

**APPENDIX G: CONFLICT OF INTEREST (COI) DISCLOSURE FORM**

## **CONFLICT OF INTEREST (COI) DISCLOSURE FORM**

Potential organizational conflict must be disclosed by offers to the project owner as stated in 23 CFR 636.116. This form is to be completed by the General Contractor and all of its engineering, environmental, or architectural consultants hired for this project.

The Federal Highway Administration has defined "organizational conflict of interest" in 23 CFR Section 636.116 as follows:

Organizational COI means that because of other activities or relationships with other persons, a person is unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

These regulations also apply to "improper business practices and personal conflicts of interest" of the project owner's selection team members. 23 CFR Section 636.117 indicates that Federal Acquisition Regulations will apply to the state's selection team members in absence of relevant state laws and procedures. These regulations require government business to be "above reproach," conducted "with complete impartiality and with preferential treatment for none" and with "the highest degree of public trust and an impeccable standard of conduct" to avoid "even the appearance of a conflict of interest."

The identification, assessment, and management of real or potential COI is a joint task between the Department and the private sector. It requires both parties to work together in an atmosphere of candor and accountability.

The Department's determination will be based on a number of factors including;

1. Situational facts – description of the situation and all known facts specific to the actual or potential COI;
2. Type of work – specific product or service involved;
3. Relationship to Management – specific interactions with the Department's decision managers; and
4. Timing and availability of project or service.

It is important to understand that specific facts disclosed in any COI situation will be unique to that situation. Therefore, the decisions and conclusions reached in one situation may or may not be directly applicable to another.

If an organizational COI is determined to exist, The State of Hawaii, Department of Transportation, Highways Division may, at its sole discretion, disqualify the proposer from further participation in the procurement, cancel this procurement, or if award has already occurred, cancel the contract. If the proposer was aware of an organizational COI prior to award of the contract and did not disclose the conflict or potential conflict to the Department, the Department may terminate the contact for default.

Some examples of conflict of interest as seen by the Department are:

Conflict

Category    Description

1. An employee of the Contractor, who has a spouse or immediate relative that is a key Department personnel working on the project;
2. Any employee of the Contractor's engineering or environmental consultant who has a spouse or immediate relative that is a key Department personnel working on the project;
3. Any firm who assisted the Department or the Department's agent in preparing various Requests for Proposal (RFP) documents, and where that same firm is also partnering on the Contractor's Design-Build team for the project.

Applicable RFP documents include but are not limited to:

- A. Technical Provisions;
  - B. Plan Sheets;
  - C. Special Provisions;
  - D. Geotechnical Borings; and
  - E. Any environmental document where specific recommendations or mitigation items are required as part of the project scope.
4. Any firm who is currently defending the Department against a lawsuit, claim, informal claim, or notice of claim, by a contractor or subcontractor, and where that same firm is also partnering with the same contractor for this project. Also, any firm who is currently providing post design or construction management services to the Department on a project where his Design-Build partner is the contractor.

HDOT Key Project Personnel List:

Karen Chun, Design Branch, Engineering Program Manager  
Mike Medeiros, Oahu District, Acting Engineering Program Manager  
Bryan Kimura, Traffic Branch, Engineering Program Manager  
Art Sickels, Oahu District, Rural Construction Engineer  
Holly Yuen, Technical Design Services Section, Project Manager

Failure to submit a complete Conflict of Interest Disclosure Form by the contractor and all of its engineering, environmental, or architectural consultants will automatically designate the proposer as non-responsive to this solicitation.

Failure to disclose conflict of interest information and any unsatisfactory performance of the contract as a result of the conflict, as perceived by the Department, may result in commencement of debarment or suspension action defined in Section 103D-702, Hawaii Revised Statutes and Section 3-126, Hawaii Administrative Rules.

**PART I**

Date:	
Contractor, Engineering, Environmental, or Architectural firm name:	
<p>Would any of the four conflict categories shown on page 2 be applicable to your business or any employee or employees of your firm?</p> <p><input type="checkbox"/> – NO If your answer is “no”, endorse this form in the signature line provided below and skip Part II of this form</p> <p><input type="checkbox"/> – YES If your answer is “yes”, continue to Part II of this form.</p>	
<p>My signature certifies that this firm has no business or personnel relationships with any other companies, agencies or persons that could be considered as a conflict of interest or potential conflict of interest to the Department, and that no principals, officers, agents, employees, or representatives of this firm that may have business or personal relationship with any other companies, agencies, or persons that could be considered as a conflict of interest or potential conflict of interest to the Department, pertaining to any and all work or services to be performed as a result of this request and any resulting contract with the Department.</p>	
_____ Date	_____ Name and Title (please print)
	_____ Signature

**PART II**

Applicable Conflict Category (1 to 5):
Name(s) of Employee (if applicable and/or specific to one individual or individuals):
Provide details of the potential conflict. Include project name, project owner and current applicable contact(s), litigation or claim amount, employee or business relationship with respect to conflict, and other information as applicable (attach other sheets as necessary):
Proposed action by Contractor or its Engineering, Environmental, or Architectural firm to mitigate conflict or potential conflict (attach other sheets as necessary). If the Department has determined that a conflict exists and the Department accepts the proposed mitigative action by the Contractor in this block, the Qualifications proposal will be scored using the information contained in the mitigation proposal.

I certify that information provided in Part II is true and correct and to the best of my knowledge.

\_\_\_\_\_

Date

\_\_\_\_\_

Name and Title (please print)

\_\_\_\_\_

Signature

**FOR THE DEPARTMENT'S REVIEW COMMITTEE'S USE:**

1. \_\_\_\_\_ A conflict does not exist
2. \_\_\_\_\_ A conflict does exist
3. \_\_\_\_\_ The proposed mitigative action by the Contractor or its professional service consultant(s) is/are adequate to mitigate the conflict.
4. \_\_\_\_\_ The proposed mitigative action by the Contractor or its professional service consultant(s) is/are not adequate to mitigate the conflict.

\_\_\_\_\_

Date

\_\_\_\_\_

Department's Review Committee Member Signatures

Attach this completed form as a tabbed Appendix to the Step 1 – QUALIFICATIONS PROPOSAL. This will not count against the QUALIFICATION PROPOSAL 100-page limitation.