

HS2

Conflicts of Interest Policy

Security classification: OFFICIAL

Contents

| | | |
|---|-----------|----|
| 1 Introduction | 3 | |
| 1.1 Purpose | | 3 |
| 2 What is a “Conflict of Interest?” | 3 | |
| 2.1 Definition | | 3 |
| 3 Our approach to Conflicts of Interest | 4 | |
| 3.1 Overview | | 4 |
| 4 Examples of Conflicts of Interest | 5 | |
| 4.1 Examples | | 5 |
| 5 Failing to Manage Conflicts of Interest during a procurement | 7 | |
| 5.1 Consequences | | 7 |
| 6 Conflicts of Interest Identification | 7 | |
| 6.1 Identification and Mitigation | | 7 |
| 7 Conflicts of Interest Management | 8 | |
| 7.1 Management | | 8 |
| 7.2 Employee and Individuals undertaking work on behalf of or representing HS2 Ltd | 8 | 8 |
| 7.3 Individual Consultants and Contractors | | 10 |
| 7.4 Notification of Conflicts of Interest | | 11 |
| 7.5 On-going Management and Review | | 12 |
| 7.6 Conflicts of Interest Policy | | 13 |
| 8 Referenced Documents | 13 | |

1 Introduction

1.1 Purpose

- 1.1.1 High Speed Two (HS2) Ltd ('HS2 Ltd') is publicly funded through the Department for Transport (DfT) and by extension, Taxpayers.
- 1.1.2 HS2 Ltd treats the possible adverse impact to HS2 Ltd's reputation or to programme delivery posed by an actual, potential or perceived Conflict of Interest (Col) not being properly managed as a key risk.
- 1.1.3 The purpose of this document is to set out the approach of HS2 Ltd to actual, potential and/or perceived Col in the context of HS2 Ltd employees, organisations tendering for contracts and the supply chain engaged by HS2 Ltd or on HS2 Ltd's behalf.

2 What is a "Conflict of Interest?"

2.1 Definition

- 2.1.1 In simple terms it means a situation when personal goals may affect the person's ability to do their job fairly and in a professional way. For the purposes of this policy:

"Conflict of Interest" (Col) means a situation where there is an actual, potential or perceived conflict, either commercially or professionally, between the interests or duties of HS2 Ltd and any party engaged by (or in the process of being engaged by) HS2 Ltd.
- 2.1.2 Engagement may be either direct (supplier or contractor) or indirect (e.g. sub-contractor or supplier within the same group structure).
- 2.1.3 A Col may also arise through HS2 Ltd employee spouses, partners, children and friends.
- 2.1.4 It also extends to circumstances in which a conflict may be perceived to exist by either stakeholders of HS2 Ltd or a member of the general public.

2.1.5 For the purposes of this Policy the term Employees includes all individuals undertaking work on behalf of, or representing, HS2 including interim or secondees.

3 Our approach to Conflicts of Interest

3.1 Overview

3.1.1 As a public sector organisation, HS2 Ltd must abide by the principles of regularity and probity in being honest, transparent with high ethical standards. This includes ensuring that:

- Col are recognised as risks that require transparent disclosure and careful management,
- the issue of Col is handled appropriately at all times and in line with this policy, and
- HS2 Ltd is able to demonstrate to all parties (including stakeholders and members of the public) that it has in place effective, transparent and appropriate procedures for the identification and management of Col.

3.1.2 HS2 Ltd.'s approach to Col is informed by a number of factors including the following:

- an awareness that, given the nature of HS2's role, responsibilities and activities, the issue of Col may arise in a number of contexts,
- a recognition of the importance of probity, transparency and objectivity (in particular, in the context of accountability for expenditure of public money), and
- the need to comply with all applicable statutory and legal requirements, including the need to avoid distortion of competition and ensure equality and transparency of treatment of those tendering to undertake work or provide services to or on behalf of HS2 Ltd (as required by Reg 42 Utilities Contracts Regulations 2016).

