AUGUST 28, 2012

RE: CLARIFICATION OF “CONFLICT OF INTEREST”
PROFESSIONAL ENGINEERING SUPPORT AND CONSULTANT INSPECTION SERVICES
SCHEDULING & CONTRACT DIVISION

Conflict Of Interest.

VDOT will make a determination relative to potential organizational conflicts of interest (including real or perceived competitive advantage).

As an example:

In the preparation of a request for proposal for design-build contract, VDOT presents Task Order “A” to the successful consultant. The scope of Task Order “A” includes the preparation of a contract-time-determination schedule for the project. The consultant completes Task “A” and the task is formally closed by VDOT.

VDOT then advertises the request for proposal for design-build contract. The consultant who performed Task “A” expresses their desire to serve as a member of a prospective design-build team for this contract. In accordance with RFP Part 1, the consultant will identify potential conflicts of interest real or perceived relative to the anticipated procurement. In this example, a prior or existing contractual obligation between a company and a federal or state agency relative to the proposed procurement may present a conflict of interest (including a real or perceived competitive advantage). Upon request by the consultant, the Department will determine if there is a conflict of interest relative to the anticipated procurement.

Presuming the consultant’s work product relative to Task Order “A” is readily available to the public, i.e., not excluded from disclosure pursuant to the provisions of FOIA, and the Department acknowledges that any task(s) assigned to the consultant relative to that project is formally closed, the Department may conclude that there is not an organizational conflict of interest for a consultant or sub-consultant where:

(i) The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar low-level document that will be incorporated into the RFP, and did not include assistance in development of instruction to offerors or evaluation criteria, or
(ii) Where all documents and reports delivered to the agency by the consultant or sub-consultants are made available to all offerors.