



PEPS Fireside Chat

Ethics in Engineering Procurement

Danny M. Neal II, P.E., P.G.

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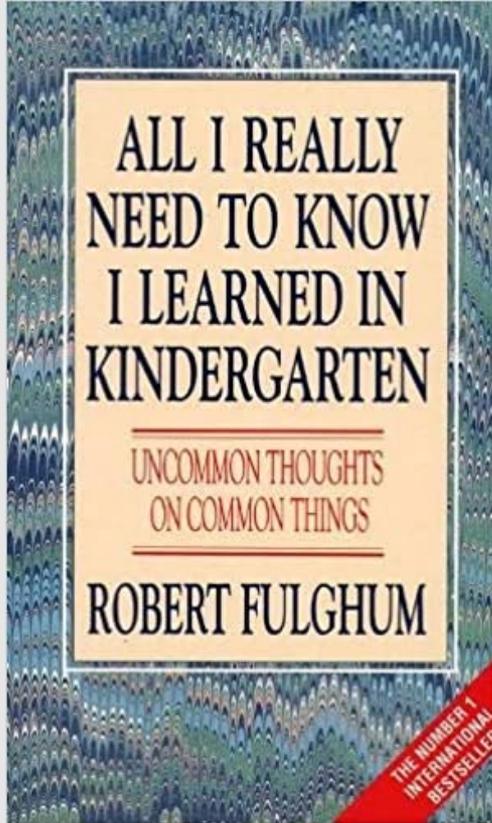


The principles of conduct governing an individual or a group; professional ethics. Merriam-Webster.com

Ethics is a term applied to any system or theory of moral values or principles

Ethics consists of the fundamental issues of practical decision making, and its major concerns include the nature of ultimate value and the standards by which human actions can be judged right or wrong.

Britannica.com on Ethics



Mr. Fulghum's credo in the book:

- ✓ Share everything
- ✓ Play fair
- ✓ Don't hit people
- ✓ Put things back where you found them
- ✓ Clean up your own mess
- ✓ Don't take things that aren't yours
- ✓ Say you're sorry when you hurt somebody
- ✓ Wash your hands before you eat
- ✓ Flush
- ✓ Warm cookies and cold milk are good for you
- ✓ Live a balanced life – learn some and think some and draw and paint and sing and dance and play and work every day some
- ✓ Take a nap every afternoon
- ✓ Watch out for traffic, hold hands, and stick together

Expectations:

Employees and entities doing business with TxDOT should conduct themselves in a **lawful, professional**, and **ethical** manner that upholds the confidence and trust of the public

TxDOT is committed to an environment where open, honest communications are the expectation, not the exception.



Values

People

Accountability

Trust

Honesty

The Department's most important customer, asset, and resource.

We accept responsibility for our actions and promote open communication and transparency at all times.

We strive to earn and maintain confidence through reliable and ethical decision-making.

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.



Engineers,
in the
fulfillment
of their
professional
duties, shall

Hold paramount the safety, health, and welfare of the public

Perform services only in areas of their competence

Issue public statements only in an objective and truthful manner

Act for each employer or client as faithful agents or trustees

Avoid deceptive acts

Conduct themselves honorably, respectfully, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession



*From TxDOT
Values - Trust: We
strive to earn and
maintain
confidence
through reliable
and ethical
decision-making.*

