



*Draft June 9, 2009 – for second executive review
Track Changes Marked*

June xx, 2009

Secretary of Transportation

Organizational Conflicts of Interest

I. Introduction

A. Purpose

The Washington State Department of Transportation (WSDOT) contracts with design-builders, consultants, contractors, and design-bid-builders. This Secretary's Executive Order directs WSDOT employees to avoid or neutralize "organizational conflicts of interest" (OCOI) when working with the consulting and contracting communities on design-build projects, and design-bid-build projects.

B. Definition – Organizational Conflict of Interest

For the purposes of this Secretary's Executive Order "organizational conflict of interest" (OCOI) means that because of other activities or relationships with other persons or entities, a person or entity:

1. Is unable or potentially unable to render impartial assistance or advice to WSDOT;
2. Is or might be otherwise impaired in its objectivity in performing the contract work; or
3. Has an unfair competitive advantage.

II. Secretary's Executive Order

WSDOT employees are directed to identify, disclose, and manage potential, actual, or perceived organizational conflicts of interest with the consultant and contracting community that participates in contracting with the department on consultant services agreements, design-bid-build contracts and design-build contracts, including design-build Requests for Qualifications and Requests for Proposals.

WSDOT employees responsible for the development of consultant service agreements and design-build contracts are directed to include contract language addressing organizational conflicts of interest in accordance with this Secretary's Executive Order and the *Organizational Conflicts of Interest Manual M 3043*.

The objectives:

1. Establish a contracting environment that helps ensure the consultant or contractor renders impartial assistance or advice to WSDOT and is objective in performing their work for WSDOT.
2. Protect the integrity, fairness, and competitive spirit of the design-build and design-bid-build procurement process.
3. Avoid circumstances that result in an actual or perceived competitive advantage for a potential consultant, submitter, proposer, or bidder.
4. Protect confidential and sensitive project-specific information.
5. Inform potential consultants, contractors, proposers, and bidders of the department's rules and procedures for managing organizational conflict of interest.

III. Information to Carry Out This Secretary's Executive Order

A. Rules and Procedures

Rules and procedures to carry out this Secretary's Executive Order are published in the *Organizational Conflicts of Interest Manual M 3043*.

B. Contact for more information

For more information please contact the Headquarters Construction Office at 360-705-7820, Web site <http://www.wsdot.wa.gov/biz/construction/>.

IV. References

- [RCW 42.52 Ethics in Public Service](#)

- [RCW 18.43.105 Disciplinary action – Prohibited conduct, acts, conditions](#)
- [WAC 196-27A Rules of professional conduct and practice](#)
- 23 CFR §636.109 *How does the NEPA process relate to the design-build procurement process?*
- 23 CFR §636.116 *What organizational conflict of interest requirements apply to design-build projects?*
- 23 CFR §636.117 *What conflict of interest standards apply to individuals who serve as selection team members for the owner?*
- 23 CFR 1.33 *Federal Highway Administration, Department of Transportation, Conflicts of Interest*
- WSDOT *Organizational Conflicts of Interest Manual M 3043.*

V. Executive Review and Update Requirements

Department executives are responsible for informing the Assistant Secretary of Administrative Operations of changes needed for the maintenance of this document.

The Assistant Secretary of Administrative Operations is responsible for periodic review and updates to this document for review and approval by the Secretary of Transportation.

Americans with Disabilities Act (ADA) Information

To request this document in large print, Braille, cassette tape, or on computer disk, call (360) 705-7097. Or, dial 7-1-1 (voice 1-800-833-6384) to contact Washington State Telecommunications Relay Service and Tele-Braille, and request connection to (360) 705-7097.