

CONFLICT OF INTEREST WAIVER DECISION MATRIX
SDCL 5-18A-17 to 5-18A-17.6

DO I NEED TO REQUEST A WAIVER?

This matrix will assist a present or past state officer or employee to determine whether it is necessary to seek a waiver in order to be a party to or benefit from a contract with a state agency. This matrix is designed to be used in conjunction with the accompanying instructions, review of the statute and contact with your supervisor.

NOTE that state officers and employees may not solicit nor accept any gift, favor, reward or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to recommend or influence the award of a state contract. This prohibition is absolute and cannot be waived.

This matrix is intended as a general guide only and is not by itself determinative of whether a conflict of interest exists. You are encouraged to contact the Bureau of Human Resources at (605) 773-3148 or Chris.Houlette@state.sd.us with questions.

The questions in this matrix may not address your specific situation. As you answer these questions, note that an agreement does not always need to be in writing to be considered a contract. When in doubt as to the answer to any of the questions below, you are encouraged to choose “YES” for the purposes of completing the matrix and deciding whether you need to ask for assistance.

1. Am I now, or within the past year was I, an employee of an agency of the executive branch of state government controlled by the Governor?

If YES, proceed to next question.

If NO, be aware that the law applies to all state employees, so you should ask your supervisor for instructions concerning conflict of interest waivers for your agency.

2. Will or do I, my spouse or any other person with whom I live and commingle, or combine assets have a five percent or more ownership or other interest (such as being a creditor) of any business or entity that contracts or does business with the state?

If YES, proceed to question 7.

If NO, proceed to next question.

3. Will or do I, my spouse or any other person with whom I live and commingle, or combine assets earn or receive any salary, compensation or commission directly from any contract with the state, or from any business or entity that contracts or does business with the state?

If YES, proceed to question 7.

If NO, proceed to next question.

4. Will or do I, my spouse or any other person with whom I live and commingle, or combine assets acquire anything as a result of any state contract (other than an employment contract with the state)?

If YES, proceed to question 7.

If NO, proceed to next question.

5. Do I, my spouse or any other person with whom I live and commingle, or combine assets serve on the board of directors of a for-profit entity that benefits from any state contract or state business?

If YES, proceed to question 7.

If NO, proceed to next question.

6. Have I, my spouse or any other person with whom I live and commingle, or combine assets entered into, or thought of entering into, any contract or business transaction with a state agency?

If YES, proceed to the next question.

If NO, then no waiver is needed.

7. Did I have any role in recommending the award of the contract?

If YES, you need to request a waiver.

If NO, proceed to next question.

8. Did I have any role in approving or awarding the contract?

If YES, you need to request a waiver.

If NO, proceed to next question.

9. Do or did I administer the contract, meaning do or did I have any decision-making authority, or substantive influence on decision-making by others, concerning the manner, method or means of the contract's performance or enforcement, such as the ability to terminate, suspend, change terms or evaluate the outside party's performance under the contract?

If YES, you need to request a waiver.

If NO, proceed to next question.

10. Am I or was I in the chain of supervisors above a person who approved or awarded the state contract, or who can or does exercise decision-making or substantive influence on decision making by others concerning the manner, method or means of the contract's performance or enforcement?

If YES, you need to request a waiver.

If NO, then no waiver is needed.