

## Procurement Guidance - (7/2016)

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### T3.1.5 Conflict of Interest Revised 8/2009

#### A Conflict of Interest

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### **T3.1.5 Conflict of Interest Revised 8/2009**

#### **A Conflict of Interest**

##### **1 Requirement for an Agreement Regarding Conflict-of-Interest Revised 7/2014**

a. Persons who have a real or apparent conflict of interest may be unable to render impartial, technically sound, and objective assistance, advice, or decisions. A procurement team member (program officials, contracting personnel, legal counsel, and others supporting a program), Office of Dispute Resolution for Acquisition (ODRA) member, or other Federal member who has a real or apparent conflict of interest, and who is a Federal employee, must withdraw from participation in the source selection process if law (18 U.S.C. 208) or regulation (5 CFR Part 2635) requires it. Considerations of equity and integrity of the procurement process require that non-Government members of a procurement team be held to the same standards.

b. Unless a procurement team member receives prior authorization, a procurement team member who is a Government employee should not participate if the result is likely to affect the financial interests of the procurement team member's household, or the procurement team member knows a person with whom the procurement team member has a covered relationship as defined in 5 CFR 2635.502, or the procurement team member represents a party, if a reasonable person with knowledge of the relevant facts would question the procurement team member's impartiality in the matter. The law does not require non-Government procurement team members be removed when they have an apparent conflict, but the FAA's public image, workforce morale, and considerations of equity dictate that they be treated exactly as our own employees are treated.

c. Each person involved in the source selection process, including the source selection official (SSO), contracting officer, and legal counsel, who might have access to confidential or proprietary procurement information such as procurement strategy, offerors' proposals, results of evaluations, and the final selection actions, must sign and submit an Agreement Regarding Conflict-of-Interest (see AMS Procurement Forms) to the SSO or designee before any participation in the source selection process for all procurements with an estimated value of \$150,000 or greater. This is to ensure that no conflict of interest exists. An Agreement Regarding Conflict-of-Interest should be completed before distribution of offerors' submissions for evaluation and at any time afterwards, if an individual's financial, business, or employment situation changes to create the potential for a conflict of interest. The Agreement Regarding Conflict-of-Interest must be completed by individual procurement team members for each procurement and retained in the pre-award file.

##### **2 Processing a Conflict of Interest Revised 1/2007**

If the SSO or designee becomes aware of a conflict of interest, the SSO should notify the procurement legal counsel immediately. Action should be taken to remove the party from further participation in the source selection activities until the conflict of interest is reviewed and legal advice obtained. A procurement team member must be excused or removed from participation in the source selection process should a conflict of interest exist, unless a waiver is granted. All conflict of interest cases must be clearly documented. The procurement team

members must update and resubmit any and all conflict of interest statements if an individual's financial, business, or employment relationship changes to the extent that a conflict of interest could exist.

### **3 Single-Source/Non-Competitive Acquisitions **Added 7/2012****

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the Contracting Officer will take all appropriate actions in coordination with the Program Office. The Contracting Officer may tailor the Agreement Regarding Conflict of Interest Form as appropriate.

#### **B Clauses**

[view contract clauses](#)

#### **C Forms **Revised 1/2011****

[view procurement forms](#)