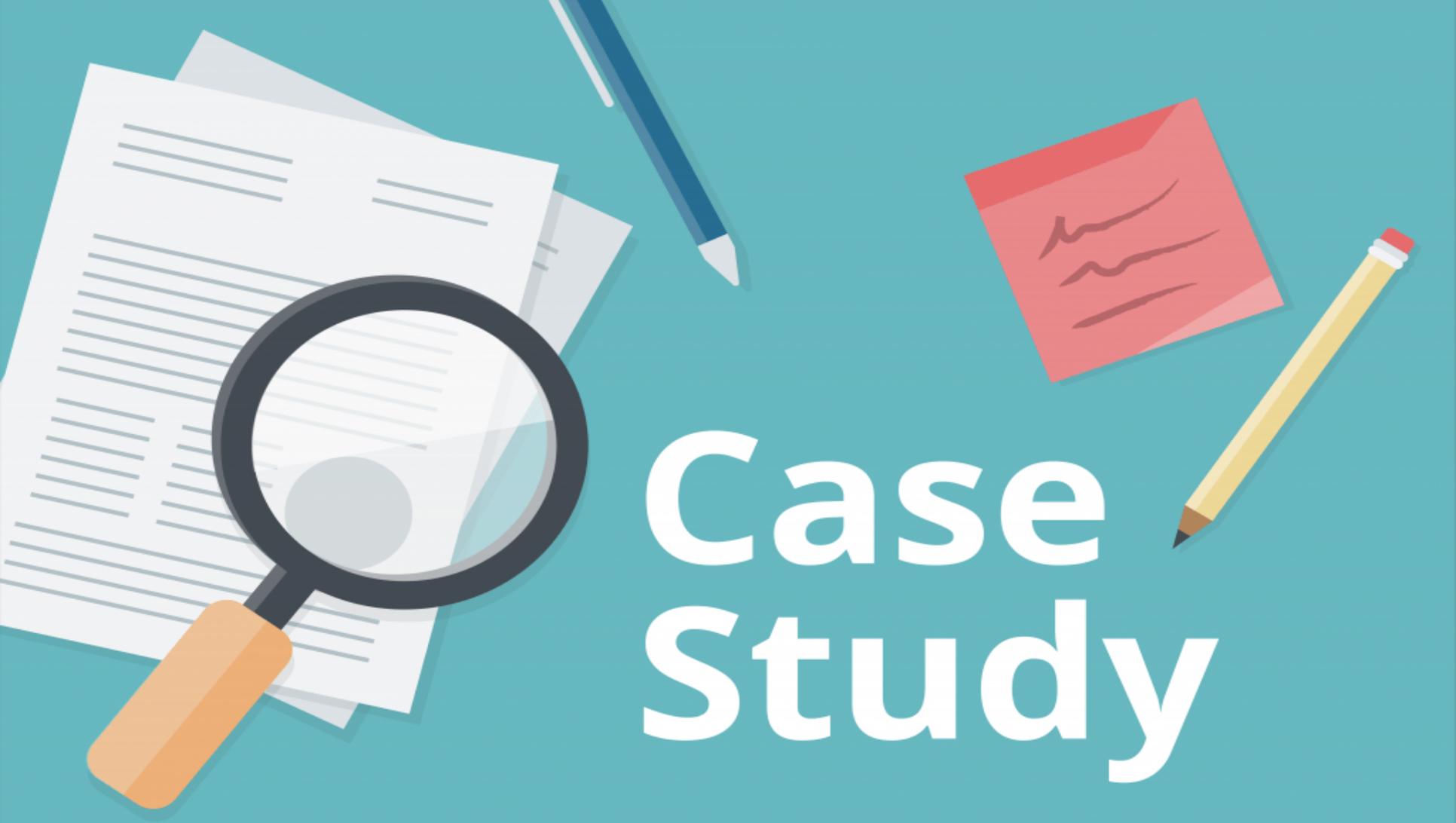
- Nine Basic Steps to Personal Ethical Decision Making: Murdough Center for Engineering Professionalism.
- <https://www.depts.ttu.edu/murdoughcenter/>

