

OCI Awareness Module

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Introduction

- Organizational conflicts of interest (OCI) are a concern in any contracting situation. The main OCI concern for private sector participants engaging with the JPDO and NextGen Institute is to be sure they will not be disallowed from competing on future government contracts related to NextGen. There are other related concerns, too, that we discuss in this document.

An Important Issue for All

- Since the [Vision 100](#) legislation that created the JPDO calls for significant industry participation in planning for NextGen, both the private sector and the government want to be sure that the private sector does not face OCI concerns that would discourage it from contributing ideas and knowledge to NextGen.

Good News About OCI

- The good news is that almost all of the situations that initially raised OCI concerns have already been addressed by FAA lawyers.
- This document shares with you the official guidance that OCI will not be a concern for the private sector participants in almost every situation.
- This document will also make you aware of the few situations you should avoid.

What Constitutes OCI

- OCI generally refers to three categories of situation where fairness is actually compromised, or has the appearance of being compromised:
 1. **The company has an *unfair* competitive advantage.** This occurs mainly where a company has access to non-public information that could give it a leg up in competing for a contract.

What Constitutes OCI (2)

- 2. The company has the ability to bias the ground rules.** This mainly occurs where a company can advise the government on requirements and specifications for a future contract competition in a way that could favor itself or an affiliate.
- 3. The company is expected to provide objective advice to the government but its interests render it unable to be impartial.** This mainly occurs where the company is trusted to provide a disinterested assessment, but it is placed in a position to evaluate itself (such as another business unit) or an affiliate in which it has a business interest.

From Principles to Specifics

- The three OCI categories (unfair advantage, ground rules bias, and compromised objectivity) are general principles. The law looks to the specific circumstances of each situation to see if there is an OCI issue...and so will we in the upcoming slides.
- Keep in mind that OCI refers to a company (not an individual, unless the individual is a sole proprietor).

Working Groups: Specific Situations

Specific Situations	Comments	Reference
•Serve on a WG and compete on a later procurement related to NextGen	Yes	OTA Amendment 1
•Serve on a WG and compete on Institute Tasks	Yes	OTA Amendment 1
•Serve on a WG and propose a task for the Institute –Recommend or discuss requirements for tasks –Recommend or discuss budget –Draft or discuss final SOW –Draft or discuss formal task request form	Yes Yes Yes No No	OTA Amendment 1 PMP Appendix M PMP Appendix M PMP Appendix M PMP Appendix M
•Serve on a WG and serve on an Institute Contract Award Panel (CAP)	Yes, so long as no affiliation with proposers	OTA Amendment 1
•Serve on a WG and serve on an Institute Contract Award Oversight Board (CAOB)	Yes, but recuse if affiliated with proposers or performers of work	OTA Amendment 1

Institute Management Council: Specific Situations

Specific Situation	Comments	Reference
•Serve on IMC and compete on a later procurement related to NextGen	Yes	OTA Amendment 1
•Serve on IMC and compete on Institute Tasks	Yes	Reference slide 10
•Serve on IMC and oversee policy, recommendations and products of the NextGen Institute	Yes	OTA Amendment 1
•Serve on IMC and review and make comments on policy, recommendations and products of the JPDO (and Partner Agencies)	Yes	Reference slide 10

OCI Considerations

- "Further amendment of the OTA to address potential OCI considerations for IMC members does not seem warranted. Article 28 E of the OTA states that participation on the IMC 'generally will not raise' OCI issues for its members. This broad statement is based on the premise that the IMC's role vis-à-vis the Institute's funded work projects is significantly less close than may be the case for Working Group members and other Participants. The Institute considers the existing wording to be sufficient to enable IMC members (and their organizations) to compete for Institute Tasks or to comment on JPDO policies, recommendations and products without fear of raising an OCI."

OCI Do's

- “Sunshine” is an important mitigation against OCI, so do your part to encourage the timely and responsible release of information. The appropriate dissemination of information to the broader community protects against unfair advantage and bias of the ground rules for competitions over Institute tasks and future contracts related to NextGen.
- Alert the Executive Director of the NextGen Institute if you think a guideline is not being followed or you have OCI concerns or questions.

OCI Don'ts

- Don't get involved in recommending or writing specifications for acquisition contracts related to the implementation of NextGen

On What Authority These Guidelines

- The FAA lawyers provided OCI guidelines in the contract between the FAA and the NextGen Institute, called the Other Transactions Agreement (OTA), Amendment 1.
- A big reason behind the NextGen Institute was to mitigate the potential for OCI with respect to private sector participants. The NextGen Institute ensures broad dissemination of information to the community and awards tasks in a fair and open manner...both are OCI safeguards for you.



Summary

- Your involvement in NextGen planning is very important. Your service is highly valued and it's everyone's concern that your business interests not be limited as a result.
- There are very few OCI danger zones...and now you know what to avoid!
- OCI is situation dependent - speak out if you see an unfair or improper relationship (real or perceived) or a procedure that lacks integrity.
- Serve for your company and on behalf of the broader aviation community.