

Prudence, Non-disclosure and Conflict of Interest

1. Purpose

Throughout all stages of the acquisition process, the Ministry of Defence and the Armed Forces shall act in accordance with good business practice and ensure high ethical standards.

2. Prudence/Code of Conduct

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

The supplier/contractor is requested to inform the Armed Forces 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.

3. 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 the Public Administration Act (10 February 1967) paragraph 13, section 1 and regulations concerning public procurement (15 June 2001) paragraph 3-3).

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 the 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 (compare Public Administration Act paragraph 13 section three and Information Security Act paragraph 12).

4. Conflict of Interest

A civil servant 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 The Public Administration Act paragraph 6 section one. Furthermore, a civil servant 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 civil servants themselves or persons closely associated with them (ref The 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, ref regulations regarding public procurement.