

Regulations on Conflict of Interests in Implementation of the Government Tenders and Procurement Law and its Implementing Regulations

Article 1

In these Regulations, the following terms shall have the meanings assigned thereto:

Law: Government Tenders and Procurement Law.

Implementing Regulations: Implementing Regulations of the Law.

Regulations: Regulations on Conflict of Interests in Implementation of the Government Tenders and Procurement Law and its Implementing Regulations.

Government Agency: Ministries, government bodies, public agencies, authorities and institutions, and independent public entities with corporate personality.

Employee: A person who works for a government agency, collaborates or works therewith under a contract and participates in any government tenders and procurement procedures or has a direct or indirect influence thereon at any stage.

Vendor: A contractor, supplier, purveyor, service provider or sub-contractor, whether under a contract or bidding for a contract with a government agency regardless of the subject of the contract, and whether it is under his name or in his capacity as a direct or indirect agent or representative of a third party.

Relatives: Relatives of an employee or vendor up to the fourth degree.

Personal Interest: A direct or indirect interest, whether material or immaterial, realized or likely to be realized for a natural person or his relatives or for a legal person and its affiliates.

Conflict of Interests: An actual, apparent, or potential conflict between a personal interest and the interest of a government agency, whereby the personal interest compromises a person's ability to perform his duties and professional responsibilities with objectivity, integrity, and impartiality.

Actual Conflict of Interest: A situation where a personal interest exists, which affects a person's ability to perform his duties and professional responsibilities with objectivity, integrity, and impartiality.

Perceived Conflict of Interest: A situation where it appears that a person has a personal interest which may affect a person's ability to perform his duties and professional responsibilities with objectivity, integrity, and impartiality.

Potential Conflict of Interest: A situation where a person has a personal interest which may lead to a conflict of interests in the future, which affects a person's ability to perform his duties and professional responsibilities with objectivity, integrity, and impartiality.

Article 2

These Regulations aim to:

1. promote integrity, honesty, objectivity, impartiality, fairness, and transparency in government tenders and procurement;
2. prevent the personal interests of employees and vendors from compromising the fairness and integrity of government tenders and procurement procedures; and
3. address cases of conflict of interests adequately and effectively in order to safeguard public funds from corruption and graft.

Article 3

These Regulations shall apply to:

1. any employee who is directly or indirectly involved in government tenders and procurement; and
2. any vendor dealing with a government agency and his employees.

Article 4

1. Without prejudice to the provisions of the Law and its Implementing Regulations, these Regulations shall supplement provisions and rules governing conflict of interests provided for in laws and regulations in force

- in the Kingdom.
2. These Regulations shall be deemed an integral part of contracts and decisions forming a relationship between a government agency and an employee, including employment contracts, appointment decisions, or any similar legal documents.
 3. A government agency shall include in the tender documents and contracts with vendors provisions regulating conflict of interests in accordance with this Law, these Regulations, and other laws.

Article 5

An employee shall:

1. avoid, by all means, any conflict between his personal interest and the interest of the government agency and shall act in accordance with the provisions and requirements of these Regulations in the event of an actual, perceived, or potential conflict of interests;
2. disclose instantly in writing to his immediate superior any conflict between his personal interest and the interest of the government agency upon becoming aware thereof, and shall give priority to the interest of the government agency;
3. refrain from any action or procedure relating to tenders and procurement of the government agency where there may be a personal interest; and
4. refrain from voting on any decision relating to a tender or contract executed for the government agency which involves a personal interest leading to an actual conflict of interests.

Article 6

The following persons shall disclose any conflict between their personal interests and the interests of the government agency:

1. The head of the government agency or his designee.
2. Members of the board of directors of the government agency.
3. Employees engaged in preparing or drafting tender documents, regardless

of the nature of their engagement.

4. Members of the bid opening committee, bid review committee, as well as technical and financial sub-committees.
5. Experts performing any task for a government agency relating to preparation of tender documents or review or evaluation of bids, and the like.

Article 7

1. The government agency shall take all necessary procedures and measures to prevent any conflict of interests which may arise at any stage of government tendering process, and shall identify the nature and type of such conflict, and address it adequately, effectively, and objectively to ensure the fairness and integrity of the process for all vendors.
2. The government agency shall exclude any employee from participating in government tenders and procurement procedures when it is certain that the conflict of interests cannot be effectively addressed through other preventive measures and procedures.

Article 8

A government agency shall, in coordination with the Ministry of Finance, set up a conflict of interest policy aiming to limit and address risks resulting therefrom. Said policy shall include, at a minimum, the following:

1. Procedures to prevent, limit, disclose, detect and address cases of conflict of interests.
2. Examples of conflict of interest corresponding with the nature of the vendor's business and the government agency's procurement.

Article 9

An employee may not:

1. accept, directly or indirectly, any job offer from the vendor without prior disclosure to the government agency he works for if such offer results from

- an actual conflict of interest; and
2. participate as a collaborator, agent, or representative of the vendor, or in any other capacity in discussions or negotiations relating to a tender or which may lead to the awarding, amendment, or extension of a business or procurement contract with the government agency where he works.

Article 10

1. The provisions of these Regulations shall apply to all vendors dealing with a government agency at any stage during the procedures of government tendering and procurement.
2. The vendor shall, in accordance with these Regulations, disclose to the government agency any conflict of interest at any stage during the procedures of government tendering and procurement, provided that such disclosure includes, at a minimum, the following:
 - a) Disclosure of his personal interest, or the interests of members of his corporation's board of directors or senior executives which conflict with the interests of the government agency.
 - b) Disclosure of any kinship between any member of his corporation's board of directors or senior executives and any employee of the government agency.
3. A vendor dealing with a government agency may not gain or attempt to gain any privilege, whether competitive, preferential, or of any other type, by illicit means or ways which may lead to a conflict of interests. Such privileges may not be offered by an employee.
4. A vendor shall immediately disclose to the government agency any actual or potential conflict of interests.
5. The vendor shall, at any stage during the procedures of government tendering and procurement, cooperate with the government agency in any inquiry or investigation pertaining to any case of conflict of interests.

Article 11

1. An employee who violates any of the provisions of these Regulations shall

- be subject to disciplinary action according to the Employee Discipline Law, Labor Law, or other relevant laws.
2. An employee who fails to disclose a conflict between his personal interests and the interests of the government agency shall be held liable for the consequences of such conflict, without prejudice to any harsher penalty stipulated in any other law.
 3. If an employee fails to disclose a conflict of interest which results in an actual conflict of interest, the government agency may:
 - a) cancel the tender or the awarding of the contract due to the conflict of interests;
 - b) seek to recover any benefit received by the employee due to the conflict of interests; and
 - c) claim compensation for any damage incurred.
 4. The government agency shall refer to the committee mentioned in Article 88 of the Law in case of a violation of Article 10 of these Regulations committed by the vendor to consider imposing any of the penalties stipulated in paragraphs (3) and (4) of Article 88 of the Law.

Article 12

These Regulations shall enter into force from the date of its publication in the Official Gazette.