



International Federation of Consulting Engineers
The Global Voice of Consulting Engineers

Conflict of interest

FIDIC Briefing Note

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Background

The international engineering federation FIDIC (the International Federation of Consulting Engineers) believes that its member associations and their members should strive to achieve the highest degree of quality and standards.

FIDIC has always had policy statements that it expects its members to follow to ensure high standards of service in the infrastructure industry. These standards are reflected in FIDICs contracts, policy work, events and committees.

Conflict of Interest

The term "conflict of interest" is widely used in commercial and legal transactions, and is acknowledged in the codes of ethics of professional bodies, including engineering associations, to identify behaviour that may be unacceptable.

Despite international use of the term, a great deal of confusion and serious problems, both real and perceived, have materialized because there is no universally accepted definition of conflict of interest.

There has been a number of breaches involving different industries in various countries. These have resulted in various regulators considering and taking action which can have a significant impact on the operation and ability of industry to engage with clients.

FIDIC, its member associations and their members are committed to the avoidance of conflict of interest in the consulting engineering industry, and to the concept that clear, transparent and internationally accepted principles should be applied.

Without limitation on the generality of this rule, consultants shall not be engaged under the circumstances set out below:

Conflict between consulting activities and procurement of goods, works or services

A firm that has been engaged by a borrower to provide goods, works or services for a project and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services, unless the potential conflict arising from this situation has been identified and resolved in a manner acceptable to the client throughout the selection process and the execution of the contract.

Conversely, a firm engaged to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services resulting from or directly related to the firm's earlier consulting services, unless the potential conflict arising from this situation has been identified and resolved in a manner acceptable to the client throughout the selection process and the execution of the contract.

Conflict among consulting assignments

Consultants, including their personnel and sub-consultants, or any of their affiliates shall not be engaged for any assignment that, by its nature, may be in conflict with another assignment of the consultants unless the potential conflict arising from this situation has been identified and resolved in a manner acceptable to the client throughout the procurement and execution phases of the project.

Relationship with the client's staff

Consultants, including their personnel and sub-consultants, that have a business or family relationship with a member of the client's staff or of the project implementing agency's staff may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the client throughout the procurement process and the execution of the contract.

Implementation guidelines

Methods for avoiding or preventing conflict of interest as outlined in Chapter Four of the World Bank's manual for consulting services are reasonable steps in the whole process. Several key principles are also considered to be essential:

Prior disclosure

A firm has an obligation to fully disclose any potential or real conflict of interest at the earliest opportunity, and to continuously monitor developments in the firm to ensure that subsequent events do not affect their previously stated position.

Transparency

A firm must at all times be able to provide evidence that it follows a recognized code of ethics and that the practice is universal throughout the firm. The firm must be able to defend its actions, or lack thereof, with documented evidence of conformity to the conditions of engagement and the conduct of its contractual obligations.

Independence

A firm must at all times maintain its independence from external influences that may affect the ability of the firm to hold the interests of the client paramount, while not overlooking the interests of other parties identified in the code of ethics.

FIDIC recommends:

- Member associations should ensure that their members provide professional, objective and impartial advice, and at all times hold the client's interests paramount, without any consideration for future work and strictly avoiding conflicts with other assignments or their own corporate interests
- Consultants should not be selected for any assignment that would a) be in conflict with their prior or current obligations to other clients, or b) may place them in a position of not being able to carry out the assignment in the best interest of the client.

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Endnotes