

Organizational Conflict of Interest

Organizational conflicts of interest are fact dependent. Typically, they arise in one of the following circumstances:

1. When a contractor/subcontractor's (contractor) previous work product, whether completed on behalf of LACMTA or another public or private entity, has been relied upon or significantly influenced the specifications or statement of work for the upcoming project or contract; or
2. When a contractor's previous work product, whether completed on behalf of LACMTA or another public or private entity, offered an opportunity for the contractor to make or influence findings with the intent of bidding on or participating in subsequent projects based on those findings; or
3. Whenever a contractor would be in a position to evaluate their own previous work product, whether it was completed on behalf of LACMTA or another public or private entity; or
4. When prior responsibilities in service of LACMTA or another public or private entity yields access to confidential information which puts the contractor at a significant competitive advantage over any other potential bidders/proposers, and the confidential information is not otherwise available and cannot be made available to other potential bidders.

An example of a disqualifying conflict is when a company was the contractor on the major investment study, alternatives analysis, environmental impact report or preliminary engineering part of a project, it may not be eligible to perform the project management, design-build, construction, or construction management services portion of the same project.

As noted above, organizational conflicts of interest are fact dependent, and the party with the greatest access to the relevant facts as to whether a contractor has an organizational conflict of interest will always be the contractor itself. Accordingly, contractors are encouraged to review their particular circumstances and consider whether they have an organizational conflict of interest, such as one based on but not limited to the foregoing concepts. Each contractor must make their own business decision whether they have an organizational conflict prior to bidding on a given contract that might impact their participation in the solicitation.

However, LACMTA is the ultimate arbiter of whether a contractor has an organizational conflict of interest, with evaluations being made consistent with LACMTA's Organizational Conflict of Interest Procedure. Such a determination will only be made after LACMTA receives a bid from the contractor to participate as either a prime or subcontractor. The LACMTA has determined that it is not appropriate to evaluate a particular contractor's circumstances prior to receipt of all the facts that would be included in a bid, give legal advice, or make a business decision for a contractor concerning participation in a procurement.