

## **CHAPTER 2 – ETHICS**

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## Introduction

Success of [Florida Department of Transportation \(FDOT\)](#) projects depends upon ethical conduct of the Project Manager (PM). Ethics is a quality expected of transportation professionals, but is difficult to quantify. Ethics is more than obedience to the laws governing conduct of state employees and professionals who perform services for the state. Ethics deals with moral conduct, values, character, ideals and relationships. Ethical decision-making involves who you are and what you stand for. Unlike law, seen as black and white (what one can or cannot do), ethics may be viewed as grey (what one should or should not do). Obvious unethical conduct is easy to identify. However, a host of apparently good and successful professionals frequently engage in unethical conduct, knowingly or as a result of a lack of information. A PM is responsible for oversight of transactions between the FDOT and outside parties doing business with FDOT. The nature of this responsibility requires a PM to maintain the highest level of ethical standards to avoid any appearance of impropriety. A PM must not engage in any conduct that could cast doubt on their integrity or create an appearance that their decisions or actions were influenced by a desire for personal gain.

## Florida Department of Transportation Values

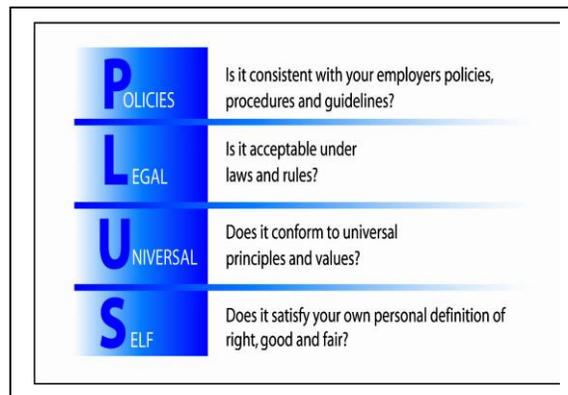
FDOT has established the following values as a guide for conducting FDOT business:

- **Integrity** “We always do what is right”
- **Respect** “We value diversity, talent and ideas”
- **Commitment** “We do what we say we are going to do”
- **One FDOT** “We are one agency, one team”
- **Trust** “We are open and fair”
- **Customer Driven** We listen to our customers”

Values form the basis of personal and professional ethics. These values should not be viewed as just words on a plaque in a hallway; they should be the basis of ethical conduct both within and for the FDOT.

## Ethical Conduct

- These values should be applied in the daily conduct of FDOT business in an ethical manner. Fundamental elements of ethical behavior center around three things: objectivity, honesty and trustworthiness. Transportation professionals are expected to conduct business in an objective, truthful manner. They must ensure that decision-makers are presented with all pertinent facts, not just those that support a preconceived position. They must avoid a conflict of interest where personal financial gain may cloud a decision. Honesty is more than avoiding untrue statements. True statements can be made in misleading and incomplete ways. Trustworthiness involves honorable conduct – placing the public welfare and clients’ needs above personal gain. The challenge of ethical conduct is finding practical applications of concepts such as objectivity, honesty and trustworthiness.
- L. G. Lewis, Jr., P.E. writes: “Making an ethical decision is easier when the facts are clear and choices are well defined; it is more difficult when the situation is clouded by ambiguity, incomplete knowledge, multiple points of view and conflicting objectives. In such situations, ethical judgments depend upon both the decision-making process itself and the experience, intelligence and INTEGRITY of the decision-maker.
- Therefore, ethical decisions call for certain qualities that can be identified and developed within individuals. First is the ability to recognize ethical issues and think through the various consequences of alternate solutions. Second is the self-confidence to seek out different points of view and decide what is right at a given time and place under a specific set of circumstances. Last is the strength to make decisions when all that needs to be known cannot be known and pressing questions have no answers. The corporate culture which surrounds the young and growing professional may well be the dominant environment that shapes and hones these qualities.”
- American Society of Civil Engineers (ASCE) Standards of Professional Conduct, PLUS Guidelines, shown in Figure 1, suggest guidelines for dealing with ambiguous ethical questions.



**Figure 1, Professional Conduct, PLUS Guidelines**

## **Developing Professional Ethics**

L.G. Lewis describes professional ethics as being molded and shaped by three identifiable attributes: “First is development of the professional as a moral person. Next is influence on the professional by his work environment, most significantly those principles displayed by his managers and role models. Third are standards developed by the various professional societies and regulatory authorities that chart a path for ethical conduct.”

Senior professionals must be aware of their influence on the younger members of their organizations and professions. Senior professionals should work to be positive role models. Written standards can help professionals chart a path of ethical conduct. These standards include codes of ethics of professional societies and laws and rules defining ethical (and unethical) conduct. One example of a professional codes of ethics is National Society of Professional Engineers (NSPE) [Ethics](#).

