

Conflicts of Interest – Winning and Keeping the Work

Conflicts of Interests (COIs) can prevent you from winning a public contract and can result in you being removed from a public contract! Don't let this happen to you. Recognize COIs and deal with them before they become an issue.

Some things to know about COIs:

- A conflict of interest (COI) occurs when an individual or organization is involved in multiple interests, one of which could possibly bias the motivation for an act in the other.
- A conflict of interest can exist even if there has been no unethical or improper activity. It is NOT a “no harm, no foul” situation. Even the appearance of a conflict is reason to mitigate.
- For many professionals and professions, it is virtually impossible NOT to have conflicts of interest from time to time.
- Prime Contractors can be held liable for the COIs of their Subcontractors.

COIs come in two forms: Organizational Conflicts of Interest (OCIs) and Personal Conflicts of Interest (PCIs). OCIs typically develop due to a business relationship that exists or is being pursued which in some way relates to an existing public contract or to a public procurement. OCIs are more common in companies that perform both public and non-public work. But companies that perform only public works can have OCIs, especially when work on an existing contract gives the company inside information, unavailable to others, on another public contract or procurement. OCIs are also applicable to Consultants working as independent contractors.

PCIs can develop when a person has personal or family financial or other interests that could cause them to be biased in making business decisions. Examples of financial interest include compensation, consulting arrangements, stock and real estate investments, and intellectual property.

We have helped contractors avoid or mitigate COIs with the following types of strategies:

- Establish a corporate culture of ethical compliance from the top down. All employees, managers, and directors must be treated similarly when it comes to COIs.
- Include COI training in the company's annual Ethics Training for everyone. And while everyone must take the training, it is important to make the training appropriate for the levels of employee/manager/director. For COI and ethics training, situational examples work best.
- Make sure there are NO penalties for disclosure. No one should be demoted or fined for disclosing a potential conflict. This promotes full disclosure while allowing for mitigation.
- Make sure the right people have all the information on potential conflicts so the appropriate steps can be taken.

Taking a proactive stance on COIs is the best way to ensure that your company has a fair shot at that public contract. A public contracting officer has the power to determine if a COI is of “de minimis” interest, so it is in a company's best interest to disclose any potential COI and mitigation plans.