

Ohio Department of Transportation (ODOT) Rail Transit State Safety Oversight (SSO) Program

Procedure SSO-002: Conflict of Interest (COI) review and resolution procedure.

Current Version: January 28, 2019 [Note: all older versions of this procedure should be discarded]

Scope: This procedure explains the identification of potential ODOT SSO program conflicts of interest (COI), review of these potential COIs, and the determination and documentation of decision-making based on the review of the potential COIs. An example of the use of this potential COI process will be when ODOT is involved in providing grant funding to GCRTA or SORTA related to the rail systems. This procedure also includes a template form to capture the potential COI and any decisions and notes from the review of that potential COI. Completed template forms will become formal records to be tracked as part of the ODOT SSO program.

Conflict of Interest Requirements: No individual or entity may provide services to both the ODOT SSO program and an RTA when there is a conflict of interest (COI) or an appearance of a conflict. A potential COI situation occurs when an individual or entity performing work for an Ohio RTA or the ODOT SSO program is unable, or potentially unable to render impartial assistance or advice on the development or implementation of the standards and provisions of the ODOT SSO program, or to objectively perform such work without bias. Each contractor is subject to full disclosure on all present and potential COIs in its activities or relationships prior to being awarded or during a contract with ODOT or RTA within the state.

FTA's new safety program authorization in 49 U.S.C. Section 5329 (from MAP-21) and 49 CFR Part 674 further describes financial independence that prohibits funding from the RTA to the ODOT SSO program, and requires management of potential COI situations when the ODOT Office of Transit participates in funding projects at an RTA. The ODOT SSO program does not receive funding from any of the Ohio RTAs and is hereby prohibited from doing so. In addition, the ODOT Office of Transit has two different management chains to control conflict between providing or supporting grant funding to an RTA for a capital project and the safety oversight provided through the ODOT SSO program for the RTA safety and security programs.

§ 674.41 Conflicts of interest.

- (a) An SSOA [state safety oversight agency] must be financially and legally independent from any rail fixed guideway public transportation system under the oversight of the SSOA, unless the Administrator has issued a waiver of this requirement in accordance with § 674.13(b).
- (b) An SSOA may not employ any individual who provides services to a rail fixed guideway public transportation system under the oversight of the SSOA, unless the Administrator has issued a waiver of this requirement in accordance with § 674.13(b).
- (c) A contractor may not provide services to both an SSOA and a rail fixed guideway public transportation system under the oversight of that SSOA, unless the Administrator has issued a waiver of this prohibition.

COI Identification, Assessment, and Resolution: Potential COI situations are required to be actively identified, disclosed, assessed, and resolved for the ODOT SSO program. For any situation that might arise that could be a potential COI situation as described in the requirements above, a staff member of the ODOT SSO program must assess and determine if the COI situation poses an actual conflict or violation of the SSO regulation (49 CFR Part 674). This assessment and determination may require discussions with other staff, ODOT Legal, and/or ODOT management. Ultimately, for each COI assessment occurrence, the following form must be filled in to describe the potential COI situation, the assessment and resolution determined as part of this procedure, and what the next steps might be, if

any. If there are next steps, when those steps are taken, another COI Review and Assessment form should be used to continue the assessment and resolution process.

As a part of this COI assessment procedure, each filled in COI Review and Assessment form becomes a record to be kept on file as part of the ODOT SSO program.

Updates:

- April 7, 2016 – initial release
- January 28, 2019 – minor wording changes made, no significant content change.

**ODOT SSO Program
Conflict of Interest (COI) Review and Assessment**

Date: _____

Potential COI Description: _____

Staff Reviewer: _____

Assessment and Resolution: _____

Next Steps: _____