## **Legal Requirements**

Several legal and procedural requirements provide ethical guidance for both the FDOT and consultant PM:

- Florida Statutes (FS), [Title X, Chapter 112, Part III](#), deals with standards of conduct for agency employees.
- FS, Title XXVI, [Section 334.193](#) and [Section 334.195](#), deal with employee financial interests and conflicts of interest.
- Florida Administrative Code (FAC), [Rule Chapter 60L-36](#) deals with conduct of employees.

- FDOT *Policy No. 001-010-020*, [Ethics Policy](#)
- FDOT *Policy No. 001-450-003*, [Integrity In Government](#)

Florida's state constitution was revised in 1968 to require a code of ethics, prohibiting conflict between public duty and private interests, for all state employees be prescribed by law. The "Code of Ethics for Public Officers and Employees" is in Chapter 112, FS. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. FDOT employees must also abide by requirements of Sections 334.193, FS and 334.195, FS, which are more restrictive than Chapter 112, FS.

Ethics laws for FDOT employees generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. A PM should review the various laws, rules, and procedures for specific requirements that may apply to them. Remember, ignorance of the law will not excuse a violation. Violations of law, rule, or procedure may subject a PM to substantial penalties, including the loss of employment. Many of the laws concerning ethics are enforced by other agencies. A PM should never take any action that they believe could conflict with any applicable law.

Additional rules and law pertaining to the Professional Engineer are in Florida Statutes (FS) Chapter 471 and Florida Administrative Code (FAC) Chapter 61G15. Current copies of these are available at the Florida Board of Professional Engineers (FBPE) website, under Laws and Rules. These list specific expectations of Professional Engineers, including the definitions of and penalties for false, deceptive or misleading advertising; practicing under assumed, fictitious or misleading names; professional negligence; incompetence and misconduct. Specific responsibilities of engineers are also listed.

## **The FDOT – Consultant Relationship**

Part I, Chapter 7, "Responsibilities and Roles of Project Managers," explains the relative responsibilities and roles of FDOT and consultant PMs. Part I, Chapter 12, "Consultant Procurement," Part I, Chapter 13, "Contract Negotiations" and Part I, Chapter 14, "Consultant Contract Management" provide specific contracting practices and requirements. New PMs should carefully review these chapters before developing, pursuing and entering into a consultant contract.

The FDOT PM must be fair and honest in the selection and negotiations process and in the way the contract is managed. The FDOT PM is obligated to ensure that the contract is fulfilled and the payments to the consultant are proper and supportable. The FDOT PM must avoid pressuring the consultant to provide services beyond the scope of services or before funds are encumbered and must understand that profit is a proper and acceptable objective of the consultant.

Finally, the FDOT PM must understand that the consultant PM has his own professional and ethical responsibilities.

The consultant is hired to perform a valuable service for FDOT. When that obligation is accepted, along with it is the obligation to perform under the same ethical standards that are expected of the FDOT employee. This obligation is particularly important when the consultant represents the FDOT to the public and other organizations. Therefore, the consultant PM should review and conscientiously apply the standards discussed above and avoid placing the FDOT PM in a position that might compromise his or her ethical obligations. If the consultant is a Professional Engineer or a Professional Land Surveyor the laws and rules governing the appropriate profession must be followed.

**Both the FDOT PM and the consultant PM need to be vigilant to maintain the proper ethical standards as stated above, and guard against any hint of compromise including the acceptance of any gift of any value.**

## **The FDOT – Contractor Relationship**

Contracts between FDOT and construction contractors involve considerable public funds and require close daily supervision and coordination. All involved must therefore understand the necessity to keep their relationship on a professional level and not provide the public with any hint of inappropriate behavior or ethical misconduct.

FDOT, Construction Engineering and Inspection (CEI) consultant and contractor personnel must guard against any hint of compromise, including the acceptance of any gift of any value. Contractual obligations of the contractor must be fulfilled completely and in accordance with the plans and specifications. Any deviation must be in accordance with procedures and properly documented. FDOT and CEI personnel are in a special position of public trust with important responsibilities. They must conduct themselves in a manner that reflects that trust.

## **Reporting Breaches of Ethics**

FDOT employees and consultants are obligated to report violations of the law. Such breaches should be reported through the employee's management chain immediately. The Office of Inspector General hotline can be called at 1-800-255-8099 when you suspect:

- Someone is using FDOT property or people for personal gain.
- Someone is intentionally misleading FDOT for personal gain.
- Someone is taking some benefit to "look the other way."
- You're not sure if you should call to report suspicions.

The Professional Services Office should be involved in any case dealing with consultant ethical breaches. Professional Engineers are obligated to report violations of laws and rules pertaining to professional engineers to the [\*\*Florida Board of Professional Engineers \(FBPE\)\*\*](#). Professional societies such as the ASCE and the NSPE also have ethical review boards for such complaints. Finally, if an engineering firm is involved in unethical conduct, a complaint can be made to the [\*\*Florida Institute of Consulting Engineers \(FICE\)\*\*](#).