



Due Diligence for Business Representatives

Due Diligence for Business Representatives

To provide general guidance for the preparation and completion of a proper ethics and compliance due diligence investigation of proposed Representatives. Proper completion and review of the due diligence investigation is fundamental to a thorough assessment of all business Representatives, and is essential for ensuring compliance with Bechtel's policies.

This applies to the diligence investigation conducted for every individual or company that provides "representative services" to Bechtel, as described in our policy for Agreements and Outside Consultants and Representatives and in the attached guidelines. It does not apply to parties who only supply consulting services consisting entirely of advice to and consultation with Bechtel.

Appropriate due diligence of the Representative must be performed before a commitment to retain a Representative is made. This instruction applies to the diligence investigation conducted for every Representative for which our policy for Agreements and Outside Consultants and Representatives requires approval. The status and results of the due diligence must be reported in the request for approval under our policy for Agreements and Outside Consultants and Representatives, together with a statement as to when any outstanding due diligence will be completed.

Instructions for completing the required due diligence investigation are set forth in the Ethics and Compliance Due Diligence Guidelines for Representatives.

Responsibilities

Global Business Unit or Functional Unit

The GBU or Functional Unit team is responsible for conducting the due diligence investigation according to the Ethics and Compliance Due Diligence Guidelines for Representatives set forth in Attachment A, completing the due diligence questionnaire and file, and making a recommendation and explanation to GBU or Functional management on the acceptability of the Representative. All financial information relating to a Representative that must be reported in the request for approval will be obtained through the GBU CFO.

The GBU team sends the completed due diligence questionnaire and file to the Legal Department for permanent filing.

Legal Department

The Legal Department is responsible for assisting the GBU or Functional Unit by conducting research in support of the GBU due diligence team's investigation.

The Legal Department maintains a register of Representatives who have already been the subject of a due diligence investigation and a central repository for all completed due diligence questionnaires and due diligence files.

The Legal Department conducts periodic updates of due diligence investigations for Representatives on active projects, or who have been designated by a GBU or Functional Unit to be kept up-to-date, and shares the results of such periodic searches and updates with the GBU or Functional Unit sponsor of the Representative and with any other GBU that has registered an interest in the Representative.

The Legal Department ensures that this Management Instruction and the Ethics and Due Diligence Guidelines for Business Associates are available to the GBU and Functional Unit due diligence teams on the Legal Department website on myBechtel.

Ethics and compliance due diligence guidelines for representatives

1. *Scope of due diligence*

These guidelines describe the due diligence investigation that is required to be performed in making a decision on whether or not retain any individual or company (a "Representative") to provide representative services under our policy for Agreements and Outside Consultants and Representatives.¹ Specific questions regarding a due diligence investigation will be referred to either the Legal Department's Principal Counsel (Compliance) or GBU Principal Counsel.

The due diligence investigation of a potential representative should be performed early once the need for such relationship has been identified, usually at the same time that Bechtel has determined to pursue a project.

2. *Subjects of due diligence*

Deviations from these guidelines must be documented and explained.

The GBU or Functional Unit will make a due diligence investigation as described in these guidelines for every Representative.

It is important to identify the precise legal entity or person we plan to hire as Representative, and if it is a subsidiary, sister company or a special purpose entity of a parent company, you should conduct the appropriate due diligence inquiry for both the Representative and its parent company.

If one of Bechtel's Representative is itself a joint association, you should make a due diligence investigation for each member of that joint association.

If Bechtel will have a partner on the project as described under our policy for Agreements and Outside Consultants and Representatives that is using an Representative, you shall perform a due diligence investigation of that Representative.

The Legal Department will up-date the due diligence investigation, concerning those parts of the due diligence requirements for which it is responsible, for all approved Representatives with whom we have an existing contract, or who have been designated by a GBU or Functional Unit to be kept up-to-date, at least every two years, and will provide the results of the investigation to each GBU or Functional Unit who has registered an interest in the Representative.

