOYMENT POLICY

The Employment Policy is adopted by Executive Order No. 02-2 signed by Mayor A. J. Holloway on August 28, 2002.

EFFECTIVE DATE AND DISSEMINATION OF POLICY

The following employment policy has been created and established by Executive Order of the Mayor and shall be deemed to be in full force and effect thirty (30) days after the date of Executive Order 02-2. A copy of this policy shall be provided to each employee. A copy of this policy shall be posted in a conspicuous location at Biloxi City Hall, and additional copies of this policy shall be made available for inspection in the Human Resources Office of the City of Biloxi.

It should be emphasized that the policy contained in this Executive Order has been utilized and adhered to prior to its reduction in writing herein.

I. STATEMENT OF POLICY

SECTION 1.1: Policy.

- (a) The City of Biloxi, Mississippi is and has been committed to the principal of equal employment opportunity for all qualified individuals. It is and has been the policy of the City of Biloxi that no person shall be discriminated against because of race, color, religion, sex, national origin, age, handicap or any other characteristic protected by law.
- (b) Further, the City of Biloxi is and has been committed to providing a work environment that is free of unlawful discrimination, including sexual harassment.
- (c) Employees/Applicants have the right to make complaints of alleged unlawful discrimination, including sexual harassment, without fear of retaliation.
- (d) Pursuant to this policy the penalty which may be imposed by the City of Biloxi, as Employer, for unlawful discrimination, including sexual harassment, shall be the full range of disciplinary action, up to and including termination of employment.

II. PROCEDURES FOR FILING AND HANDLING COMPLAINTS

SECTION 2.1: Filing Complaints.

- (a) Alleged violations of the employment policy may be made by an applicant to the Human Resources Manager or by an employee following applicable departmental rules and regulations up the employee's chain of command.

- (b) An employee may request permission to "skip" or "leap frog" the alleged violator, if the alleged violator is in the employee's chain of command. Such request must be made to the next highest rank within the chain and such request shall be granted.

SECTION 2.2: Investigating Complaints.

- (a) Once a complaint has been filed, it will be investigated.
- (b) The alleged violator will be made aware of a complaint in such manner and at a time that will not compromise the investigation.
- (c) In the course of an investigation, it may be necessary to interview witnesses, coworkers, or others to adequately investigate violations of the employment policy. Therefore, the City of Biloxi cannot guarantee strict confidentiality when investigating alleged violations of the employment policy.

SECTION 2.3: Notification.

- (a) Both the employee/applicant filing a complaint and the alleged violator shall be notified as to whether or not a violation of the policy occurred.

III. CONFIDENTIALITY

SECTION 3.1: Confidentiality.

The City of Biloxi cannot guarantee strict confidentiality when investigating alleged violations of the employment policy. However, all information, interviews, reports, statements, memoranda, and test results, written or otherwise, received by the City of Biloxi through its investigation are considered the property of the City of Biloxi and will not be made available except on a need to know basis or as required by law.