

# PRUDENCE, NON-DISCLOSURE AND CONFLICT OF INTEREST

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## **Purpose**

Throughout all stages of the acquisition process, the Ministry of Defence and the Defence sector<sup>1</sup> shall act in accordance with good business practice and pursue the highest ethical standards.

Likewise, the Ministry of Defence and the Defence sector expect all suppliers to adhere to good business practices and pursue the highest ethical standards. All suppliers are expected to be transparent with regards to their connection to any project which, directly or indirectly, may affect their cooperation with the Defence sector. The name of any lobbyist acting on behalf of the supplier must be reported to the Defence sector. If a supplier fails to act with openness and strict adherence to good business practices and high ethical standards, this may undermine trust in the relationship between the supplier and the Defence sector, and potentially also the rating of the supplier's bid in the final decision process.

## **Prudence (Post Employment Restrictions)**

Throughout the acquisition process the supplier/contractor shall ensure that former Ministry of Defence or Defence sector personnel do not encounter situations that place the (former Ministry of Defence or Defence sector) personnel at risk of violating non-disclosure agreements (with their former employer) or situations where conflicts of interest can arise.

For a period of two years after their separation from the government service, all former Ministry of Defence or Defence sector personnel employed by a supplier are restricted from participating in the supplier's contact with the Defence sector. The Ministry of Defence may grant a waiver from this rule in cases where these restrictions are deemed unreasonable.

The supplier/contractor is requested to inform the Defence sector with regards to whether such conflicts may arise. The Ministry of Defence has the prerogative to request changes regarding which supplier/contractor personnel may interact with the employer.

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<sup>1</sup> The Defence sector denotes the Ministry of Defence and all its subordinate organisations (the Armed Forces, the Norwegian Defence Logistics Organisation, the Norwegian National Security Authority, the Norwegian Defence Research Institute, the Norwegian Intelligence Service and the Norwegian Defence Estates Agency).

## **Non-Disclosure Agreements (Professional Secrecy)**

Everyone who performs services or work for an administrative agency is obligated to prevent third parties from gaining access or knowledge of technical installations or procedures, as well as operational and commercial conditions which for competitive reasons are important not to disclose in the interest of the party which this information concerns ref. Public Administration Act (10 February 1967) paragraph 13 section 1, and national public procurement regulations.

Everyone who is allowed access to classified information in connection with work, assignments and tasks on behalf of an enterprise is obligated to prevent unauthorised personnel from gaining knowledge of this information ref. Information Security Act (20 March 1998 no. 10) paragraph 12.

Non-disclosure agreements also apply after personnel have terminated their service, work, assignment or task ref. Public Administration Act paragraph 13 section three, and Information Security Act paragraph 12.

## **Conflict of Interest**

A government official<sup>2</sup> is disqualified from preparing the basis for decisions or making decisions regarding administrative issues whenever he is party, is related to a party, has a management position in, or is a member of the board of a business that is party (to a case), ref. Public Administration Act paragraph 6 section one. Furthermore, a government official is disqualified in the presence of other particular conditions, which may undermine trust in his impartiality. Among issues to consider is whether a decision may result in special benefits, loss or inconvenience to the government officials themselves or persons closely associated with them ref. Public Administration Act paragraph 6 section two.

When dealing with cases governed by regulations concerning public procurements and the Defence Acquisition Regulations (ARF) the provisions regarding conflict of interest in paragraph 6-10 are to be applied. However, where the Public Administration Act is not directly applicable, the regulations in the Public Administration Act paragraph 6-10 apply accordingly.

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<sup>2</sup> Including military officers