

# CHANGE REQUEST COVER SHEET

**Change Request Number:** 11-11

**Date Received:** 11/18/2010

**Title:** Conflict of Interest

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**Name:** Vickey Kirkpatrick

**Phone:** 202-267-8351

**Policy OR Guidance:** Guidance

**Section/Text Location Affected:** T3.1.5 and T3.16

**Summary of Change:** To separate Conflict of Interest and Non-Disclosure of Information. Conflict of Interest will be addressed at T3.1.5 and Non-Disclosure of Information will be addressed at T3.1.6.

**Reason for Change:** To address these two areas separately, since they are two different concepts and occur at different phases of the procurement process.

**Development, Review, and/or Concurrence:** Procurement Policy Team

**Target Audience:** FAA Contracting Personnel and Program Offices

**Potential Links within FAST for the Change:** None

**Briefing Planned:** No

**ASAG Responsibilities:** Review and Comment

**Potential Links within FAST for the Change:** None

**Links for New/Modified Forms (or) Documents (LINK 1)**

**Links for New/Modified Forms (or) Documents (LINK 2)**

**Links for New/Modified Forms (or) Documents (LINK 3)**

## SECTIONS EDITED:

Procurement Guidance:

*T3.1.5 Conflict of Interest*

*Conflict of Interest*

**Section 1 : Requirement for an Agreement Regarding Conflict-of-Interest** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

[\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

Procurement Guidance:

*T3.1.5 Conflict of Interest*

**Section C : Forms** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

**Section 2 : Requirement for an Agreement Regarding Non-Disclosure of**

**Information** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

**Section 3 : Processing a Violation of the Agreement Regarding Non-**

**Disclosure of Information** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

## SECTIONS EDITED:

### **Section 1 : Requirement for an Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

**Old Content:** Procurement Guidance:

*T3.1.5 Conflict of Interest*

*Conflict of Interest*

**Section 1 : Requirement for an Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

a. Persons who have a real or apparent conflict of interest may be unable to render impartial, technically sound, and objective assistance, advice, or decisions. A procurement team member (program officials, contracting personnel, legal counsel, and others supporting a program), Office of Dispute Resolution for Acquisition (ODRA) member, or other Federal member who has a real or apparent conflict of interest, and who is a Federal employee, must withdraw from participation in the source selection process if law (18 U.S.C. 208) or regulation (5 CFR Part 2635) requires it. Considerations of equity and integrity of the procurement process require that non-Government members of a procurement team be held to the same standards.

b. Unless a procurement team member receives prior authorization, a procurement team member who is a Government employee should not participate if the result is likely to affect the financial interests of the procurement team member's household, or the procurement team member knows a person with whom the procurement team member has a covered relationship as defined in 5 CFR 2635.502, or the procurement team member represents a party, if a reasonable person with knowledge of the relevant facts would question the procurement team member's impartiality in the matter. The law does not require non-Government procurement team members be removed

when they have an apparent conflict, but the FAA's public image, workforce morale, and considerations of equity dictate that they be treated exactly as our own employees are treated.

c. Each person involved in the source selection process, including the Source Selection Official (SSO), who might have access to confidential or proprietary procurement information such as procurement strategy, offerors' proposals, results of evaluations, and the final selection actions, must sign and submit a signed Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest (see Procurement Forms) to the SSO or designee prior to any participation in the source selection process. This is to ensure that no conflict of interest exists. An Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest should be completed prior to distribution of offerors' submissions for evaluation and at any time afterwards, if an individual's financial, business, or employment situation changes to create the potential for a conflict of interest. The Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest must be completed by each procurement team member for each individual procurement and retained in the pre-award file.

**New Content: Procurement Guidance:**

*T3.1.5 Conflict of Interest*

*Conflict of Interest*

**Section 1 : Requirement for an Agreement Regarding Conflict-of-Interest**

a. Persons who have a real or apparent conflict of interest may be unable to render impartial, technically sound, and objective assistance, advice, or decisions. A procurement team member (program officials, contracting personnel, legal counsel, and others supporting a program), Office of Dispute Resolution for Acquisition (ODRA) member, or other Federal member who has a real or apparent conflict of interest, and who is a Federal employee, must withdraw from participation in the source selection process if law (18 U.S.C. 208) or regulation (5 CFR Part 2635) requires it. Considerations of equity and integrity of the procurement process require that non-Government members of a procurement team be held to the same standards.