Ethical Decision-Making Model

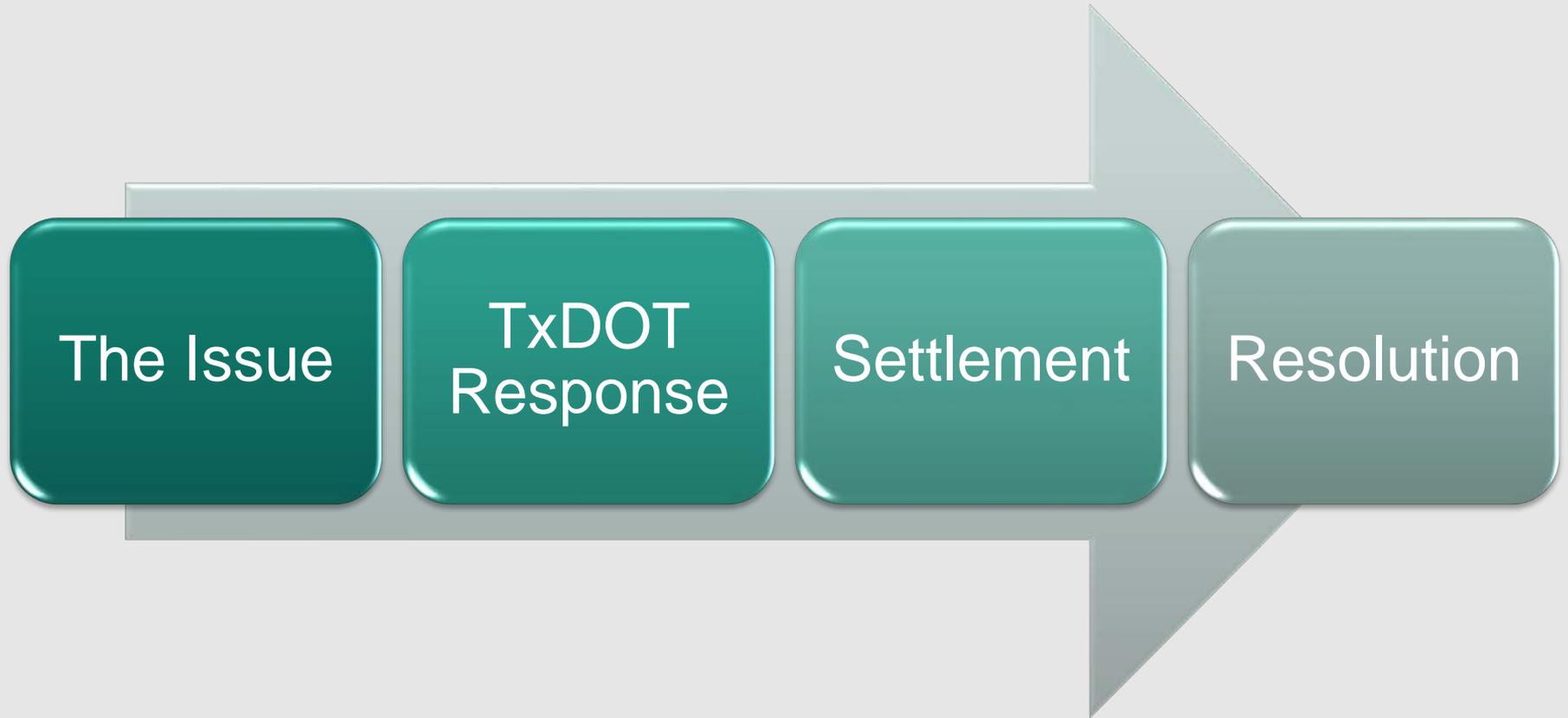


Previous Ethical Violations:

- Failure to notify TxDOT of loss of required lab accreditation for material testing contract
- Alteration of material test results
- Changed plans on a project without a work authorization and invoiced for an unrelated project for the work
- Providing a benefit to a TxDOT employee
- Offering a bribe to another TxDOT contractor



Case Study



Temporary Mitigation

During the investigation TxDOT implemented the following mitigations:

- No new work authorizations.
- New submissions disqualified
- Existing procurements disqualified
- Negotiations terminated

Once the investigation was complete and corrections made – mitigations were terminated

How Did this Happen?



