

3.2 – Conflict of Interest

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Disclaimer: No information provided in the current slides is binding

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What are we talking about today?

- In a competitive solicitation process, a “**bidder conflict of interest**” is a situation that may give a bidder an unfair advantage over the other bidders, such as having access to information that is not available to other bidders.
- In a competitive solicitation process, an “**organizational conflict of interest**” is a situation in which multiple bidders/involved parties are part of the same corporate group raising the risk of collusion and sharing information.

Here, it is not a question of a conflict between the private interests and the official responsibilities of a person

What do we want to avoid?

We want to avoid a breach of the client's duty of fairness

- that could compromise the integrity of the procurement process
- and could possibly:
 - lead to bid rejection
 - or result in a legal challenge from a losing bidder complaining about the winning bidder's unfair advantage



What do we want to put in place?

- We want to ensure that the definition of conflict of interest is made clear to the bidders **from the outset**.
- The Project Integrator must remain as much as possible unbiased and not influenced by the contractors in charge of the other work packages.

That has been acknowledged by a vast majority of the respondents to the Market Survey launched last year



What do we want to preserve?

- ITER needs the best experienced companies to meet the high level expectations and requirements of such a gigantic and complex project.
- ITER Organization wants to allow bidders to participate both in the PI contract and some HCC technical work packages contracts **under specific conditions**



Principle 1

With consideration to the collaborative contracting approach, a company awarded the PI contract is allowed to participate in the HCC technical work-packages contract for the cases with a ✓



		Position of a company in PI competition					
		Group Leader of a consortium	Member of a consortium	Single existing company	Controlling owner of a legal entity	Non controlling owner of a legal entity	Subcontractor
Position of a company in technical work-package competition	Group Leader of a consortium	✗	✓	✗	✗	✓	✓
	Member of a consortium	✓	✓	✓	✓	✓	✓
	Single existing company	✗	✓	✗	✗	✓	✓
	Controlling owner of a legal entity	✗	✓	✗	✗	✓	✓
	Non controlling owner of a legal entity	✓	✓	✓	✓	✓	✓
	Subcontractor	✓	✓	✓	✓	✓	✓

Conditions of application of Principle 1

With consideration to the collaborative contracting approach, a company awarded the PI contract is allowed to participate in the HCC technical work-packages contract for the cases with a ✓

Provided that the company is able to demonstrate and prove to the Clients:

- Unambiguous independency of organizations, fully demonstrating that the Entity is not taking unfair advantage of the PI contract when bidding to and/or executing other technical work package contract(s);
- Declaration of commitment by the Entity;
- Bespoke conflict of interest management procedure;
- Safeguards on decision-making process;
- Early warning and reporting procedure;
- Unambiguous delimitation and interfaces between PI and WP tasks (notably for review, validation, acceptance, ... topics);
- Any other relevant proposal and/or evidences contributing to this demonstration.



Principle 2



A company involved in the drafting of any part of the Project Integrator contract tender package **is not allowed to bid**, as part of any Entity or as a subcontractor, for the Project Integrator contract.

In conclusion

ITER Organization is keen on increasing the contract opportunities for all companies committing in values of fairness and integrity.

The conflict of interest is a risk that can be managed with the high consideration that ITER is a project scrutinized by the entire world.

Let's all be aware,
together