



# Departmental Policy

## Water acquisition and divestment declaration of interests

### Direction to staff

You must comply with this instructional material under the Practice Statement Framework.

### Purpose of this document

The purpose of this document is to provide a statement on the policy position of the department on declaration and management of conflicts of interest related to the acquisition and divestment of water entitlements and allocations.

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### Definitions

The following table defines terms used in this document.

Term	Definition
Acquisition	Purchase of a water entitlement or water allocation for consideration.

This is a CONTROLLED document. Any documents appearing in paper form are not controlled and should be checked against the IML version prior to use.

Term	Definition
Apparent conflict of interest	Where it appears that an employee's personal interests could improperly influence the performance of his or her duties, but this is not in fact the case.
Contractors and consultants	Entities that provide goods and services to the department for consideration. <b>Note:</b> Includes water valuation services.
Divestment	Divestment of a water entitlement or allocation, whether through sale, gifting or other arrangement.
Employee	A person engaged directly or indirectly by the department. <b>Note:</b> Includes on-going, non-ongoing and labour hire employees.
Material personal interest	The term 'material personal interests' could directly relate to an official's personal role or, more broadly, to the overall purpose of the entity.  Materiality depends on the size and nature of the interest and the surrounding circumstances.  Material personal interests are not confined to financial or similar interests. To be material, a personal interest must be of a type that can give rise to a real or apparent conflict of interest.
Real conflict of interest	Where there is a conflict between the public duty and personal interests of an employee that improperly influences the employee in the performance of his or her duties.
Water allocation	The amount of water distributed to users (water entitlement holders) in a given year.
Water entitlement	The rights to an ongoing share of water within a system.

## Policy statement

Any person or entity involved in the acquisition and divestment of water entitlements or allocations by the department must make regular declarations of real or apparent conflicts of interest, including where no known conflicts exist.

## Employees

All Water Division employees involved in, or likely to be involved in, the acquisition and divestment of water entitlements or allocations must:

- make an annual declaration of any material personal interests, including where no known conflicts exist
- make a separate declaration of material personal interests, including where no known conflicts exist, before commencing work on an acquisition or divestment of water entitlements or allocations.

For the avoidance of doubt, a declaration is only required once for:

- each open tender conducted (unless a conflict emerges)
- each limited tender conducted.

Declarations must be made in accordance with any relevant departmental policies.

Declarations must be made in writing and through the Financial Management Compliance System.

### **Contractors and consultants**

Contractors and consultants (and their employees, agents and sub-contractors) undertaking work for the department in relation to the acquisition and divestment of water entitlements or allocations must declare any real or apparent conflicts of interest, or that no known conflict exists:

- when submitting a quote or tender to the department
- when entering into a contract or commencing work with the department
- at any time one arises when undertaking work for the department in relation to these matters.

Declarations must be made in accordance with:

- the terms of the quote, tender, contract, deed of standing offer or similar arrangement
- relevant department policies.
- Declarations must be made in writing.

### **Responsibility to avoid conflicts**

All Water Division employees, contractors and consultants must take reasonable steps to avoid any conflict of interest (real or apparent) in connection with their employment.

Where a material personal interest cannot be avoided, the employee must disclose that interest so that it can be managed in consultation with an SES Officer and, if appropriate, a Probity Advisor.

### **Application**

This policy applies to all Water Division's acquisitions and divestments of water entitlements or allocations whether through a limited or open tender, or other arrangement.

### **Exclusions**

This policy does not apply to acquisition and divestment of water entitlements or allocations:

- through water infrastructure projects  
or
- by the Commonwealth Environmental Water Holder.

### **Record keeping**

Declarations must be held on file and managed in accordance with the department Records management policy.

### **Objective of this policy**

Water Division is committed to the highest standards of ethical practice to build and maintain public confidence in their dealings with water entitlements and allocations.

Departmental officials undertaking the acquisition or divestment of water entitlements or allocations are required to act in an ethical manner, including the management of real and apparent conflicts of interest.

This requirement is reflected in the Australian Public Service Code of Conduct which requires declaration of all interests that could be perceived to be a conflict.

## Legislative framework

The following list identifies legislation that applies to the declaration and management of conflicts of interests within the public service:

- *Public Governance, Performance and Accountability Act 2013* section 29
- Public Governance, Performance and Accountability Rule 2014 subsections 12 to 16D
- *Public Service Act 1999* section 13(7)
- *Commonwealth Procurement Rules*, section 6.

## Related material

The following related material is available on the Instructional Material Library (IML):

- Guideline: [Compliance with water-trading rules for water announcements and water trades](#).

The following related material is available elsewhere:

- [Accountable Authority Instruction 1.5: Disclosure of interests](#).

## Document information

The following table contains administrative metadata.

Instructional Material Library document ID	Instructional material owner
IMLS-12-3914	First Assistant Secretary, Water Division

## Version history

The following table details the published date and amendment details for this document.

Version	Date	Amendment details
1	16/07/2020	First publication of this departmental policy.