



## AGSA Scheme conflicts of interest guidance note

### Introduction

The Australasian Institute of Marine Surveyors (AIMS) and the Department of Agriculture, Fisheries and Forestry (DAFF) are in partnership to administer and oversee the Accredited Grain Surveyor Assurance (AGSA) Scheme. The AGSA Scheme ensures that your survey complies with the *Standard for Empty Bulk Vessel Surveys by Accredited Marine Surveyors*.

When performing bulk vessel surveys, and certifying them as fit to load prescribed goods, you have obligations under the National Anti-Corruption Commission (NACC)<sup>1</sup>. In summary, the NACC applies to any person who does something, or tries to do something, that could adversely affect a public official's honesty or impartiality in their official capacity.

Your decision to certify a bulk vessel as fit to load may affect the official duties of an Authorised Officer (AO). This is because an AO who is conducting a phytosanitary inspection of a Bulk Vessel Inspection Authorised Officer (BVI AO) is required to consider your Fitness to Load certificate when issuing a bulk vessel approval.

In the context of the NACC and the AGSA Scheme together, you must consider and disclose any conflicts of interest to demonstrate your integrity when surveying bulk vessels. This will alleviate potential concerns that you may do something, or try to do something, that could adversely affect the official duties of the BVI AO.

AIMS and the department understand that you have existing relationships with BVI AOs, shippers and shipping agents, and that these relationships constitute interests. To effectively manage your interests, it is important that you follow this guidance note to facilitate transparency, independence and objectivity when performing your surveys. The steps involved include identification and disclosure of your interests, and adoption of appropriate management strategies to manage any real or apparent conflicts of interest.

### What is a conflict of interest

A conflict of interest exists where you have an interest, or another duty, that could affect or be affected by how you perform your job.

- A **real (actual) conflict of interest** exists where you have a personal interest, relationship or competing duty that could affect or be affected by the way you conduct your duties.

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<sup>1</sup> [The National Anti-Corruption Commission | National Anti-Corruption Commission \(NACC\)](#)

- An **apparent (perceived) conflict of interest** exists where a reasonable person might think that you have a personal interest, relationship or competing duty that could affect or be affected by the way you perform your duties, even though there is no real conflict of interest.

Conflicts of interest are most often linked to:

- **personal interests**, such as financial and non-financial interests, competing duties that apply in the course of performing your survey, including business interests, relationships, family relations and professional interests.
- **material personal interests** that can give rise to a real or apparent conflict of interest that could affect your ability to perform your role.

### Steps for managing conflicts of interest

Use the Know, Disclose, Assess, Manage and Review steps described below. A simple flow chart outlining these steps is at the end of this guidance note.

Although there is no exhaustive list of interests that require disclosure, a useful test is to consider whether a reasonable person would question whether you might influence, or be influenced by others, to change your behaviour, decisions and actions at work, which would affect your conduct and how you perform your duties.

When disclosing your interests, use the following definitions to guide your decision-making and disclosures.

- **Disclosure at initial accreditation** – is when you have assessed your interests and identified conflicts of interest when applying for initial accreditation.
- **Renewal of accreditation** – is when you are renewing your accreditation and reviewing any previously disclosed conflicts of interest, including if you identified as having no conflicts of interest.
- **New conflict of interest** – is when you are actively managing and reviewing your conflicts of interest and identify a new conflict of interest.
- **Change in circumstances** – is when you are actively managing and reviewing your conflicts of interest and identify that your previously disclosed conflicts have changed.
- **Closing of previously declared conflict** – is when you are actively managing and reviewing your conflicts of interest and identify that your previously disclosed conflicts no longer present a conflict of interest.

### Questions to identify if you have a conflict of interest

The following questions will help you to consider and know what conflicts may arise when considering your normal job (Step 1). They will also assist AIMS, who will consider the interests you disclose (Step 2) to assess those interests (Step 3) in the context of your proposed plan to manage your conflicts of interest (Step 4). These questions are suggestions only and may not be applicable all of the time.

#### Financial interests

- Do you or any family members have any financial interest, such as investments or shareholdings, in any company or organisation that you work for, including if self-employed?

- Do you or any family member receive any inducements, bonuses, monetary incentives, income, gifts, or benefits from any company or organisation that you work for, including if self-employed?
- Do you have any loans or financial obligations to any company or organisation that you work for, including if self-employed?
- Do you have any contracts, partnerships, or other arrangements with your employer, including if self-employed?

Personal interests

- Do you have any personal relationships with other employees or executives of companies or organisations that you work for, including if self-employed?
- Do you have any family or social relationships with individuals who could be affected by your actions or decisions?
- Have you previously worked for, or consulted with, any company or organisation that is affiliated with the organisation that you are working for?

Professional affiliations

- Do you belong to any professional organisations or associations where you hold positions where your professional objectivity may interfere with your surveyor duties?
- Do you have any external relationships that interfere, or may appear to interfere with your professional duties?

Political affiliations

- Do you or any family member have any political affiliations or connections that could influence your decision-making?
- Have you, or any family member, made any political contributions or donations to candidates or political parties that could affect your decisions?

Public perception:

- Could your actions or decisions be perceived as biased or unfair by the public or industry stakeholders?
- Could your actions or decisions damage the public's trust in the regulatory process?

### **Step 1 - Know**

*Conflicts of interest are common; considering them must be a normal part of doing your job*

Know that conflicts can arise in the context of:

- the people or businesses you engage with
- the information you have access to
- the decisions you make or can influence
- how you undertake your duties or activities.