3. *Due diligence file*

It is essential that every step of the due diligence process is recorded in a due diligence file that is kept in an easily accessible place. No matter how thorough our investigation, it is always possible that we will form an association with someone who does not share our values and who pays a bribe or commits some other breach of trust. In that case, we will want to show that we were careful in selecting the Representative and took reasonable steps to determine that the Representative was someone with whom we should feel safe in associating. But the wrongful act of our Representative is often not discovered until years later, perhaps long after the project or the services are finished. Thus, we must be able to find a clear record of our due diligence investigation, even if the people who worked on the project—and their files—are gone.

Thus, all information regarding a due diligence investigation will be maintained in a due diligence file, a copy of which will be kept by the Legal Department's Principal Counsel (Compliance) in the central legal files. The file will contain:

- (a) Completed Representative Identification Form
- (b) Results of screening research
- (c) Results of investigation research
- (d) Record of any inquiries
- (e) Record of initial and final interviews
- (f) Financial information collected about the Representative
- (g) Completed due diligence questionnaire
- (h) Copy of management approval letter

Due diligence step-by-step

The following sections describe each step in the due diligence process.

1. GBU due diligence team

Once a potential Representative is chosen, the senior GBU or Functional Unit officer responsible for the prospect or project should assign a team to conduct the due diligence investigation. The team should include GBU personnel working on the prospect or project, and must include representatives of the GBU Principal Counsel and if a prospect the GBU M&BD group. A Team Leader from the GBU or Functional Unit should be selected who will be responsible for the completion of the due diligence investigation.

2. Screening

The initial screening is a quick check of the sort of information that might disqualify even a representative that we know well, in advance of preparing a request for approval under our policy for Agreements and Outside Consultants and Representatives. These are the steps of the initial screening:

- (i) Identify the specific person or legal entity that will be the Representative, and of any parent company, so that appropriate data is collected.
- (ii) Collect basic publicly available information on the Representative, using readily available sources (e.g., local business contacts, Google), including the Register of Representatives, maintained by the Legal Department, who have already been the subject of a due diligence investigation. This will include research on executives/principals of the Representative, if a company.
- (iii) Complete the Identification Form. It is recognized that not all of the information requested on the forms may be available at this early stage.
- (iv) Check on the local reputation of the Representative for honesty in business that is publicly available (e.g., local contacts, Google for the prior 5 year period) and with Bechtel people who may have information about the Representative's reputation.

Provide the Legal Department as much information about the Representative (and of any parent company) as is known. This includes the full name (or as much as you know), business address or where you think the Representative is located (country), what type of business or industry the Representative is in or supports (E&C, water, power) and the full names of the executives (if a company and known). Also state if you will accept information in other languages (and which languages—such as Italian, Spanish, etc.) and any certainty/uncertainty on spelling of the company name or the geographic location of its headquarters.

An important item is the spelling of the Representative's (and his company's) name. Representatives (or their companies) may be referenced in an English form (such as Smith or Group Wiese) or in the applicable local language (Smyth or Grupo or Wiese de Grupo). The Legal Department will attempt to identify alternate spellings if the full name is not known.

Information that is gathered will be provided to the Legal Department so that it can perform a basic media search and a search of Restricted Party Lists.

The results of the preliminary research by the GBU or Functional Unit team and the Legal Department, including the resolution of any red flags, will be used to make a recommendation on whether or not to proceed with the Representative, subject to the satisfactory completion of the remaining due diligence investigation requirements.

3. Investigation

The investigation is a more in-depth evaluation of data for the Representative. These are the steps of the investigation:

- (a) The GBU or Functional Unit team will complete the due diligence questionnaire for the Representative. The questions should be answered to the best of your ability. If a question seeks a "yes" or "no" answer, but cannot be answered in that fashion, please explain why in the "comments" column.

