

Significant Procurement Role Questions and Answers
January 24, 2014

Q1: Can you confirm if procurements using grant money require filing a procurement disclosure statement?

A1: [SPO Forms 110](#) or [120](#) require public officers and employees participating in procurement to disclose and prevent conflicts of interest and unauthorized acts as required by Arizona law. A.R.S. § 41-741 defines significant procurement role as applicable for all procurements. The source of the public funds does not impact the definition of procurement. Procurements with grant monies must be in conformance with grant requirements. If the non-procurement activity falls under the definition of a grant and the process is conducted under A.R.S. § 41-2701 et seq., Solicitation of Grant Awards, then significant procurement role does not apply and no procurement disclosure form is required.

Q2: The procurement disclosure statement forms appear applicable to employees only. However, we occasionally use outside consultants and persons who are not state employees to sit on evaluation committee. What do we do for those folks?

A2: Procurement disclosure statement forms ([SPO Forms 110](#) or [120](#)) are for state employees only, including board members and the office of the governor. For non-state employees, continue to use the general conflict of interest disclosure.

Q3: Does the procurement disclosure statement replace the evaluation committee member conflict of interest disclosure? May we retire and stop utilizing the conflict of interest statement for evaluation committee members?

A3: Yes, for state employees the procurement disclosure statement forms ([SPO Forms 110](#) or [120](#)) replace the conflict of interest disclosure. Continue to use the conflict of interest disclosure, however, for non-state employees.

Q4: By law an agency director is required to notify all agency personnel of a new solicitation. What should the notice say?

A4: The State Procurement Office (SPO) provides a sample email notification on the SPO website in the Procurement Reform section. It is available under "[News for State Agencies.](#)" The sample email notification is titled "Sample Director's Notification of Significant Procurement Role Activities."

Q5: I confer with my agency director regularly regarding procurement activities. Should he/she sign an annual procurement disclosure statement?

A5: When advising agency directors on procurement activities, generally the director will not need to sign a procurement disclosure statement. Depending upon the agency director's role in a particular procurement, however, the agency director may be required to sign a disclosure statement for that procurement. If an agency director meets the definition outlined in [Standard](#)

[Procedure 003](#), then a procurement disclosure statement is required. It is recommended that the matter be referred to SPO for clarification, when appropriate.

Q6: Our agency issues a large amount of task orders against established contracts. Is this considered a significant procurement role activity requiring a procurement disclosure statement?

A6: No. The significant procurement role activity is centered on a solicitation. A task order issued against an established contract is not a significant procurement role activity and does not require a procurement disclosure statement. Additionally, procurement disclosure statements are not needed for purchases (contract releases) from statewide and agency contracts.

Q7: I have approval routings set up in ProcureAZ that include budget and finance staff. Do I need them to sign a procurement disclosure statement too?

A7: Typically, approval routing in ProcureAZ is for post-solicitation project and funding approvals only, and may include supervisors, project leaders, managers and finance staff. A procurement disclosure statement is not required if the budget and finance staff only approves of project funding and does not play a significant procurement role. Depending on the procurement need, budget or finance staff may play a significant procurement role. Review [Standard Procedure 003](#) to determine if budget or finance staff meets the criteria to require a procurement disclosure statement.

Q8: SPO has established a variety of statewide contracts I regularly research to make a determination which contractor to purchase from. Based on my involvement in this action, and the processing of the contract release, have I played a significant procurement role?

A8: No, placing a purchase order on an effective contract does not meet the definition for a significant procurement role. Significant procurement role is focused on the competitive action of a quote and/or solicitation when originally conducting the procurement.

Q9: The state currently has a contract for a managed services provider for IT consulting services. Under the contract, there are several sub-contractors as part of the network. If I was not involved in the original solicitation process to select the managed services provider, and I am using the contract and consultants to meet our agency's needs for services, do I have a significant procurement role?

A9: No, placing orders with various sub-contractors with an established contract is not a significant procurement role. The significant procurement role is centered on the solicitation. Employees directly involved with the solicitation and selection of the managed services provider have a significant procurement role.

Q10: I'm a procurement officer responsible for a procurement for my agency, and one of the individuals involved in the drafting of the scope of work and the solicitation evaluation will not sign the required procurement disclosure statement/nondisclosure agreement. What do I do?

A10: Immediately inform your supervisor/manager of the situation. The intent is to obtain the procurement disclosure statement when the procurement process has begun, not when it is in process. Depending upon the stage of the procurement or the level of involvement required of the individual, procurement, human resources, or potentially agency upper management or the attorney general's office will determine next steps.

Q11: Does significant procurement role involve anyone that touches any aspect of a procurement?

A11: No. Significant procurement role includes the procurement staff assigned the specific solicitation, evaluation team members, and technical advisors. Additionally, employees required to sign a nondisclosure agreement, having access to confidential information or deliberations, determining which suppliers to contact for quotes, determining or approving the specifications, preparing an evaluation tool or the importance of the evaluation criteria, or determining which supplier to award have a significant procurement role. Employees having a significant procurement role must file [SPO Forms 110](#) or [120](#), depending on their normal job duties and the particular solicitation. Non-state employees are required to file a conflict of interest disclosure.

Q12: How is "potentially responding" to a solicitation determined?

A12: Arizona statutes, A.R.S. §§ 41-753 & 41-2517, prohibit a state employee with a significant procurement role from accepting or soliciting employment from any person or firm lobbying or potentially responding to that solicitation ("no-hire" period).

Potentially responding supplier is based on the industry or by the suppliers commonly known to provide the required goods/services or construction. Further, suppliers/contractors with existing contracts with the state for the goods/services or construction should be included in the definition, as well as any suppliers that have made a direct inquiry (written or verbal) on the quote/solicitation following the beginning of the "no-hire" period. Additionally, suppliers that responded to requests for similar goods/services or construction within the past five years should be considered, as well.

Q13: Does significant procurement role and the no-hire period also expand to sub-contractors that are named by an offeror?

A13: Yes, first tier, sub-contractors specifically named by the prime supplier in the offer for providing specific duties and responsibilities to meet the requirements, are included.

Q14: Persons who knowingly violate the requirements of significant procurement role may be guilty of a class 2 misdemeanor. Is this violation also imposed on lobbyists or suppliers responding to a solicitation?

A14: Yes. A.R.S. § 41-2517(C) specifies that it is a class 2 misdemeanor for a person or firm lobbying or potentially responding to a solicitation for the procurement of materials/services or construction to offer employment to a procurement officer, procurement employee or employee having a significant procurement role during the defined time period.

Q15: How broad is the term "potentially responding"? Does it mean the prime supplier and all of their subsidiaries, or only the subsidiary that may potentially be responding?

A15: Only the subsidiaries that may be responding to a solicitation are included in the category of potentially responding.

Q16: Can we wait until after a specification or scope of work is developed to sign a procurement disclosure statement?

A16: No. The intent is to obtain the procurement disclosure statement or conflict of interest disclosure at the outset of the procurement process, which is when the specifications or the scope of work are beginning to be developed, not when it is completed.

Q17: Does significant procurement role and the no-hire period apply to suppliers that are not-successful in the award of the solicitation?

A17: No, the significant procurement role and no-hire period following the contract award is only applicable to awarded suppliers.