




Prepared By:

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Date

Alva Treviño
General Counsel-Executive VP of Special Projects

Approved By:

 9-2-17

Date

Thomas C. Lambert
President & CEO

1.0 DECLARATION OF POLICY

- 1.1 METRO values its Employees and recognizes their enormous contributions to the agency's success. A standard of conduct is required for every METRO Employee. Such standard of conduct is based on integrity and high ethical considerations. It is essential to the proper administration and effective operation of METRO that its Employees be, and give the appearance of being, independent and impartial; that service to METRO not be used for private Benefit; and that there be confidence in METRO's integrity as a public agency. The public interest therefore requires that METRO protect against conflicts of interest by establishing ethical standards with respect to the conduct of its Employees.
- 1.2 The purpose of this Code is to establish rules of conduct that will result in the impartial ethical discharge of official duties by all METRO Employees.
- 1.3 A conflict of interest exists whenever an Employee is in a position in which any official act or action taken by METRO is, may be, or appears to be, influenced by considerations of personal gain, rather than the general public interest. The fundamental principle underlying conflict of interest rules is that a public Employee occupies a position of public trust and confidence and that he or she should therefore conscientiously avoid not only actual breaches of the public trust, but also the appearance of a conflict of interest.
- 1.4 The principal responsibility for adherence to the provisions of this Code rests with the Persons to whom the Code applies. Thus, the Code gives no consideration to any claim of lack of knowledge or understanding of the provisions of this Code. Whenever a question arises with respect to the applicability of the Code to a particular course of conduct, the Person concerned should immediately contact his or her supervisor, if appropriate, or a higher level supervisor. Employees are expected to err on the side of disclosure of any perceived potential conflicts of interest in order to ensure that the highest ethical standards are maintained.

- 1.5 Any comments and examples herein do not have the force and effect of the section of the Code that they follow, but serve as an aid interpreting the Code.

2.0 DEFINITIONS

- 2.1 “Board Member” means a member of the Board of Directors of METRO. A Board Member is a local public official, as defined in Tex. Loc. Gov’t Code Ann. § 171.001 (1) (West 2016).
- 2.2 “Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including Benefit to any other Person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law. This definition of Benefit includes any gift in excess of fifty dollars.

Source:¹ Tex. Penal Code Ann. § 36.01 (3) (West 2011).

Comment: A nonmonetary award publicly presented in recognition of public service, such as a plaque or a framed certificate, is not, under ordinary circumstances, a Benefit.

- 2.3 “Business Entity” means a sole proprietorship, firm, holding company, joint stock company, corporation, receivership, trust, partnership, or any other entity recognized by law.
- 2.4 “Confidential Information” means any information concerning METRO (i) that is not a matter of public knowledge or available to the public on request; or (ii) that METRO is legally required to keep confidential.

¹ Reference to a statutory source in the Code is not intended to imply incorporation into the Code of the referenced statute. Specifically, criminal penalties or civil remedies provided by such statutes are independent of the Code. Further, procedural processes required by such statutes, including evidentiary standards, are not incorporated into the Code. The source reference is intended only to advise the Persons to whom the Code is applicable of substantially similar statutes which may provide other penalties and remedies in the event of violation. Although the statutory references by their terms may not apply to all Employees, METRO intends to extend those provisions to Employees as provided by this Code.

- 2.5 "Contract" means any lease, claim, account or demand against or agreement with any Person, whether express or implied, executed or executory, verbal or in writing.
- 2.6 "Employee" means any Person employed by METRO on a full-time, part-time, temporary or Contract basis. The term "Employee" does not include officers or Employees of METRO's independent contractors.
- 2.7 "Employee Policies" are the mandatory rules of conduct for Employees of METRO. Employee Policies require strict compliance and enforcement.
- 2.8 "Employee Guidelines" are documents produced to provide METRO Employees with guidance regarding compliance with the Employee Policies and METRO's expectations for their conduct as METRO Employees.
- 2.9 "Employment" means any rendering of services for pay.
- 2.10 "Executive Level Employee" means all members of the Executive Leadership Team, executive vice presidents, directors, and all managers or other Employees whose official duties include evaluating, selecting, or recommending contractors or vendors to do business with METRO.
- 2.11 "First Degree" relation means the Employee's spouse, parents and children, as well as the spouse of each of these relatives.
- 2.12 "Fraud" means wrongful or criminal deception intended to result in financial or personal gain.
- 2.13 "METRO" means the Metropolitan Transit Authority of Harris County, Texas.
- 2.14 "Participate" means to take part in official acts or actions or proceedings as an Employee through recommendation, approval, disapproval, decision, investigation, the rendering of advice or the failure to act or perform a duty.