Overcharges were a result of fraud

Changes to the records covered up an embezzlement scheme

Fraud was discovered by the firm

Internal investigation initiated and authorities were involved

Those involved were prosecuted, pled guilty, and sentenced to jail time

Conflicts of Interest – 43 TAC §10.6

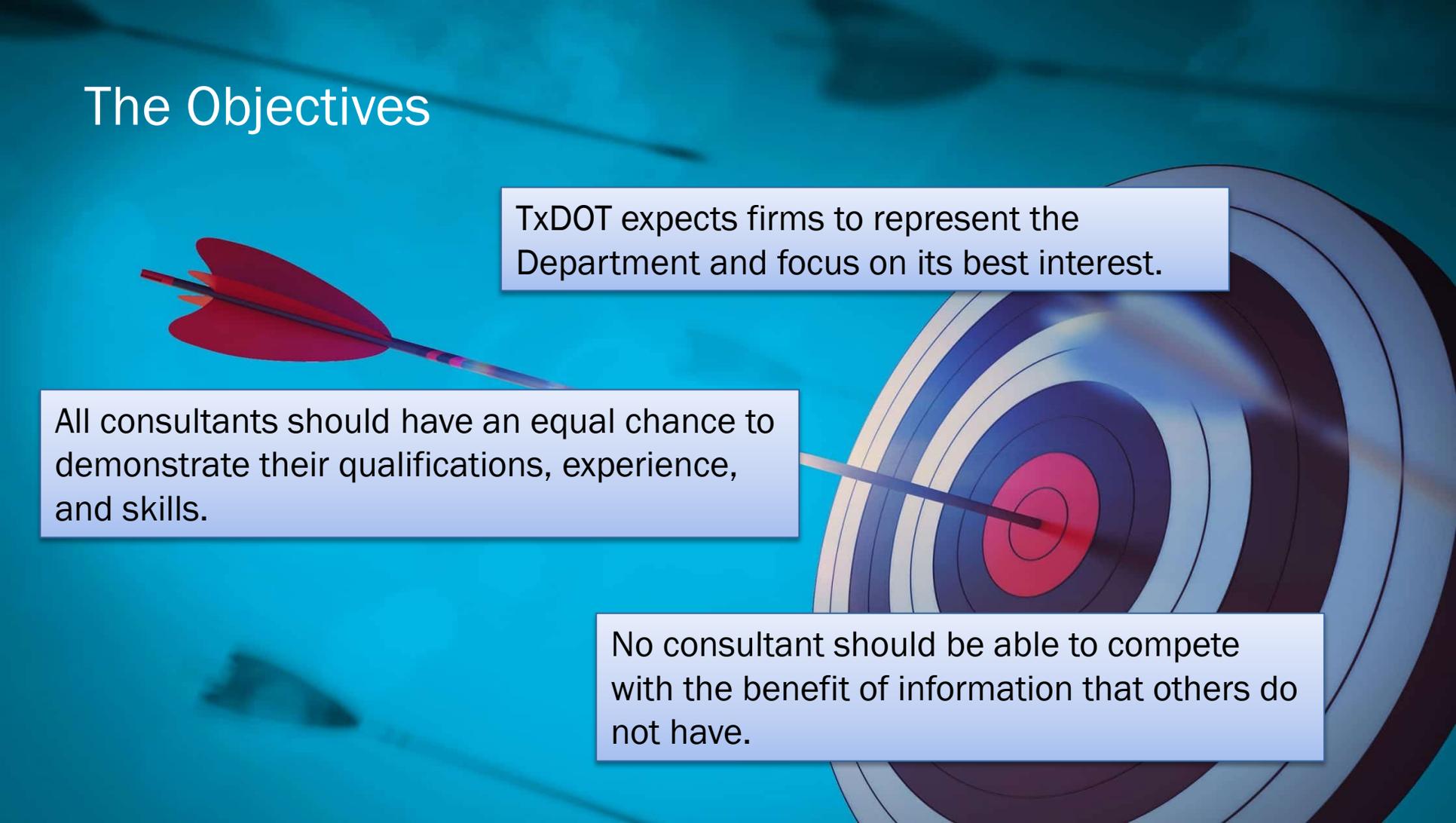
Unable to give
impartial
assistance or
advice

Unfair competitive
advantage

Impaired
objectivity

Perception or
appearance of
impropriety

The Objectives

A large target with concentric rings is positioned on the right side of the slide. A red arrow with three feathers is shown in flight, having just hit the center bullseye. The background is a dark teal color with faint, larger-scale target patterns.

