Don’t Let the Headline Be About You: Identifying and Managing Conflicts of Interest

July 16, 2015 Orange Section
APA California
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We Can All Use A Little Help

Scott Adams and Dilbert
Very first local planning job – can you help me out? Or, here’s what I can do for you.

All around us everyday.

Story in OC a couple of years ago. Headline “City Outsources Work to City Building Official’s Firm”
Why City Staff Denied a Conflict of Interest

- Building Official did not make the decision to send work to his firm.
- Decision was made by employees he worked with.
- Decision was based exclusively on price.
- City spokesman claims this results in better customer service.
- What do you think?
What We Will Do Today

- Comments
- Q and A
- Discussion
- Role Playing

- What We Can Do to Improve Our Ability to Recognize andResolve Conflicts of Interest
Why Care About Conflicts of Interest

- Maintain the integrity of professional judgement.
- Ensure the public’s confidence in that judgement.
- Citizens have the right to expect that governmental decisions will be based on consideration of what is in the best public interest.
- Ensure that the courts can’t invalidate an action taken.
- Protect ourselves if frivolous lawsuits are filed.
- Avoid sanctions.
What Is a Conflict of Interest?

- No definitions in the AICP Code of Ethics
- A conflict of interest exists when a competing interest has the potential to influence the conduct of professional responsibilities.
  - Personal knowledge/bias
  - Personal financial interest or family member financial interest
What Is the Appearance of a Conflict of Interest?

- No definition in the AICP Code.
- Circumstances such as a personal consideration related in some way to the matter to be decided that would cause reasonable individuals to question whether judgement has been impacted by factors outside the primary area of responsibility.
Principles to Which We Aspire
2. Our Responsibility to Our Clients and Employers
   c) We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.
AICP Code – Rules of Conduct

3. We shall not accept an assignment from a client or employer to publicly advocate a position on a planning issue that is indistinguishably adverse to a position we publicly advocated for a previous client or employer within the past three years.
Planning Process Participants should:

- Make public disclosure of all "personal interests."

- Define "personal interest" broadly to include any actual or potential benefits or advantages.

- Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest.

- Seek no gifts or favors, nor offer any.

- Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate.

- Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker.
Other Sources of Guidance

- Local Ethics Ordinances.
- State Law.
- Advisory Bodies.
- City Attorney.
- APA Executive Director.
Fair Political Practices Commission (FPPC)

- Created by the Political Reform Act of 1974 (Act), a ballot initiative passed by California voters in 1974.
- Adopts regulations. Develops required forms, manuals and instructions.
- Maintains a central file of statements of economic interests (SEI) for certain officials.
- Investigates alleged violations of the Political Reform Act.
FPPC educates the public and public officials on the requirements of the Act and provides written and oral advice.

Conducts seminars and training sessions.

The FPPC regulates a number of things including:
- financial conflicts of interest
- gifts and honoraria given to public officials

Revolving door limitations. (None in AICP Code.)
Conflict of Interest Codes

- Under the Political Reform Act (the "Act"), all public agencies are required to adopt a conflict-of-interest code (code). A code designates positions required to file Statements of Economic Interests (Form 700).
How Well Can You Identify and Manage Potential Conflicts of Interest

- Review hand-out.
- Answer and discuss.
Work in Teams of 3

- Team Member 1. Planner who has to make a decision and make sure the reporter understands the planner’s thinking.
- Team Member 2. Reporter looking for a nice juicy scandal. Ask tough questions. Explain decision to larger group.
Basic Things to Keep in Mind When Deciding

- Doing your job doesn’t entitle you to personal advantages and perks.
- Transparency promotes trust.
- Fair processes are better for the public.
Things to Keep in Mind, Cont’d

- What course of action is consistent with your personal values?
- What course of action is consistent with AICP Code, state law, local guidelines.
- What will the public’s perception be of that course of action?
Review Scenarios

- Football tickets.
- Friendships.
- Fences.
- Switching sides.
- Follow-up consulting work.
- Invited Speaker.
- Weekend in Palm Springs.
- Downtown Plan.
Other Factors to Consider

- Standard of conduct higher when you are the final decision-maker, administratively approved projects.
Ways to Avoid Conflicts of Interest

- Disclosure.
- Non-participation.
- Eliminate the conflict.
- Educate/train – staff and appointed bodies
What Can You Do

- Discuss as an agency to ensure a uniform approach.
- Speak up.
- Find yourself an impartial opinion when you have questions. Test of publicity.