- (b) The Legal Department will conduct, as further described in Attachment 4, (A) a search of Representative or company (including information through the company's website (if available)), (B) a media search, (C) a search of Restricted Party Lists, (D) a search of information on the country in which the Representative or company is located to determine the level of corruption that is perceived to exist in that jurisdiction, and (E) a review local laws concerning improper payments (e.g., FCPA, UK Bribery Act of 2010, etc.).
- (c) The GBU or Functional Unit team should investigate how business is transacted in the host country, for two principal reasons: to see how likely improper payments are in the country, and to provide input to the Legal Department to see how the local laws concerning improper payments would apply.
- (d) The GBU team should complete the collection of basic identifying information on the Representative, and give a completed Representative Identification Form to the Legal Department. If the full names of the executives/principals were not provided in the pre-screening stage, they should be provided now.
- (e) The GBU Team should review the information available about the Representative and the project (including any experience of Bechtel with the Representative), the results of the research by the Legal Department, and any red flags. If red flags are found that cannot be resolved on available information, additional investigation should be conducted.
- (f) The GBU or Functional Unit team should check on the local reputation for honesty in business of the Representative. The GBU or Functional Unit team should check Bechtel people who may have information about the Representative's reputation and should also check with private parties and government agencies. Checks can be made with:
 - (i) Private parties
 - » (A) Local lawyers and banks (Corporate Treasury may be consulted for assistance in identifying potential contacts with local banks)
 - » (B) Companies that we know well, who are already working in the country
 - » (C) Public Accounting Firms (Corporate Finance may be able to contact local offices of international accounting firms for assistance with information about local laws and practices)
 - (ii) Government agencies (the staff of the Bechtel Washington DC office may be able to facilitate contacts)
 - » (A) Commercial officer at US embassy in foreign country
 - » (B) Other foreign embassies
- (g) The investigation process includes two interviews.
 - (i) The process for Representatives includes at least one interview with the Representative or if a company a senior officer of the Representative so that the GBU or Functional Unit can access reliable detailed information and will also include an inspection of the Representative's facilities.
 - (ii) There should also be a personal meeting, face-to-face, between the Representative or a senior official of the Representative if a company and Bechtel. This meeting has two primary purposes: to make sure that the Representative understands that Bechtel is deadly serious about compliance with its policies concerning business practices; and to allow senior Bechtel managers to assess the depth of the Representative's commitment to following our rules.
- (h) The GBU Counsel and the Legal Department's Principal Counsel (Compliance) shall review the due diligence concerning the Representative prior to the completion of the Due Diligence questionnaire.
- (i) There should be a final summary, based on the answers to all of the questions in the questionnaire, stating whether or not the person completing the questionnaire believes that Bechtel should consider hiring this Representative.² The Legal Department's Principal Counsel (Compliance) shall approve the completed due diligence package prior to the submission of the policy for Agreements and Outside Consultants and Representatives Management Approval Letter.

For recently approved Representatives, that being a Representative who has been approved within the last two (2) years (as shown in the Register of Representatives) and for which a complete due diligence review was previously completed, the GBU or Functional Unit is only required to (x) perform the screening set forth in section B 2 above, (y) interview the Representative to ensure that the Representative continues to understand and commits to comply with Bechtel's compliance requirements, and (z) update the prior relevant sections of the due diligence questionnaire. This process is not repeatable more than once after which the full due diligence review set forth herein must be repeated. However, if

red flags are found that cannot be resolved based on available information or other issues have been identified giving raise to ethical concerns them the full investigation in section B.3 must be conducted.

4. Due Diligence File Record Retention

Whatever the outcome of the policy for Agreements and Outside Consultants and Representatives process and whether or not any formal agreement with the Representative is in fact entered, the GBU or Functional Unit team will send a completed due diligence questionnaire and a complete due diligence file (section A.3) to the Legal Department's Principal Counsel (Compliance), for permanent filing.

5. Periodic updates

The Legal Department will up-date the due diligence file concerning those parts of the due diligence requirements for which it is responsible, for Representatives on active projects, or who have been designated by a GBU or Functional Unit to be kept up-to-date, at least every two years, and sooner if a significant red flag appears. If red flags are found that cannot be resolved on available information, additional investigation will be conducted.

In either case, results will be shared with the original GBU or Functional Unit sponsor of the Representative, and with any other GBU that has registered an interest in the Representative.

Footnotes

¹These guidelines do not cover parties who only supply consulting (non-representative)/services consisting entirely of advice to and consultation with Bechtel.

²This summary could also be used as a part of the MAL.