4 Examples of Conflicts of Interest

4.1 Examples

4.1.1 Examples of actual, potential or perceived Col which could impact the procurement process are:

a. Col (internal), where an HS2 Ltd employee or consultant/contractor working in the procurement team or involved in decision making during the procurement process:

- i. has undisclosed shares (or other financial interests) in an organisation which is tendering for work, whether directly or indirectly;
- ii. is related to an employee/board member of (or has another personal connection to) an organisation which is tendering for work;
- iii. is employed or engaged, or has recently been employed or engaged by an organisation which is tendering for work;
- iv. is a personal friend with a member of a tenderers bid team.

b. Col (tenderer related), where:

- i. a tenderer and/or associated party has been involved in advising HS2 Ltd on matters relating to the HS2 Project or in the preparation of documents or information relating to the HS2 Project and/or the contract(s) being procured; and/or
- ii. a staff member from a tenderer and/or associated party is related to one of HS2 Ltd.'s officers or board members; and/or
- iii. a staff member, consultant or contractor engaged or employed by a tenderer or associated party worked for or has been engaged by HS2 Ltd and/or HM Treasury/Department for Transport in relation to the HS2 Project; and/or
- iv. a tenderer who is either directly or indirectly contracted client side, is also contracted for delivery side, in situations where their client side role has any involvement with the supplier's delivery side role. By client side, HS2 Ltd refers to its suppliers who are providing services to HS2 Ltd as part of integrated teams or otherwise alongside HS2 Ltd.'s own personnel, typically as professional advisers or consultants (such as legal, commercial, financial, technical) to procurement and

contract delivery/management teams within HS2 Ltd who are specifying and procuring services from delivery-side suppliers, in order to deliver the new HS2 railway. By delivery-side, HS2 Ltd refers to its external suppliers who are providing, or are tendering to provide, supplies or services to HS2 Ltd to enable the delivery of the new HS2 railway (such as, but not limited to, design and construction of stations, rolling stock and other infrastructure).

v. Improper communication of information during the procurement process that either breaches HS2 Ltd.'s duty of confidence to tenderers or that distorts competition or the principle of equal treatment, for example:

- i. communication of financial, technical or other commercially sensitive information from one tenderer to another;
- ii. inconsistent provision of information or timing of information provided to tenderers during the procurement process;
- iii. discussion of the procurement process with third parties outside the procurement team, for example, at a professional institution event or a chance meeting on a train;
- iv. endorsements or participation in publicity for tenderers during the procurement process, including provision of case studies and support in awards;
- v. suppliers working with two different tenderers and submitting two different tenders (where the rules of the procurement do not allow).

c. Offer and acceptance of gifts or hospitality, refer to the HS2 Gifts & Hospitality Policy and Anti-Fraud and Anti-Bribery Policy, some procurement related examples include:

- i. accepting cash or gift from a tenderer or potential tenderer;
- ii. accepting invitations to a social or corporate event from a tenderer or potential tenderer or hosted by a tenderer or potential tenderer;
- iii. accepting invitations for a visit paid for or hosted by a tenderer or potential tenderer, e.g. visiting their manufacturing facilities overseas.

5 Failing to Manage Conflicts of Interest during a procurement

5.1 Consequences

5.1.1 Col management arrangements are essential to maintain confidence in the integrity of the procurement process and to help demonstrate a fair competition with equal treatment of all tenderers, The Procurement Conflicts of Interest Procedure sets out HS2 Ltd.'s approach to actual, potential and/or perceived Col in the context of HS2 Ltd procurement and organisations tendering for HS2 Ltd contracts.

5.1.2 A successful challenge based upon an actual or perceived Col and the integrity of the procurement could entail significant programme delay and result in substantial additional cost, as well as reputational risk that it can cause to HS2 Ltd, its stakeholders, sponsors and supply chain. It could also result in a loss of market confidence in the procurement process, affecting market appetite and thereby impacting competition and value for money of the HS2 Project as a whole.

6 Conflicts of Interest Identification

6.1 Identification and Mitigation

6.1.1 Hs2 Ltd recognises that the greatest risk relating to Col arise when they are not identified or are identified too late; or once identified, are not properly managed.

6.1.2 It is essential that actual or potential Col and any circumstances that may be perceived as constituting a Col are identified at the earliest possible moment.

6.1.3 To achieve this, HS2 Ltd will implement the following mitigation measures:

- a. proactive strategic management processes, embedded in HS2 Ltd.'s procurement policies and procedures (e.g. conflict avoidance clauses included in the PQQ/PQA Guidance Notes for tenderers), which request tenderers to highlight any Col they may be aware of. These are designed to identify where conflicts may arise so that we can put mitigating actions in place right at the start of a project;

- b. the establishment of procedures and appropriate governance to resolve Col issues promptly and effectively via the formation of a Col Panel, Col register and the appointment of a Compliance Manager, Procurement and Commercial with the responsibility for the management and mitigation of conflicts in relation to the HS2 Project;
- c. communication of HS2 Ltd.'s requirements in relation to Col to all relevant parties, including those who might tender for work with HS2 Ltd;
- d. frank and open management, in partnership with those who tender to work with HS2 Ltd and those who are awarded contracts by HS2 Ltd, to identify areas where Col might arise;
- e. HS2 Ltd.'s staff training and awareness of how to identify when Col might arise, and
- f. encouragement of an open and transparent approach and a "when in doubt, notify" culture throughout HS2 Ltd and its supply chain, using tools such as HS2 Ten Golden Rules.