TxDOT expects firms to represent the Department and focus on its best interest.

All consultants should have an equal chance to demonstrate their qualifications, experience, and skills.

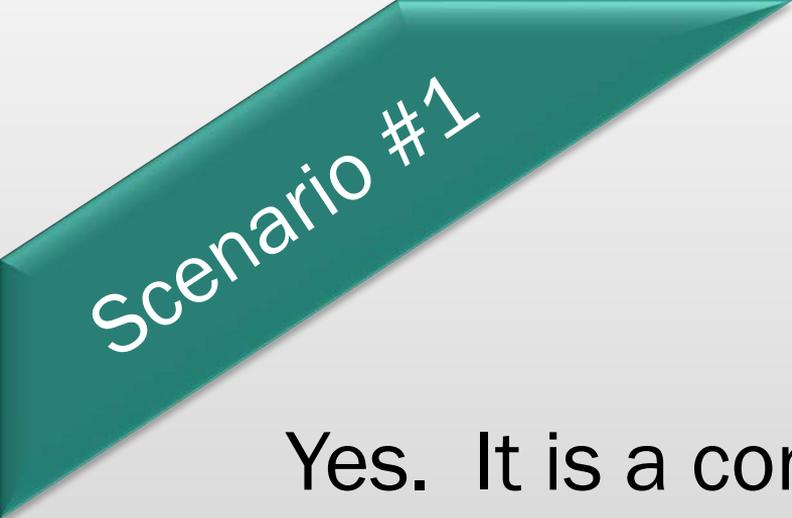
No consultant should be able to compete with the benefit of information that others do not have.

Ethical Scenarios

Scenario #1

A TxDOT employee is on a consultant selection team for a procurement. They have a sibling working for a firm that is competing on that procurement.

Is there a conflict?



Scenario #1

Yes. It is a conflict for that employee to participate in that procurement.

Mitigation would be necessary.

Scenario #2

TxDOT is procuring a CEI contract. The spouse of the CEI firm's proposed project manager works for the contractor or material supplier on the same project.

Is there a conflict?

Scenario #2

Yes, if the CEI firm would be responsible for recommendations regarding compliance, acceptance, or rejection of work or materials.

Scenario #3

A consultant firm is working on a TxDOT project while working for another entity on or adjacent to the TxDOT project.

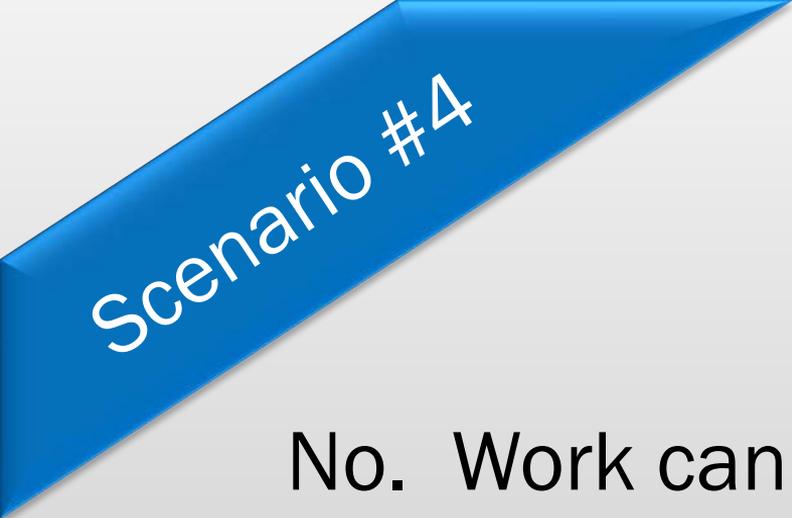
Is there a conflict?