- 2.15 "Person" means an individual, business, labor organization, representative, fiduciary, trust or association.
- 2.16 "Remote Interest" means any interest not defined as a "Substantial Interest" under the terms of this Code.
- 2.17 "Second Degree by Affinity" relation means the Employee's spouse and the spouse's parents, children, grandparents, grandchildren and siblings, as well as the spouse of each of those relatives and the spouses of the Employee's children.
- 2.18 "Substantial interest" means any economic interest of an Employee if:
- The Employee owns 10 percent or more of the voting stock or shares of the Business Entity, or owns either 10 percent or more, or \$15,000 or more of the fair market value of the Business Entity;
 - Funds received by the Employee from a Business Entity exceed 10 percent of his or her gross income for the previous year;
 - The Employee has an equitable or legal ownership interest in real property with a fair market value of \$2,500 or more; or
 - A Person related in the First Degree by consanguinity or affinity to the Employee and has a Substantial Interest in a business, Contract or real property as defined in numbers 1-3 above.

Source: Tex. Loc. Gov't Code Ann. § 171.002 (West 2016).
(applied herein to all Employees).

- 2.19 "Third Degree by Consanguinity" relation means the Employee's parents, grandparents, great grandparents, children, grandchildren, great grandchildren, siblings, uncles, aunts, nieces and nephews, but does not include the spouse of each of these, and only includes aunts and uncles who are the siblings of the Employee's parents.
- 2.20 "Vendor" means a Person or Business Entity that enters or seeks to enter into a Contract with METRO. The term includes an officer or employee of

a state agency when that individual is acting in a private capacity, but does not include governmental entities.

3.0 STANDARDS OF CONDUCT

3.1 Prohibitions

No Employee or Person within First Degree relation to an Employee shall:

3.1.1 Participate in a matter involving a business, Contract or real property in which the Employee has a Substantial Interest if it will have or is reasonably foreseeable that an action on the matter would have a special economic effect, distinguishable from the effect on the public, on the business, Contract or real property involved, without first notifying his or her supervisor and refraining from any involvement with discussions, recommendations or decisions related to the matter.

Source: Tex. Loc. Gov't. Code Ann. § 171.004 (West 2016) (Applied herein to all Employees).

3.1.2 Solicit, accept or agree to accept any gift or Benefit of any kind as consideration for the Employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant. Employees should be keenly aware and suspect of accepting any gift or Benefit from anyone who may be considered as trying to influence or reward official conduct.

Source: Texas Penal Code Ann. § 36.02(a)(1) (West 2011). An offense under this section is a second-degree felony. It is no defense to prosecution under this section that the Benefit is not offered or conferred, solicited or accepted until after the exercise of discretion has occurred or the Employee has ceased to hold that position of authority. Tex. Penal Code Ann. § 36.02(c), (e) (West 2011).

3.1.3 Solicit, accept or agree to accept any gift or Benefit of any kind as consideration for a violation of a duty imposed by law on the Employee.

Source: Texas Penal Code Ann. § 36.02(a)(3) (West 2011). An offense under this section is a second-degree felony. It is no defense to prosecution under this section that the Benefit is not offered or conferred, solicited or accepted until after the exercise of discretion has occurred or the Employee has ceased to hold that position of authority. Tex. Penal Code Ann. § 36.02(c), (e) (West 2011).

- 3.1.4 Solicit, accept or agree to accept any Benefit from a Person the Employee knows is interested in, or likely to become interested in, any METRO Contract or transaction.