To help you know what your conflicts of interest are, consider what it is that you are trying to do. Be aware that some of your duties or activities will have a higher exposure to conflicts of interest than others. Use the questions above to assist you to know what your conflicts might be.

#### Example 1

A real conflict of interest likely exists if you are employed by a company who also employs the BVI AO. Conflicts may involve situations where either the Accredited Marine Surveyor or BVI AO fails to report poor performance, misconduct or mistakes with respect to each other. In this example, the Accredited Marine Surveyor must declare their employment arrangement by following these steps.

#### Example 2

An apparent conflict of interest likely exists if an immediate family member has shares in a major bulk grain exporting company.

#### Example 3

You are offered a financial incentive to disregard a pungent odour that is emanating from one of the vessel's holds intended to be loaded with grain.

### **Step 2 - Disclose**

*Disclose personal or business interests relating to your so conflicts of interest can be identified*

Personal, material personal or business interests may be identified through declaration or due diligence checks. Material refers to a conflict that is significant or relevant enough to influence an outcome. Personal, material personal or business interests can include:

- personal, including financial or non-financial interests, competing duties, business interests, relationships and family relations
- interests of family members
- relations formed socially through work or within the community
- cultural or sporting affiliations, including sponsorships
- political, professional or voluntary affiliations
- board or advisory roles, including profit/not-for-profit organisations
- secondary employment
- nomination or standing for public office
- business, investments and shareholdings

- other significant sources of income.

Be aware of what material interests could be relevant to your role and consider the impact or potential impact. You must adopt the principle of 'if in doubt, declare'.

When assessing materiality, consider:

- the potential for any secondary personal or business benefits or loss
- the potential impact of the interest on your decision-making
- the degree to which the interest could influence the outcome
- how closely the interest is linked to the specific issue or decision being made
- whether the interest could create a bias or prejudice.

Once you have identified your material interests, you must disclose them to AIMS using the AGSA Conflicts of Interest Disclosure Form, Part A, available on the AIMS website. By disclosing your interests, AIMS will be able to assess if they are in conflict with your role as an Accredited Marine Surveyor and if they are, AIMS will assist you to manage them.

Note: AIMS will abide by all privacy principles, ensuring that personal information is managed in accordance with the applicable privacy laws.

### **Step 3 - Assess**

#### *Assess conflicts of interest and manage risks under the AGSA Scheme risk framework*

It may not be possible or appropriate for you to avoid or eliminate the conflict. For example, it may be appropriate for you to be engaged as the most experienced surveyor with relevant expertise in your area, but you may have connections with local businesses or community members which could, if left unmanaged, give rise to bias, improper influence or unintended advantages and disadvantages.

By disclosing your conflict to AIMS for assessment at Step 2, potential impacts from the conflict are assessed against the AGSA risk framework. This framework specifies how conflicts of interest are actively managed within risk tolerances, applying proportionate management strategies.

AIMS, when assessing your interest, will consider:

- the nature and value of the interest
- the potential negative consequences if the interest takes precedence
- the history of similar interests causing issues
- how the situation might be perceived.

AIMS, using the risk framework, will evaluate the likelihood and consequence of the risk occurring. It is important that you recognise that apparent conflicts may escalate into real conflicts, so understanding and managing them from the outset is essential.

After identifying conflict of interest risks, AIMS will work with you to adopt appropriate measures to lower the risk. Consider the objective of your work, the level of risk and the nature of the conflict. Review these considerations against the agreed risk tolerances and adopt or adjust the way you work to manage the risk within the agreed tolerances.

Together, you and AIMS will document the outcome of the assessment using Part B of the AGSA Conflicts of Interest Disclosure Form. Part B is a management plan that will include the agreed management measures and provide an opportunity for you and AIMS to review your interests.

The agreed risk management measures are published on the AIMS website as part of the AGSA risk management framework. These measures aim to lower the chance of the risk occurring, in addition to addressing the potential impact if the risk is realised.

#### **Step 4 - Manage and Review**

*Managing your conflicts of interest must be a normal part of doing your job*

Managing conflicts of interest is an ongoing activity as new conflicts can arise while existing ones can evolve over time or cease, particularly if there are changes to business or personal interests. For example, previously adopted measures to lower the risk may not operate as originally intended, or previously declared conflicts may change. You must regularly monitor and assess your conflicts of interest as part of your normal everyday job.

AIMS will work with you to help you manage and review your conflicts using Part B of your previously completed AGSA Conflicts of Interest Disclosure and Management Form. Conflicts must not be self-managed.

Management of conflict of interest relies on the following cascading steps in order:

- Declare and document the interest (Step 2).
  - This would be appropriate if the conflict is very low risk or of no concern. For example, some situations where the conflict is apparent but not real.
- Restrict your involvement in the interest.
  - This would be appropriate if you can separate yourself from the interest, or it is not likely to frequently arise.
- Seek an independent person to oversee the matter.
  - This would be appropriate if the conflict is reasonably apparent but not real or occurs near the end of your survey.
- Remove yourself from the conflict or seek re-assignment to another vessel.
  - This would be appropriate where the conflict is serious and ongoing.
- Relinquish the interest.
  - This would be appropriate where your commitment to the survey outweighs your attachment to the interest.
- Resign from your role as an Accredited Marine Surveyor.
  - This would be appropriate if none of the other steps described above are viable.