7 Conflicts of Interest Management

7.1 Management

7.1.1 Where a Col has been identified the following procedures will apply.

7.1.2 The adoption of a single Col Policy recognises that the same principles of conflict management apply to all employees (including Board Members, interims and secondees) as it does to conflicts which arise from the HS2 Ltd supply chain and from our procurement activities.

7.2 Employee and Individuals undertaking work on behalf of or representing HS2 Ltd

7.2.1 On employment or on engagement all employees, interims and secondees are required to complete a HS2 Ltd Register of Interest form, declaring any connection with HS2 Ltd.'s activities or fields of Interest. The interests declared are forwarded by Human Resources

Shared Services (HR Shared Services) to Compliance, Procurement and Commercial (compliance@hs2.org.uk) to assess if a Col arises from the declaration. Where this is the case, the matter may be brought before the Col Panel and dealt with in accordance with the Conflicts of Interest Panel Terms of Reference or the matter will be managed by the Compliance Manager, Procurement and Commercial independently, if the matter is deemed to be low risk, not to be an actual, potential or perceived Col or where the principles of previous Conflict of Interest Panel decision set a precedent and can be applied.

7.2.2 Employees, interims and secondees are also encouraged to declare Col during their employment as per the “when in doubt notify” culture. The HS2 employment contracts include confidentiality requirements, which are put in place to ensure any employees, interims or secondees do not share confidential information with 3rd parties during their employment or on once they leave HS2. All employees should follow the Leavers Process Guide and dependant on the employee’s new role and employer, it may be necessary for the employee’s line manager to change their employees’ activities during the employees notice period to avoid any compromise. The Compliance Manager, Procurement and Commercial can be contacted at compliance@hs2.org.uk for advice and support in these instances.

7.2.3 HR Shared Services will maintain the Register of Interest for all declared interests. It is the responsibility of all employees to inform HR Shared Services of amendments to their interests.

7.2.4 All employees must consider their Col whilst undertaking HS2 work and take appropriate action to mitigate any risk.

7.2.5 Employees need only declare Col with a clear connection to HS2 Ltd.’s activities or fields of interest. Relevant interests include:

- Other part time employment in an organisation with which HS2 Ltd may have a relationship or influence;
- Consultancy work in HS2’s fields of interest;
- Non-Executive directorships, trusteeships, or similar in HS2 Ltd.’s fields of interest; or
- Family members or associates in organisations who have or are likely to have a clear connection to HS2 Ltd.’s activities or fields of interest. Family members or associates are individuals that could be perceived by the public as having a familial relationship.

Employees do not have to declare membership of professional bodies. They need only declare involvement in such bodies if they hold office or play a significant role within the organisation through committee membership etc.

7.2.6 If the interest arises in connection with an HS2 Ltd procurement or contract, the interest must be cleared with the Compliance Manager, Procurement and Commercial prior to the contract being awarded. In some circumstances it may be appropriate for some work restrictions to be put in place.

7.2.7 Where a declared interest is made during employment and is deemed a Col, the individual may be asked to rescind that interest. If this is not possible the individual will work with HS2 Ltd to resolve the Col.

7.2.8 Employees should be aware of their conduct in regards to Col, this includes:

- Being aware of personal interests when partaking in meetings, withdrawing oneself from meeting where appropriate;
- Not recommending companies or individuals to other parties. If an employee wishes to make a recommendation to another party, it should be in a personal capacity and be clear it is not an HS2 endorsement.

7.2.9 Where an employee has deliberately withheld information concerning a Col or has deliberately not declared a Col, the HS2 Disciplinary Policy will be followed.

7.3 Individual Consultants and Contractors

7.3.1 It is anticipated that the need to make Col decisions will occasionally arise in relation to individuals who have been or are still advising HS2 Ltd and who participate in a procurement for other work (e.g. as sub-contractors or as members of a joint venture tendering for a contract).

7.3.2 In applying this policy and relevant factors it will be particularly important to assess whether the relevant individual (or the tenderer whom they represent) would derive unfair advantage due to their previous involvement in HS2 Ltd. Points to be considered in this context include the following:

- Is the consultant/contractor (or any of its employees) likely to be involved in the evaluation of tenders?