Source: Tex. Penal Code Ann § 36.08(d), (h) (West 2011). An offense under this section is a Class A misdemeanor.

Comment: The purpose of this section, and the preceding three sections, is to prohibit the solicitation or acceptance of anything of Benefit, whether in the form of money, services, loans or promises, under circumstances in which it reasonably could be inferred that the Benefit solicited or accepted was intended to influence the recipient, or reasonably could be expected to influence him, in the performance of his official duties. These provisions should not, however, be construed to preclude the payment of lawful compensation and reimbursement for necessary expenses incurred by an Employee in the course of performing the duties of his office. Further, this section should be considered in connection with the provisions of Section 3.3, which exclude the acceptance of certain Benefits from the application of this section.

- 3.1.5 Act as surety for a business that has work, business, or a Contract with METRO, or act as surety on any official bond required of an officer of METRO.

Source: Tex. Loc. Gov't. Code Ann. § 171.003 (West 2011).

- 3.1.6 Disclose Confidential Information; use Confidential Information for the purpose of securing a Benefit for the Employee; accept Employment or engage in professional activity which would require, or which the Employee should reasonably expect would require, the Employee to disclose Confidential Information.

- 3.1.7 Use his or her official position, or METRO's facilities, equipment or supplies, to obtain or attempt to obtain private gain or advantage.
- 3.1.8 Represent, for compensation, any Person in any action or proceeding involving the interests of METRO.
- 3.1.9 Engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to the Employee by virtue of his or her association with METRO.
- 3.1.10 Commit Fraud against METRO, including the misapplication of METRO funds or property or any other such act injurious to METRO.

3.2 Disclosure Requirements

- 3.2.1 An Employee cannot recommend, vote, participate in the decision, or confer on a matter if that recommendation, vote, conference or decision provides a special economic effect, (distinguishable from its effect on the public), on that Employees' Substantial Interest in a business, Contract or real property. In addition, the Employee is required to immediately disclose the possibility of an existing "Substantial Interest" prior to taking any other action on the matter.
- 3.2.2 All Executive Level Employees are required to disclose to their immediate supervisor certain relationships with vendors who have, or seek to have, a Contract with METRO. The disclosure is required at the point when the Executive Level Employee becomes aware that the vendor has, or is seeking, a Contract with METRO. The Executive Level Employee is required to disclose in writing to his/her supervisor if the vendor:
 - has an Employment or other business relationship with the Executive Level Employee or a family member related to the Executive Level Employee in the First Degree by consanguinity or affinity that results in the Executive Level Employee or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the Executive Level

Employee becomes aware that: (i) a Contract between METRO and the vendor has been executed; or (ii) METRO is considering entering into a Contract with the vendor;

- has given to the Executive Level Employee or a family member related to the Executive Level Employee within the First Degree by consanguinity or affinity one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the Executive Level Employee becomes aware that: (i) a Contract between METRO and the vendor has been executed; or (ii) METRO is considering entering into a Contract with the vendor; or
- has a family relationship with the Executive Level Employee within the Third Degree by Consanguinity or the Second Degree by Affinity.

The Executive Level Employee shall file the conflicts disclosure statement with his/her supervisor not later than 5 p.m. on the seventh business day after the date on which the Executive Level Employee becomes aware of the facts that require the filing of the statement.

3.2.3 Any Employee serving on any evaluation committee must sign the Certifications of Confidentiality and No Conflict of Interest forms.

3.3 Exceptions to Gifts/Benefits

The prohibitions in Section 3.1 do not apply to the following Benefits accepted by an Employee:

- 3.3.1 A gift or other Benefit conferred on account of kinship or on account of a personal, professional or business relationship independent of the Employee's relationship with METRO;
- 3.3.2 An item with a value of less than \$50, excluding cash or a negotiable instrument;

3.3.3 An item issued by a governmental entity that allows the use of property or facilities owned, leased or operated by the governmental entity;

3.3.4 Food, lodging, transportation or entertainment accepted as a guest while in the company of the offeror.

3.4 Other Employment

3.4.1 METRO Employees shall not engage in any outside Employment without first securing approval, in writing, from their division director. Executive Level Employees must obtain administrative approval from the President and CEO or his/her designee(s) before engaging in outside Employment. Any approval of outside Employment shall extend only to the specific conduct approved in writing. Any change in the description, role, or place of outside Employment requires new written approval. Approved outside Employment shall be reviewed and re-approved annually.