Scenario #3

If there is going to be interaction between the two projects, then a conflict or potential for a conflict may exist.

Scenario #4

As a TxDOT project manager, can I ask a firm to start work prior to the execution of the work authorization?



Scenario #4

No. Work can only be authorized under a TxDOT contract through a written work authorization.

Scenario #5

If I am on a selection team and I retire after the contracts are awarded, can I go to work for one of the selected firms?

Scenario #5

No. That violates the revolving door law.
Texas Government Code, Chapter 572.

Scenario #6

If I retire from TxDOT and go to work for a consultant, can I work on the same project that I did while working at TxDOT?

Scenario #6

No. That violates the revolving door law.
Texas Government Code, Chapter 572.



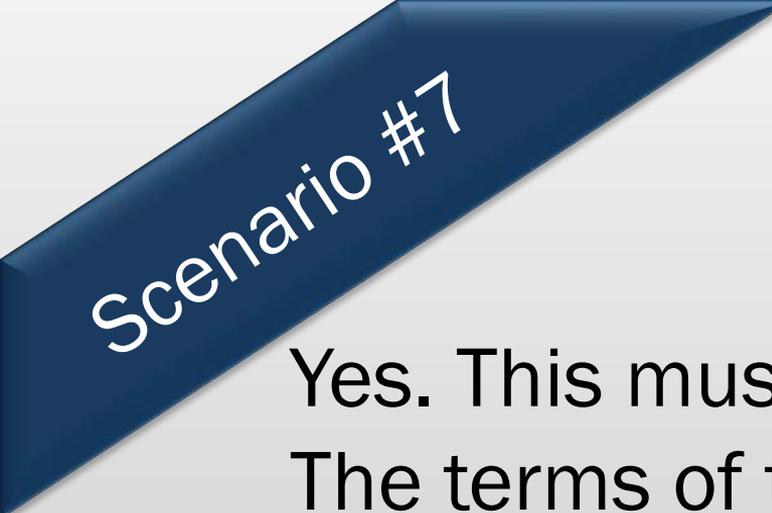
Two-year prohibition on employment if the employee was involved with a procurement or negotiations with that firm

Two-year prohibition (former board members and executive directors) on communication and appearances intended to influence agency action

Continual prohibition (former board members and upper-level employees salary group A17 or higher) for work on specific “matters”

Scenario #7

As a firm, if I have an employee scheduled to work on a new contract, and I discover that they have their wife, brother, and a child working for TxDOT, should that be disclosed?



Scenario #7

Yes. This must be disclosed in writing. The terms of the contract require that names of the firm's employee and their relative at TxDOT be disclosed.

This includes employees of a subprovider.

Trust is the glue of life. It's the most essential ingredient in effective communication. It's the foundational principle that holds all relationships.

- *Steven Covey*

Ethical behavior builds trust, unethical behavior destroys trust.



For the TxDOT Employee:

- Compliance Division: Employee Conduct Handbook
- The additional resources listed below

For the Consultant Engineer

- National Society of Professional Engineers (NSPE) Code of Ethics for Engineers
- Texas Tech University – Murdough Center for Engineering Professionalism
- Texas Board of Professional Engineers and Land Surveyors
- Texas Board of Architectural Examiners
- Texas Ethics Commission



