	ADEQ Internal Policy	ADEQ
		Page 1 of 7
	Conflict of Interest	Policy No. 0201.2021
		Effective: 4/15/21

## 1.0 Purpose

To educate ADEQ officers, employees, committee members, contract, and temporary employees on the State’s conflict of interest laws, and to ensure compliance with such laws. The conflict of interest laws are found in A.R.S. § 38-501 through A.R.S. § 38-511.

## 2.0 Definitions

See A.R.S. § 38-502.

## 3.0 Policy Statement

This policy summarizes the State of Arizona conflict of interest laws and describes the procedure ADEQ will follow to ensure compliance with the laws.

### 3.1 **Scope**

This policy applies to all ADEQ public officers, employees, and committee members of the committees listed in Appendix A, even when only the terms public officer or employee are used. In addition, this policy applies to any contract or temporary employees procured by contract. For questions about whom this policy applies to, contact the ADEQ Administrative Counsel.

### 3.2 **Public Officers, Employees, and Committee Members**

#### **Conflict of Interest Check Procedure**

To ensure conflict of interest laws are followed, ADEQ and other State agencies require public officers, employees, and committee members to complete conflict of interest forms annually and submit updated documents when changes occur. The conflict of interest forms are designed to prompt answers to ensure conflict of interest issues are identified and mitigated.

3.2.1 Prior to beginning the annual conflict of interest check each year, HPO will work with the Administrative Counsel, the Chief Procurement Officer, and the Director of Business and Finance to review forms and procedures and make updates if necessary. ADEQ will utilize the current ADOA “Disclosure Statement” form unless a decision is made by HPO and the

Administrative Counsel to utilize another form. For example, the form may need to be modified to address committee members who are not employees.

3.2.2 By December 1 of each year, ADEQ public officers, employees, and committee members shall complete the current conflict of interest disclosure form and provide the signed form to HPO. HPO will manage this process. The form will require employees to consider areas where conflict of interest may arise in accordance with state law, disclose any potential conflicts, and work with HPO to mitigate conflicts.

3.2.3 A public officer, employee, or committee member must provide a new form to HPO within one week of any changes to previous disclosures and before any conflict may occur.

3.2.4 Managers will ensure forms are submitted to HPO.

3.2.5 New Employees will complete the conflict of interest check, including submitting a form and addressing mitigation, during their new employee orientation process.

3.2.6 HPO will track the completion of each form and any necessary mitigation.

3.2.7 HPO will review all signed forms to determine if any conflict exists, and will mitigate any conflicts.

3.2.8 HPO will place the form and notes about any mitigation actions into each employee's personnel file, if applicable, and HPO will place a copy into an electronic folder organized by year for public records purposes.

### **3.3 Contract and Temporary Employees Conflict of Interest Check Procedure**

Contract and temporary employees performing ADEQ work as staff augmentation will be asked to disclose any conflicts.

3.3.1 ADEQ Business and Finance will manage the process to have contract and temporary employees complete the conflict acknowledgement process upon assignment. Business and Finance will provide the conflict of interest form to the direct supervising manager upon PO placement.

3.3.2 The direct supervising manager will work with the contract/temporary employee to review and complete the process.

3.3.3 The direct supervising manager will review the completed forms and request guidance from HPO if any potential conflicts exist. HPO and the direct supervising manager will mitigate any conflicts.

3.3.4 The direct supervising manager will submit the completed form to Business and Finance Accounts Payable to attach to the purchase order associated with the contract or temporary employee.

3.3.5 Business and Finance will track the status of each contract and temporary employee to ensure completion of the initial conflict form. Business and Finance will also track to ensure the forms are renewed annually by all contract and temporary employees.

3.3.6 By December 1 of each year, the manager of any contracted and temporary employee's still performing ADEQ work as staff augmentation shall be notified to have the

employee complete the conflict of interest disclosure form and provide the form to Business and Finance Accounts Payable for filing and tracking.

### **3.3 Conflict of Interest Law Summary**

The conflict of interest laws that apply to public officers and employees are found in A.R.S. § 38-501 through A.R.S. § 38-511. Below is a summary of some of these laws.

#### **Substantial Interest Preclusion – A.R.S. § 38-503**

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

Substantial and remote interest definitions can be found in A.R.S. § 38-502.

#### **Representation Preclusion – A.R.S. § 38-504**

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to

manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

### **Additional Income Preclusion - A.R.S. § 38-505**

No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

### **Requirement of Notification of Conflict – A.R.S. § 38-508**

If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

### **Agency Maintenance of Substantial Interest Records - A.R.S. § 38-509**

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

### **Consequences for Conflict of Interest Violations - A.R.S. §§ 38-510, 38-511**

A. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.
2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an

employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

#### **4.0 Authority**

A.R.S. § 38-501 et seq.

#### **5.0 Audience**

ADEQ public officers, employees, contract employees, and committee members.

#### **6.0 Policy Steward**

ADEQ Administrative Counsel

#### **7.0 Communication & Training**

HPO and the Administrative Counsel will explain this Policy to all managers at an ADEQ All Managers meeting after the policy is approved, and then each year thereafter, prior to the yearly conflict of interest form completion. Each year, ADEQ will send a communication to all employees that explains the policy and requests employees complete the form. HPO will communicate the policy to all new employees during new employee orientation.

The ADEQ Business and Finance Director will explain this policy to necessary business and finance staff, including the Chief Procurement Officer, after the policy is approved, and then by December 1 of each year annually.





#### **8.0 Review, Audit & Revision Schedule**

The ADEQ Administrative Counsel will review this Policy annually when HPO, the Chief Procurement Officer, and Business and Finance consult the Administrative Counsel about the annual conflict of interest check.

#### **9.0 Additional Documents**

Appendix A: ADEQ Committees Subject to Conflict of Interest Law Requirements

**10.0 Approved by**

Title	Name	Signature	Date
ADEQ Director	Misael Cabrera		
Business and Finance Director	Jared Sprunger		
HPO Director	Eric Abt		
Administrative Counsel	Edwin Slade	 <a href="#">Edwin Slade (Apr 13, 2021 16:36 PDT)</a>	

**11.0 Historical Note**

Date	Number, Name, and Issue Date of Previous Version	Replaces Listed Sections/Entire Document	Reason

## **Appendix A**

### **ADEQ Committees**

1. Oil and Gas Conservation Commission
2. Water Systems Coordinating Council
3. Air Quality Technical Assistance for Small Business Compliance Assistance Advisory Panel
4. Emergency Response Commission
5. Recycling Advisory Committee
6. Air Agricultural Advisory Committee
7. Water Infrastructure Finance Authority of Arizona
8. Water Quality Appeals Board
9. Community Advisory Boards for Water Quality Assurance Revolving Fund Sites