3.4.2 To eliminate unfair competitive advantage, former METRO Employees and their firms and businesses are excluded from competing for procurements in which the former Employee actively took part in developing solicitation materials of any kind including requests for proposals or invitations to bid, contract drawings, technical specifications, statements of work, or scopes of services. Upon request of a vendor, METRO may give a "clearance determination" as to whether a former employee actively took part in developing solicitation materials so as to disqualify the vendor. A request for a "clearance determination" may be made directly to METRO's Chief Procurement Officer.

4.0 ANNUAL REVIEW AND ACKNOWLEDGMENT

4.1 Annual Review by Employees

Employees shall review the Code of Ethics annually and provide written acknowledgement of this annual review to immediate supervisor. Also, Executive Level Employees may be required to engage in annual

ethics/open governance training. Once a year, upon completion of a review of the Code of Ethics or completion of ethics/open government training, the Executive Level Employee will execute a written acknowledgment of same to his/her supervisor or to the President/CEO.

4.2 Acknowledgment by Bidders

All Persons and entities that seek to obtain a Contract with METRO shall be required to acknowledge review of this Code of Ethics as part of any proposal or bid. This acknowledgment recognizes that violations of this Code or participation in violations are grounds for disqualification of a bidder or termination of a contract with METRO.

5.0 EMPLOYEE POLICIES AND GUIDELINES

To more thoroughly address Employee conduct matters, the Board of Directors has authorized the President and CEO to publish a series of Employee Policies designed to govern the conduct of METRO Employees. The President and CEO is also authorized to generate Employee Guidelines to expound upon METRO's Employee Policies, rules, and procedures as well as to enforce proper Employee conduct. These Policies address specific subject matter situations and supplement this Code of Ethics. The Policies require strict adherence by Employees. Violations of Employee Policies may subject Employees to disciplinary action.

6.0 PENALTIES FOR VIOLATION OF STANDARDS OF CONDUCT

- 6.1 METRO requires strict adherence to this Code. Any violation of this Code of Ethics will subject the Employee to disciplinary action, up to and including termination of Employment, as well as possible criminal actions.
- 6.2 METRO may disqualify a bidder, terminate existing contracts, and/or exclude any business from future business with METRO for a timeframe determined by the METRO Board, if that business offers, confers or agrees to confer any Benefit as consideration for an Employee's decision, opinion, recommendation, vote or other exercise of discretion

as a public servant. This includes any Benefit for consideration in exchange for the Employee's having exercised his official powers or performed his official duties or which participates in the violation of any provision of this Code. The Board of Directors of METRO, or its designee, shall make these determinations.

7.0 CONSTRUCTION, APPLICABILITY AND SEVERABILITY

- 7.1 METRO construes this Code liberally to ensure enactment of its purposes and policies and to supplement such existing laws as may relate to the conduct of Employees.
- 7.2 The enactment of this Code shall not affect the propriety of any official act or action taken by, or transaction involving, any Employees prior to the effective date of this Code.

REVISION HISTORY TABLE			
REVISION LEVEL	CHANGE(S) INCORPORATED BY:	CHANGE(S) APPROVED ON:	SECTIONS IMPACTED – DESCRIPTION OF CHANGES
1.0	Board of Directors	11/21/1988 Resolution 88-171	All Sections – Initial Release
1.0	Board of Directors	07/23/1992 Resolution 92-100	Amendment
1.0	Board of Directors	07/24/2017 Resolution 2014-87	Approved and adopted METRO's Procurement Manual
1.0	Board of Directors	07/27/2017- Resolution 2017-56	Changes to the Code of Ethics. Amendment to the Procurement Manual, enforcement of employee policies and guidelines

Related Forms:

Conflict of Interest Disclosure Form – CIS

Conflict of Interest Questionnaire Form – CIQ

Request for Approval of Outside Employment Form