



Contracting Policy Notice 2007-2 – Procurement Contracting and the Conflict of Interest Act

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Procurement Contracting and the Conflict of Interest Act

To: Functional Heads, Finance and Administration of all Departments and Agencies

August 13, 2007

CONTRACTING POLICY NOTICE 2007-2

Subject

1. The *Conflict of Interest Act* came into force on July 9, 2007 and it contains four sections that could effect procurement contracting in your department. This Contracting Policy Notice is to advise you of these clauses. The Contracting Policy has not been amended and no amendment is planned.
2. You are advised to pay particular care to avoid entering into non-competitive contracts with any family member of any minister, and to include clauses in procurement contracts for ministerial appointees regarding the restrictions on their activities.
3. Extracts of the law are provided in appendix A of this Contracting Policy Notice.

Enquiries

4. Enquiries concerning this Contracting Policy Notice may be addressed to the Investment Planning, Project Management and Procurement Policy Division, Government Operations Sector, Treasury Board of Canada Secretariat by e-mail at: richardson.glenn@tbs-sct.gc.ca.

Appendix A

6. The following are excerpts from the *Conflict of Interest Act*. Reproduced here for reference are Sections 14, 15, 35 and 36. The full text of the law is available at http://laws.justice.gc.ca/en/showdoc/cs/C-36.65/20070709/en?command=search&caller=SI&search_type=all&shorttitle=conflict%20of%20interest%20act&day=9&month=7&year=2007&search_domain=cs&showall=L&statuteyear=all&lengthannual=50&length=50

Contracting

14. (1) No public office holder who otherwise has the authority shall, in the exercise of his or her official powers, duties and functions, enter into a contract or employment relationship with his or her spouse, common-law partner, child, sibling or parent.

Public sector entity — public office holders

(2) No public office holder, other than a minister of the Crown, minister of state or parliamentary secretary, who otherwise has the authority shall permit the public sector entity for which he or she is responsible, or to which he or she is assigned, to enter into a contract or employment relationship with his or her spouse, common-law partner, child, sibling or parent except in accordance with an impartial administrative process in which the public office holder plays no part.

Public sector entity — ministers

(3) No minister of the Crown, minister of state or parliamentary secretary who otherwise has the authority shall permit the public sector entity for which he or she is responsible, or to which he or she is assigned, to enter into a contract or employment relationship with his or her spouse, common-law partner, child, sibling or parent.

Other ministers or party colleagues

(4) No minister of the Crown, minister of state or parliamentary secretary who otherwise has the authority shall permit anyone acting on his or her behalf to enter into a contract or employment relationship with a spouse, common-law partner, child, sibling or parent of another minister of the Crown, minister of state or parliamentary secretary or party colleague in Parliament, except in accordance with an impartial administrative process in which the minister of the Crown, minister of state or parliamentary secretary plays no part.

Restriction

(5) Subsection (4) does not apply in respect of the appointment of a member of ministerial staff or a ministerial adviser.

Certain contracts excluded

(6) This section does not apply to a contract for goods or services offered by a public sector entity on the same terms and conditions as to the general public.

Prohibited activities

15. (1) No reporting public office holder shall, except as required in the exercise of his or her official powers, duties and functions,

- a. engage in employment or the practice of a profession;
- b. manage or operate a business or commercial activity;
- c. continue as, or become, a director or officer in a corporation or an organization;
- d. hold office in a union or professional association;
- e. serve as a paid consultant; or
- f. be an active partner in a partnership.

Prohibition on contracting

35. (1) No former reporting public office holder shall enter into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he or she had direct and significant official dealings during the period of one year immediately before his or her last day in office.

Prohibition on representations

(2) No former reporting public office holder shall make representations whether for remuneration or not, for or on behalf of any other person or entity to any department, organization, board, commission or tribunal with which he or she had direct and significant official dealings during the period of one year immediately before his or her last day in office.

Prohibition on former ministers

(3) No former reporting public office holder who was a minister of the Crown or minister of state shall make representations to a current minister of the Crown or minister of state who was a minister of the Crown or a minister of state at the same time as the former reporting public office holder.

Time limits: former reporting public office holder

36. (1) With respect to all former reporting public office holders except former ministers of the Crown and former ministers of state, the prohibitions set out in subsections 35(1) and (2) apply for the period of one year following the former reporting public office holder's last day in office.

Time limits: former ministers

(2) With respect to former ministers of the Crown and former ministers of state, the prohibitions set out in subsections 35(1) to (3) apply for a period of two years following their last day in office.

Original signed by

Bob Hirst
Executive Director
Assets and Acquired Services Directorate

Date modified:

2007-08-17