

**MARYLAND STATE HIGHWAY ADMINISTRATION DIRECTIVE
POLICY FOR CONSULTANT CONFLICT OF INTEREST**

PURPOSE AND APPLICABILITY

A. Purpose:

To provide a mechanism whereby the State Highway Administration will be made aware of potential conflict of interest situations.

B. Applicability:

This directive is applicable to Project Planning, Traffic Forecasting & Traffic Engineering, and Preliminary and Final Design (Phase II, III, IV & V) activities of the State Highway Administration.

This directive is applicable to all consultants, and to those subconsultants proposed by the consultant to perform Traffic Forecasting & Traffic Engineering services. At this time the directive is not applicable to subconsultants proposed for performing other services.

DIRECTIVE STATEMENT

The Administrator directs that:

- A. A Disclosure Statement must be provided by all consultants prior to providing Project Planning, Traffic Forecasting & Traffic Engineering, Preliminary Design and/or Final Design services, excluding surveying, soil borings, geotechnical engineering, and/or construction inspection services on State Highway Administration contracts. This Disclosure Statement must list:

Approved by TPSSB - February 1, 1990

ATTACHMENT NO. I

1. All current private sector (non-governmental) clients from whom the consultant has received a fee in connection with planning or engineering on a project that could be directly affected by the State Highway Administration project or is functionally related to a State Highway Administration project. **A planning or engineering project is generally defined as being "directly affected" by an SHA project if it is adjacent to or within a study corridor for a project planning project, or adjacent to the right-of-way of a proposed highway design project, or in close proximity to the proposed project, for example - within one (1) mile. A planning or engineering project is generally defined as being "functionally related" to the SHA project if it would adversely impact the proposed SHA project with respect to increased traffic or with respect to proposed alignments, typical sections, interchanges or intersection locations under consideration or determined by the public hearing and planning process.** The providing of surveying, geotechnical and/or construction inspection services are not considered as potentially conflicting services.
2. Name of client's project.
3. Location of the client's project in relation to the State Highway Administration project (including map).
4. General nature of the work performed for each client.
5. A listing of any subconsultants performing Traffic Forecasting and Traffic Engineering services accompanied by a separate Disclosure Statement covering the first four (4) items above, for each subconsultant.

This Disclosure Statement must be signed by an authorized representative of the consulting firm. If a Disclosure Statement is submitted for a subconsultant, the statement must be signed by an authorized representative of the subconsultant.

- B. This Disclosure Statement must be submitted as follows:
1. On project specific State Highway Administration contracts, this Disclosure Statement must be submitted with the consultant's Expression of Interest.
 2. On open-end State Highway Administration contracts, this Disclosure Statement must be submitted as soon as a firm is notified of a particular assignment.

C. Upon receipt of this Disclosure Statement, the State Highway Administration will evaluate its content and make a determination as to whether there is a possible conflict of interest and:

1. On project specific State Highway Administration contracts:
 - a. If a potential conflict of interest exists, this will disqualify the firm from further consideration for that project unless the State Highway Administration decides that, **with certain conditions imposed**, disqualification is not in the best interest of the State.
 - b. If the Administration disqualifies a firm and the firm disagrees, the firm may pursue their disagreement in accordance with the debriefing process set forth in the Transportation Professional Services Selection Board (TPSSB) Regulations. That is, a firm may request an informational meeting with a designated representative of the Consultant Screening Committee. If a firm is still dissatisfied after meeting with the Consultant Screening Committee, the firm may pre-file a brief with the TPSSB presenting the basis for its position that the firm should be considered for the Reduced Candidate List. In such a case, the Administrator will issue a written response which will be filed, along with the firm's brief, with the TPSSB.
 - c. If the Administration qualifies a firm for further consideration in the development of the Reduced Candidate List, and there is a possible conflict of interest, the Administrator shall issue a written decision which will be included in the Project TPSSB presentation for the final selection. The written decision should include:
 1. explanation of the possible conflict,
 2. why it's in the public interest to use this consultant despite the possible conflict, and
 3. safeguards that will be imposed.

2. On open-end State Highway Administration contracts:
 - a. If a potential conflict of interest exists, this will disqualify the firm from that particular project assignment unless the State Highway Administration decides that, **with certain conditions imposed**, disqualification is not in the best interest of the State.
 - b. If the Administration disqualifies a firm and the firm disagrees, the firm may present the reason for its position in writing to the Administrator. The Administrator will issue a final written decision.
 - c. If the Administration qualifies a firm for a particular assignment and there is a possible conflict of interest, the Administrator shall issue a written decision, a copy of which will be forwarded to the Secretary of Transportation. The written decision should include:
 1. explanation of the possible conflict,
 2. why it's in the public interest to use this consultant despite the possible conflict, and
 3. safeguards that will be imposed.
- D. Responsibility for implementing this directive is assigned to:
 1. The Consultant Services Division on project specific contracts.
 2. All Planning and Design Divisions and District Offices who utilize consultant services on an open-end basis for all open-end project assignments.