

CONFLICT OF INTEREST WAIVER DECISION MATRIX

Revised: September 3, 2026

SDCL 5-18A-17 to 5-18A-17.6

DO I NEED TO REQUEST A WAIVER?

This matrix assists current and former executive-branch officers and employees in determining whether a conflict of interest exists or whether a waiver may be required under SDCL 5-18A-17 through 5-18A-17.6. It should be used together with the Conflict-of-Interest Instructions & Form, a review of the applicable statutes, and consultation with your supervisor. This matrix is a general guide and is not determinative by itself.

State law restricts individuals who recommend, approve, award, or administer state contracts, as well as those who supervise employees performing those functions. These restrictions apply to current officers and employees and continue for one year after leaving state service.

State officers and employees may not solicit or 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.

The questions in this matrix may not address every situation. If you are uncertain how to answer any question or whether a potential conflict exists, consult your supervisor. As you answer these questions, note that an agreement does not need to be in writing to be considered a contract.

For all questions in this matrix, benefits received by your spouse or anyone with whom you live and commingle assets (including partners, roommates, or adult children) are treated the same as benefits received by you.

QUESTIONS

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 the next question.

If NO, be aware that the law applies to all state employees. Consult your supervisor for agency-specific instructions concerning conflict-of-interest waivers.

Additional Note:

The law's restrictions continue for one year after an individual leaves state service. Former officers and employees who recommended, approved, awarded, or administered a contract within the last year may not enter into or benefit from that contract unless a waiver is granted.

2. **Will or do I, my spouse, or any person with whom I live and commingle assets have a five-percent or greater ownership or financial interest in any business or entity that contracts or does business with the State?**

If YES, proceed to Question 7.

If NO, proceed to the next question.

3. **Will or do I, my spouse, or any person with whom I live and commingle 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 the next question.

4. **Will or do I, my spouse, or any person with whom I live and commingle 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 the next question.

5. **Do I, my spouse, or any person with whom I live and commingle 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 the next question.

6. **Have I, my spouse, or any person with whom I live and commingle 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, no waiver is needed.

QUESTIONS REGARDING YOUR ROLE IN THE CONTRACTING PROCESS

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 the 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 the next question.

9. **Do or did I administer the contract—meaning, do or did I have decision-making authority or substantive influence on decisions concerning the manner, method, or means of the contract’s performance or enforcement (for example, the ability to terminate, suspend, change terms, or evaluate performance)?**

If YES, you need to request a waiver.
If NO, proceed to the next question.

Clarification:

“Administering a contract” means making or influencing substantive decisions about contract performance or enforcement. Routine clerical tasks, such as processing payments or relaying decisions made by others, are not considered contract administration.

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

If YES, you need to request a waiver.
If NO, no waiver is needed.

ADDITIONAL NOTES

Small Transactions:

A blanket waiver applies to individual transactions of \$200 or less. Employees should review the Conflict-of-Interest Instructions for details regarding this exception.

Penalties for Non-Compliance:

Failure to request a required waiver may result in disciplinary action, removal from position, or the contract being voided. More serious violations, such as quid-pro-quo arrangements or promises of something of value, may result in criminal penalties.