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TxDOT PEPS Division

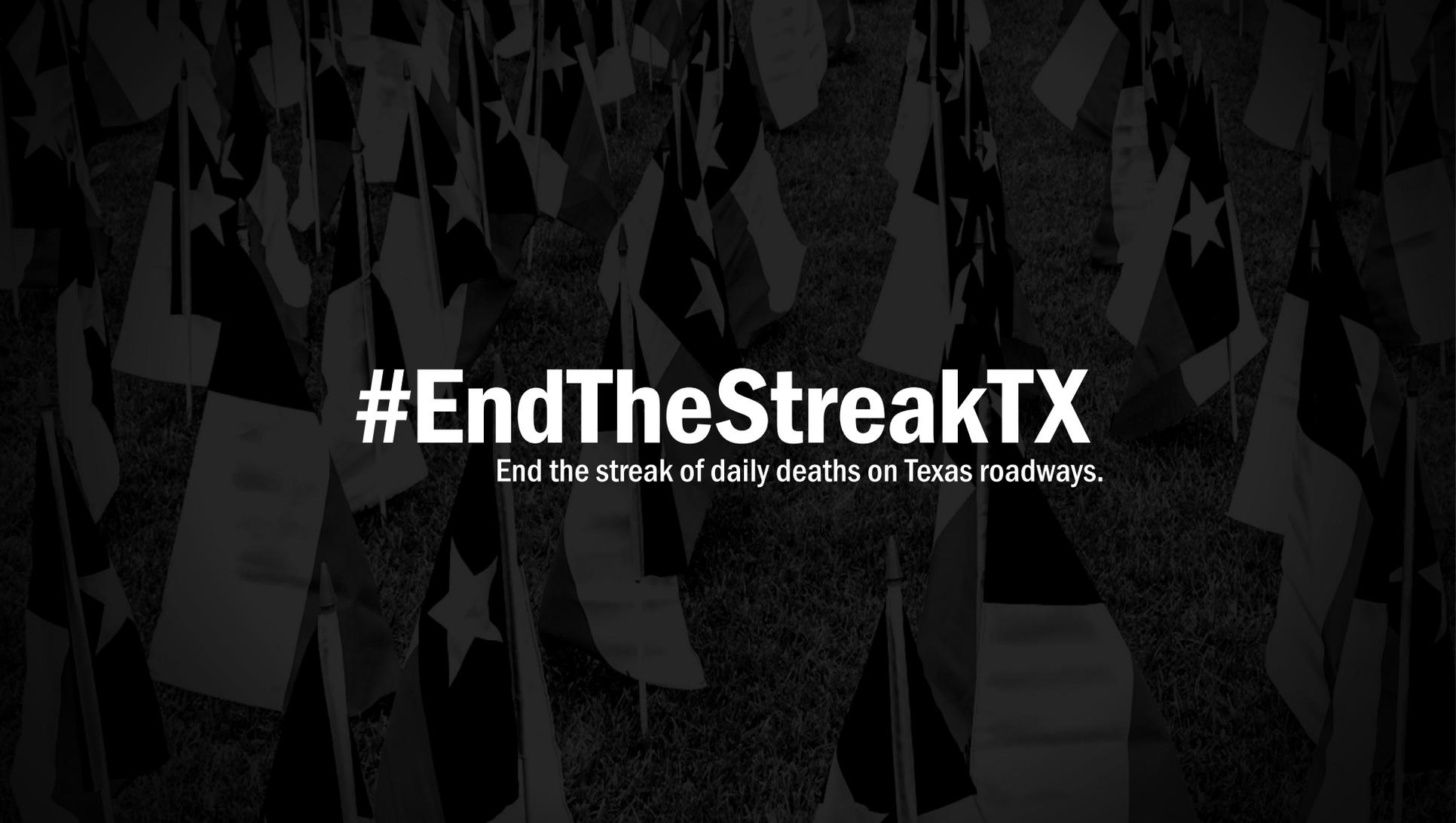
Center of Excellence Section Director



Dan.Neal@txdot.gov



(512) 416-2667

A field of many small American flags on a grassy area. The flags are arranged in rows and are slightly out of focus, creating a sense of depth. The overall tone is somber and respectful.

#EndTheStreakTX

End the streak of daily deaths on Texas roadways.