- Is the consultant/contractor privy to information which is not available to other tenderers, or not available to other tenderers in sufficient time for them to make proper use of it?
- Is the consultant/contractor performing a role which requires a degree of independence from the work to be carried out by the tenderer (e.g. an assurance function)?

If the answer to any of the above questions is affirmative, it is likely that the consultant/contractor will be subject to an unacceptable Col unless appropriate means of mitigating and managing the Col can be devised (refer to the Conflict of Interest Policy - Supplier Principles for examples).

7.4 Notification of Conflicts of Interest

7.4.1 Any parties becoming aware of a potential, actual or perceived Col at any time must promptly notify HS2 Ltd, this includes any previously unidentified Col that become apparent due to changes in circumstances.

7.4.2 Full details of the identified conflict will be supplied to the Compliance Manager, Procurement and Commercial as soon as practicable and prior to a potential conflict giving rise to a material issue. The Compliance Manager, Procurement and Commercial can be contacted at compliance@hs2.org.uk.

7.4.3 Following initial risk assessment and where a Col exists the Compliance Manager, Procurement and Commercial may refer the matter to the Conflicts of Interest Panel whom will decide upon the appropriate response and decisions will be recorded in the Conflicts of Interest Register. Matters may be managed by the Compliance Manager, Procurement and Commercial independently of the panel if the matter is deemed to be low risk, not to be an actual, potential or perceived Col or where the principles of previous Conflict of Interest Panel decision set a precedent and can be applied. Such matters will be recorded on the Conflicts Register for audit and reporting purposes.

7.4.4 Each case will be assessed individually depending on the circumstances. Factors that are considered may include:

- a. the value of the contract/s which will or may be impacted;

- b. the strategic importance of the contract/s;
- c. the nature and extent of the role of the party that has or may have a Col;
- d. the actual or potential impact of the Col;
- e. the likelihood of the Col occurring;
- f. available means of managing or mitigating the Col risk.

Decisions on Conflicts of Interest will be taken on a case by case basis. However, the underlying principle is that HS2 Ltd should avoid, if at all possible, circumstances in which (notwithstanding the implementation of available means of management or mitigation) there remains a significant risk that an actual or potential Conflict of Interest could give rise to circumstances inconsistent with the role, responsibilities and values of HS2 Ltd and the public interest.

7.5 On-going Management and Review

7.5.1 Where a potential Col has been identified, appropriate measures will be implemented to avoid the Col or to manage the potential impact. The measures may be contractual or practical and will depend on individual circumstances. Measures can include those outlined in the HS2 Conflict of Interest – Supplier Principles. All action shall be recorded in a format that will withstand future audit and scrutiny.

7.5.2 The duty to manage a Col is ongoing and in the case of a supplier contract this is the responsibility of the HS2 Contract manager.

7.5.3 HS2 Ltd will implement measures to monitor:

- implementation of management and mitigation measures, where the potential for a Col has been identified; and
- relationships between HS2 Ltd and others on an on-going basis to identify if Col arise in the future.

Conflicts of Interest Policy

Document no: HS2-HS2-CR-POL-000-000005

Revision: Anti-Fraud and Anti-Bribery Policy

7.5.4 All parties are encouraged to proceed with an open and transparent approach and a “when in doubt notify” culture.

7.5.5 All parties should be aware of their conduct in regards to interests whilst employed or acting on behalf of HS2 Ltd.

7.6 Conflicts of Interest Policy

7.6.1 The HS2 Compliance Team is responsible for updating this Conflicts of Interest Policy on an annual basis.

8 Referenced Documents

| Document Name | Document Number |
|--|---------------------------|
| Anti-Fraud and Anti-Bribery Policy | HS2-HS2-FN-POL-000-000014 |
| Conflict of Interest – Supplier Principles | HS2-HS2-CR-POL-000-000006 |
| Conflicts of Interest Panel – Terms of Reference | HS2-HS2-CR-TOR-000-000002 |
| Disciplinary Policy | HS2-HS2-HR-POL-000-000005 |
| Gifts and Hospitality Policy | HS2-HS2-FN-POL-000-000016 |
| HS2 Ltd Register of Interests Form | HS2-HS2-HR-FRM-000-000017 |
| Leavers Process Guide | HS2-HS2-HR-GDE-000-000075 |
| Probity Policy | HS2-HS2-CR-POL-000-000003 |
| Procurement Conflicts of Interest Procedure | HS2-HS2-CR-PRO-000-000038 |
| Ten Golden Rules | HS2-HS2-CR-GDE-000-000007 |

Conflicts of Interest Policy

Document no: HS2-HS2-CR-POL-000-000005