



**OPW** Oifig na  
nOibreacha Poiblí  
Office of Public Works

# **Conflict of Interest**

## Policy and Guidelines

The Office of Public Works (OPW) is governed by Sections 14 and 15 of the [Civil Service Code of Standards and Behaviour](#) in relation to Conflicts of Interest.

**Definition and Summary:**

**A conflict of interest is any association or involvement with external business or activity which would in any way conflict with the interests of the OPW, or be inconsistent with staff member's official positions, or tend to impair their ability to carry out their duties as civil servants.**

OPW staff members may find themselves in a position which may conflict, or appear to conflict, with their OPW duties. It is important to note that it is not necessary that a person's impartiality and/or independence are actually compromised; **a conflict of interest may arise where a person's impartiality and/or independence are merely perceived to be compromised.**

OPW staff members should always disclose an activity if they are in doubt about whether it represents a conflict of interest. This policy document describes the way in which such a disclosure should be made before engaging in the activity.

In most cases, a prior simple disclosure of potentially conflicting activities is sufficient. Occasionally, managers in the OPW may suggest a different way of managing an activity that avoids the conflict of interest. In extreme cases, the conflict of interest may be so fundamental that it is unmanageable and it therefore becomes necessary to restrict a staff member's conflicting activities.

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<sup>1</sup> This policy does not absolve, in any way, obligations that staff may have to submit a disclosure of interest to comply with the provisions of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001.

**Purpose:**

The purpose of the 'Conflict of Interest Policy and Guidelines' is to:

- present a definition of Conflict of Interest;
- set out examples of situations where potential conflict of interest can arise;
- set out OPW policy, guidelines and procedures to be followed in situations of potential conflict of interest.

**Scope:**

This Policy applies to all staff members, including contractors and consultants of the OPW.

**Definitions:**

A Conflict of Interest is defined in section 14 of the [Civil Service Code of Standards and Behaviour](#).

Under the [Public Procurement Guidelines](#), a conflict of interest includes any situation where a relevant staff member<sup>2</sup> has directly or indirectly a financial, economic or other personal interest which might be perceived to compromise his or her impartiality and independence in the context of the procurement project.<sup>3</sup> The damage caused by such conflicts can be considerable, whether the conflict of interest exists or appears to exist. For this reason, an explicit conflict of interest policy is a mechanism for protecting staff against criticism or compromise by ensuring that they recognise and disclose such conflict situations in advance and take steps to avoid and manage them.

The main categories relating to conflicts of interest are:

- I. Procurement
- II. Decision Making
- III. Financial Conflicts

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<sup>2</sup> The 2016 Regulations define a relevant staff member as a staff member of the contracting authority or a procurement service provider acting on behalf of the contracting authority who is involved in the conduct of the procurement procedure or who may influence the outcome of the procurement procedure.

<sup>3</sup> "Procurement project" encompasses any formal and informal meetings, associated discussions, meeting preparation and follow up or any other activity related to the procurement project.

General examples but not an exhaustive list include:

- a. Having a financial interest (e.g. holding shares or options) in a tenderer or any entity involved in any tendering consortium.
- b. Having a financial, economic or other personal interest in the outcome of the evaluation of any tender evaluation process.
- c. Being employed by (as staff member or volunteer) or providing services to any outside business or activity that conflict in any way with the interests of the OPW; be inconsistent with your official positions; impair ability to carry out your civil service duties.
- d. Being a member of a tenderer's management/executive board.
- e. Receiving any kind of monetary payment or non-monetary gift or incentive from any tenderer or its representatives.
- f. Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above.
- g. Having a close member of your family (which term includes unmarried partners) or personal friends who falls into any of the categories outlined above.
- h. Whole-time professional civil servants (e.g. Engineers, Architects) engaging in private practice in their professions.
- i. Making representations on behalf of an outside association or organisation on matters for which OPW has responsibility.
- j. Seeking to use knowledge acquired in the course of their official duties to benefit yourself or anyone with whom you have personal, family or other ties.

**Policy:**

The OPW is committed to the principle that its staffs' activities should not give rise to situations in which staff have, or appear to have, conflicts of interest. As part of this, the Conflict of Interest Policy and Guidelines provides for a three-fold approach:

1. Always disclose potential conflicts of interest.
2. Manage the conflict wherever possible.
3. Prohibit the activity when necessary to protect the public interest or the interest of OPW.

In the instance of a potential conflict of interest, the key goal is to segregate the relevant decision-making and related activities, so that they are separately and independently managed.

### **Managing Potential Conflict:**

There is a requirement under section 14.2 of the Civil Service Code of Standards and Behaviour for **all** staff members who in the course of their official duties, come into contact with any matter affecting any commercial undertaking in which he or she has an interest, to immediately disclose the nature and extent of that interest.

Each staff member must disclose in writing and discuss any potential conflicts with the Chair of the Evaluation Team<sup>4</sup>/Senior Manager:

- On recruitment to the OPW
- Prior to the commencement of a procurement project.
- When circumstances change in a way that give rise to conflict

The Chair of the Evaluation Team/Senior Manager will advise on how the potential conflict can be managed.<sup>5</sup> In many cases the simple disclosure of a potential conflict, in itself will be sufficient. In a minority of cases where the potential conflict is deemed serious and cannot be effectively managed, it may be necessary to discontinue one of the conflicting activities. The Chair of the Evaluation Team/Senior Manager will keep a written record of the fact that the conflict was reported and of how the conflict was dealt with.

If a staff member believes another staff member has a conflict but has not reported it themselves:

- Report in writing concerns to Chair of the Evaluation Team/Senior Manager;
- Staff may also make a Protected Disclosure under the Protected Disclosures Act 2014 as outlined in the [OPW Protected Disclosures Policy](#)
- The Chair of the Evaluation Team/Senior Manager may investigate further any report of suspected conflict of interest and may refer them to the Chairman;

A staff member who fails to report a Conflict of Interest, may be subject to disciplinary action.

Where potential conflicts of interests are not clear-cut (e.g. an employment history in partner companies to the tenderer) they should be referred to the Chairman's Office.

<sup>4</sup> "Evaluation Team" is the team formulated by the OPW to carry out the evaluation of expressions of interests at Selection Stage and/or tenders received at the Tender Evaluation Stage, ultimately recommending tenderers for admittance to a Framework Agreement and/or for award of a contract.

<sup>5</sup> Duties of the Chair of Evaluation Team/Senior Manager are detailed in Appendix 3

**Protocol for declaring Conflicts of Interest in Selection and Tender Evaluation:**

All relevant participants involved in tender evaluations should be aware of specific requirements of tender evaluations and the requirements of the [Public Procurement Guidelines for Goods and Services](#) and are required to complete a Declaration of Interest / No Interest Form at Appendix 1 or Appendix 2.

This should be returned to the Chair of the Evaluation Team for the Project and a copy retained on file.

**Mick Long**  
**Director of Corporate Services**

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