


Approved by:	Agency Procedure	Procurement and Contracts
 Chief Executive Officer	Avoiding Organizational Conflicts of Interest: Planning, Design, and Construction Management Services	
Chief Procurement Officer 	Effective Date: 01/15/2019 Supersedes: Agency Policy Preventing Organizational Conflicts of Interest in Planning, Design and Construction Management.	

Avoiding Organizational Conflicts of Interest: Planning, Design, and Construction Management Services

1.0 Scope

- 1.1 This procedure relates to the eligibility of contractors, including consultants, subconsultants, and constituent partners in joint ventures (collectively, contractor), to participate in Sound Transit contracts for planning, environmental, design, and construction management services.

2.0 Definitions

- 2.1 An organizational conflict of interest exists where, because of other activities, financial interests, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the agency; the contractor's objectivity in performing the contract work is or might be impaired; or a contractor has an unfair competitive advantage.

3.0 Procedure

- 3.1 Sound Transit procurements are conducted in a manner that provides, to the maximum extent practical, full and open competition. It is the agency's continuing obligation to identify actual, apparent, or potential organizational conflicts of interest early in the procurement process and, where appropriate, allow the contractor to implement measures to eliminate or mitigate such conflicts.
- 3.2 Sound Transit evaluates each conflict or potential conflict situation on a case-by-case basis. The agency reviews requests for conflict of interest determinations submitted by prospective contractors, before subcontractors are added to existing contracts, and at other times as appropriate. Sound Transit makes available appropriate information including intended project delivery strategies to assist in identifying and proposing organizational conflict of interest mitigation plans.
- 3.3 Contractors involved in the preparation of an Environmental Impact Statement (EIS) or in the development of initial data and plans for a project must execute a disclosure statement that clearly describes its involvement in the project to expose any potential conflicts of interest that may exist. Such a contractor, absent an irreconcilable organizational conflict of interest, will likely be allowed to propose for follow on work as long as the EIS work is substantively complete.
- 3.4 Procurement and contracts staff receives and evaluates all requests for conflict of interest determinations, consults the appropriate department and legal staff, and issues a conflict of interest determination. The foregoing requests may be sent to the director of design and construction contracts, procurement and contracts division, and may be transmitted by email. Sound Transit will acknowledge receipt and request any additional information within five working days. Sound Transit tracks the resolution of organizational conflict of interest requests through final determination.
- 3.5 Conflict of interest determinations may require the contractor to prepare and provide an appropriate mitigation plan or other remedy that, under the particular facts and circumstances, would mitigate or alleviate the conflict and allow participation in the work. Staff evaluates such plans and accepts, rejects, or modifies the plan to achieve the goals stated above.

- 3.6 Contractors may appeal a conflict of interest determination to the deputy chief executive officer within five working days of initial notification. The deputy chief executive officer or designee evaluates appeals and makes best efforts to issue a final determination within five working days of receipt of an appeal.

4.0 References

- 4.1 Board Resolution No. R2018-40 Procurement, Agreements and Delegated Authority Policy
- 4.2 FTA Circular 4220(1)(F), Chapter VI. Section 2, Paragraph a.(4)(h)
- 4.3 FTA Best Practices Procurement & Lessons Learned Manual, Sections 2.4, 2.6 and 2.6.1