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c. Each person involved in the source selection process, including the source selection official (SSO), contracting officer, and legal counsel, who might have access to confidential or proprietary procurement information such as procurement strategy, offerors' proposals, results of evaluations, and the final selection actions, must sign and submit an Agreement Regarding Conflict-of-Interest (see AMS Procurement Forms) to the SSO or designee before any participation in the source selection process. This is to ensure that no conflict of interest

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**Red Line Content: Procurement Guidance:**

*T3.1.5 Conflict of Interest*

*Conflict of Interest*

**Section 1 : Requirement for an Agreement Regarding ~~Non-Disclosure of Information and Conflict-of-Interest~~**

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## Section C : Forms

**Old Content: Procurement Guidance:**

*T3.1.5 Conflict of Interest*

**Section C : Forms**

[view procurement forms](#)

### **1 : 1102 Series Warrant Standards** (Added 10/2008)

<b>FAA Certification Level</b>	<b>Threshold Authority</b>	<b>Corresponding FAC-C Certification</b>
Level I	Up to \$500,000	Level I
Level II	Up to \$10,000,000	Level II
Level III	Up to Unlimited	Level III

### **2: Non-1102 Delegation of Procurement Authority** (Added 1/2009)

<b>Non-1102 Certification Level</b>	<b>Threshold Authority</b>	<b>Experience</b>	<b>Education</b>	<b>Training</b>
Level I:	<b>Up to \$25,000</b>	At least 1 year of current purchasing or contracting experience with progressively broader work assignments. Current experience is gained within the last 3 years.	Formal education is not required for certification.	CON 100 CON 237 CLC 004
Level II:	<b>Up to \$50,000</b>	At least 2 years of current purchasing or contracting experience with progressively broader work assignments. Current	Formal education is not required for certification.	Level I Training CON 110

		experience is experience gained within the last 5 years.		CON 111 CON 112 CON 120
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**Course Titles:**

CLC 004 – Market Research

CON 100 – Shaping Smart Business Arrangements

CON 110 – Mission Support Planning

CON 111 – Mission Strategy Execution

CON 112 – Mission Performance Assessment

CON 120 – Mission Focused Contracting

CON 237 – Simplified Acquisition Procedures

**New Content: Procurement Guidance:**

*T3.1.5 Conflict of Interest*

**Section C : Forms**

[view procurement forms](#)

**Red Line Content: Procurement Guidance:**

*T3.1.5 Conflict of Interest*

**Section C : Forms**

[view procurement forms](#)

~~1 : 1102 Series Warrant Standards (Added 10/2008) — FAA Certification Level Threshold Authority Corresponding FAC-C Certification — Level I Up to \$500,000 Level I — Level II Up to \$10,000,000 Level II — Level III Up to Unlimited Level III — 2: Non-1102 Delegation of Procurement Authority (Added 1/2009) — Non-1102 Certification Level Threshold Authority Experience Education Training Level I: — Up to \$25,000 — At least 1 year of current purchasing or contracting experience with progressively broader work assignments. Current experience is experience gained within the last 3 years. Formal education is not required for certification. CON 100-CON 237-CLC 004 — Level II: Up to \$50,000 At least 2 years of current purchasing or contracting experience with progressively broader work assignments. Current experience is~~

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## **Section 2 : Requirement for an Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

**Old Content:** Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

### **Section 2 : Requirement for an Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. To assure that sensitive data acquired in the course of the procurement are handled properly, the individuals involved in these proceedings are required to sign an Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest (see Procurement Forms) before the Screening Information Request (SIR) is issued. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

**New Content:** Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

### **Section 2 : Requirement for an Agreement Regarding Non-Disclosure of Information**

Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. To assure that sensitive data acquired in the course of the procurement are handled properly, the individuals (including the Source Selection Official (SSO), Contracting Officer, and Legal Counsel), involved in these proceedings are required to sign an Agreement Regarding Non-Disclosure of Information before the Screening Information Request (SIR) is issued. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

**Red Line Content:** Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

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Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. To assure that sensitive data acquired in the course of the procurement are handled properly, the individuals *(including the Source Selection Official (SSO), Contracting Officer, and Legal Counsel)*, involved in

these proceedings are required to sign an Agreement Regarding Non-Disclosure of Information ~~and Conflict of Interest (see Procurement Forms)~~ before the Screening Information Request (SIR) is issued. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

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**Section 3 : Processing a Violation of the Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

**Old Content:** Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

*Disclosure of Information*

**Section 3 : Processing a Violation of the Agreement Regarding Non-Disclosure of Information and Conflict-of-Interest**

Any suspected or actual improper disclosure of procurement sensitive information must be reported to the Contracting Officer. The Contracting Officer will consult with the Procurement Legal Division for guidance in this matter. The suspected violator should not be permitted to continue in the procurement process until the suspected violation has been reviewed and legal advice obtained.

**New Content:** Procurement Guidance:

*T3.1.6 Non-Disclosure of Information*

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