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Selected Shorts Video Series

5



A&E Consultant Contracts:

Conflict of Interests (COI)

Caltrans

Division of Local Assistance



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Conflict of Interests (COI)

Script:

Welcome to another A & E Oversight short video series. Today's topic is about Conflict of Interest or COI for short. This video will clarify the use and differences between the disclosure forms Exhibits 10-T and 10-U.

What is Conflict of Interest. Conflict of Interest is when a person or organization's interest and public duties and responsibilities diverge or are not consistent.

To prevent fraud, waste, abuse as well as ensure the proper use of federal funds, local agencies are required to have written policies and procedures in preventing conflict of interest. The conflict of interest also helps local agencies comply with federal regulations. Exhibits 10-T and 10-U discloses and certifies any potential conflict of interest. Please make sure that everyone in your agency reads, understands and are aware of the written policies and procedures that are designed to avoid or mitigate conflict of interest.

What are Exhibits 10-T and 10-U? Exhibit 10-T is called Conflict of Interest and Confidentiality Statement. 10-U is called Consultant in Management Support Role Conflict of Interest and Confidentiality Statement. Please note, the term Consultant In Management Support Role in the 10-U form. This is where most local agencies are getting confused.

Let us discuss the applicability of each form. Exhibit 10-T is for local agency and consultants hired by the local agency. Hired by local agency in this case mean that the consultant is hired to manage a project, or a particular task on a project. For example, design or coordinating the project. The consultant is NOT acting as a consultant in management support role in this case. Exhibit 10-T needs to be completed PRIOR to Consultant evaluation. If the consulting engineering firm, or person is serving as the city engineer and providing engineering functions and oversight work of other engineering consultants, then the consultant is acting in the capacity of a consultant in management support role or CMSR, an Exhibit 10-U then needs to be completed.

Let us recap the use and requirements of Exhibit 10-U. Exhibit 10-U is required for Consultants acting in management capacity for local agency. Remember, the Conflict of Interest Statement needs to be approved by FHWA prior to solicitation. After local agency selects a consultant, the local agency and the consultant executes Exhibit 10-U and submits the form to the HQ general oversight inbox. HQ A&E will then forward the 10-U form to FHWA for approval and concurrence. A fully executed 10-U will then be forwarded to the local agency for their file.



Selected Shorts Video Series # 5

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Federal regulations that require compliance with Conflict of Interest are 23 CFR 172 Procurement and Management of design related services, 23 CFR Chapter 1, Subchapter A which deals with General Administration of federally funded projects, 2 CFR 200 which lists cost principles and audit requirements.

Here are some additional web resources from the FHWA website for your information.

If you have questions on Consultant Selection and Procurement process, please contact your District Local Assistance Engineer, your DLAE. Also provided is a list of HQ A & E Oversight Engineers for your area should you require further assistance. Remember, A&E is a dynamic unit and your oversight engineers might have change, so please visit the site for the latest assignment.

We hope this video helped clarify the use and differences between Exhibits 10-T and 10-U Conflict of Interest forms. A&E is constantly updating its website so make sure to check back regularly for updates and other useful tools.

Synopsis:

Using consultants on a Federal-aid project requires range of controls to prevent and mitigate the potential for conflicts. Caltrans enforces this federal regulation through the use Exhibits 10-T and 10-U. Exhibit 10-T applies to consultants hired by local agency to provide engineering and professional services. Exhibit 10-U applies to consultants that serve as city engineer to provide oversight of engineering functions.

References:

Visit the A&E Resources website to find the latest tools, resources and guidance for A&E consultant contracts.

<https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/consultant-selection-procurement>

23 CFR, Part 172 Administration of Engineering and Design Related Service Contracts

<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=23:1.0.1.2.3>



Selected Shorts Video Series # 5

A&E Consultant Contracts:

Conflict of Interests (COI)

23 CFR Chapter 1, Subchapter A, General Management and Administration

<http://www.ecfr.gov/cgi/t/text/text-idx?c=ecfr&sid=df7972764d951c0b011fa11eb3f88f07&rgn=div8&view=text&node=23:1.0.1.1.1.0.1.13&idno=23>

2 CFR Part 200

https://www.govregs.com/regulations/expand/title2_chapterII_part200_subpartB_section200.112

Information on procurement, management, and administration of consultant services

<http://www.fhwa.dot.gov/programadmin/consultant.cfm>

Conflicts of interest requirements for engineering- and design-related consultant services

<https://www.fhwa.dot.gov/programadmin/172qa.pdf>

HQ A&E Oversight Engineers

Districts 4, 7, 11, and 12

The.pham@dot.ca.gov

The' Pham (916) 651-8903

Acting Program Manager

Districts 1, 2, 5 and 9

john.Z.yang@dot.ca.gov

John Z. Yang (916) 651-6552

Districts 3, 6, 8, and 10

carol.green@dot.ca.gov

Carol Green (916) 651-8909

Local Assistance Consultant Selection and Procurement Webpage

<https://dot.ca.gov/programs/local-assistance/guidance-and-oversight/consultant-selection-procurementv>

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