

SUBJECT: APPROVAL OF CODE OF ETHICS FOR WMATA BOARD OF DIRECTORS

**2011-38**  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Board of Directors is committed to improving the governance of the Authority, and pursuant to Resolution #2010-72 established a Governance Committee and directed that the Committee develop a proposed standing body of bylaws to improve Authority governance, which included preparing revised ethical guidelines; and

WHEREAS, The Governance Committee has prepared a Code of Ethics for Board Members that ensures a commitment to strict avoidance of actions, in private financial relationships and in official conduct, that create conflicts of interest or the appearance of conflicts of interest; and

WHEREAS, The proposed Code of Ethics ensures that a broad range of prohibited conflicts, such as holding financial interests and accepting gratuities, as well as the appearance of conflicts by Board Members, their household members and business associates, are fully reported and responded to by recusal or disqualification from Board service; now, therefore be it

*RESOLVED*, That the Board of Directors approves the attached proposed Code of Ethics for Members of the WMATA Board of Directors; and be it finally

*RESOLVED*, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,

  
\_\_\_\_\_  
Carol B. O'Keeffe  
General Counsel

Motioned by Mrs. Hynes, seconded by Mr. Nichols

Ayes: 8 - Mrs. Hudgins, Mr. Downs, Mr. Downey, Mr. Nichols, Mrs. Hynes, Ms. Bowser, Mr. Acosta and Mr. Barnes

## **CODE OF ETHICS FOR MEMBERS OF THE WMATA BOARD OF DIRECTORS**

### **Article I. Policy and Scope.**

Public funds must be expended in a manner that assures the highest degree of confidence and public trust in WMATA. It is imperative that Board Members in their private financial relationships and in their official conduct strictly avoid engaging in actions that create conflicts of interest or the appearance of a conflict of interest. It is likewise imperative that Board Members act impartially in their official conduct by avoiding any actions that might result in favored treatment or appearances thereof toward any individual, private organization, consultant, contractor or potential consultant or contractor. Each Board Member has a duty to place the public interest foremost in any dealings involving WMATA.

These Rules shall govern the conduct of all Members of the Board of Directors in all their activities relating to their positions as Board Members. They also apply to all individuals, corporations and other entities that have an Actual or Prospective Business Relationship with the Authority. These Rules do not supersede or abrogate any laws, rules or regulations of the United States or of the applicable state or local governing body represented by the Members of the Board of Directors.

### **Article II. Definitions.**

Capitalized terms in this Code of Ethics are defined as follows:

A. "Actual or Prospective Business Relationship with the Authority" means any actual or prospective arrangement whereby an individual, corporation or other entity has entered into or has offered or proposed to enter into or has decided to offer or proposed to enter into a Financial Transaction with the Authority that obligates the Authority to purchase, sell, lease, transfer, receive or convey any interest in real or personal property; to construct or improve any facility; or to furnish or obtain services including personal and/or consulting services.

B. "Board Member" or "Member" means a Director or Alternate of the Board of Directors of the Washington Metropolitan Area Transit Authority.

C. "Business Associate" means a person who is engaged with a Board Member in a venture expected to result in a benefit to the Board Member or any of the Board Member's Household Members in the form of money or other thing of value.

D. "Direct Financial Interest" means an ownership interest in a Party that constitutes three percent (3%) or more of that Party's total equity or an equivalent economic interest. The following are excluded from "Direct Financial Interest": checking or savings accounts, money market accounts and other demand deposits; IRAs or similar investments; government bonds; certificates of deposit; publicly traded mutual funds; and government pensions or other income received pursuant to a government retirement program (civilian or military).

E. "Employment" or "Employed" mean full-time, part-time, regular or temporary work for compensation and includes work as an independent contractor, but does not include government employment. Employment shall be deemed to exist if there is a regular relationship with a business, even if there is no relationship at the time a matter is before the Board.

F. "Financial Transaction" means any arrangement from which a Party anticipates receiving or transferring money or any other thing of value including, but not limited to, arrangements for purchase, sale, lease or other transfer or conveyance of any interest in real or personal property; construction or improvement of any facility or property; and procurement of services, both personal and consulting.

G. "Gratuity" means any gift, favor, entertainment, hospitality, meal, transportation, loan or other tangible item or any intangible benefits (i.e., discounts, passes or similar consideration) offered to a Board Member or Household Member because of the Member's position on the WMATA Board of Directors for which the Member or Household Member did not pay fair market value and that is not offered to the public generally.

H. "Household Member" means a spouse, domestic partner, dependent child, any relative over whose financial affairs the Board Member has legal or actual control or any person who resides in a Board Member's household on other than a temporary basis.

I. "Indirect Financial Interest" means income earned by a Member or by a Member on behalf of an entity for services provided to a Party when that income exceeds three percent (3%) of the Member's or entity's gross income, whichever income is less, for the current or preceding fiscal year.

K. "Participate" means vote, address, discuss or otherwise attempt to influence a decision of the Board of Directors or any action undertaken by WMATA staff.

L. "Party" means an individual, corporation, partnership or other legal entity.

Article III. Prohibited Conflicts.

A. These Rules address several types of conflicts: those arising under the Compact; from Direct and Indirect Financial Interests in a Party with an Actual or Prospective Business Relationship with the Authority; from Direct and Indirect Financial Interests in a Party or a Prospective Party to Financial Transactions; from accepting or soliciting Gratuities; from the use of a Board Member's official position; and from Employment after serving as a Board Member. They prohibit certain actions, and provide procedures for disclosure, recusal and enforcement.

B. Compact Prohibitions. Under the Compact, Board Members shall not:

"be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the Board or the Authority is a party";

"in connection with services performed within the scope of [their] official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to [them] by the Authority"; or

"offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in [their] employment with the Authority."

Compact § 10.

C. Restricted Financial Interests in a Party. No Board Member or Household Member may singly or in combination, have a Direct Financial Interest in a Party with an Actual or Prospective Business Relationship with the Authority.

D. Voting/Participation Restrictions.

1. A Board Member shall not Participate in a WMATA Financial Transaction if:
  - (i) the Board Member,
  - (ii) a Household Member, or
  - (iii) a Business Associate

has a Direct or Indirect Financial Interest in a Party or prospective Party to that Financial Transaction.

2. A Board Member shall not Participate in a WMATA Financial Transaction if the Board Member or a Household Member is Employed by a Party or prospective Party to that Financial Transaction.

3. Board Members are also expected to report to the Chair any situation other than conflicts identified in the prior sections of this Article of which they are aware and believe may create an appearance of a conflict of interest, and to recuse themselves from Participating.

E. Gratuities and Solicitation.

1. Except as provided in subsection E.3 below, a Board Member or Household Member shall not solicit or accept anything of value from a Party with an Actual or Prospective Business Relationship with the Authority.

2. A Board Member may not accept an unsolicited Gratuity when it could reasonably be inferred that the Gratuity was intended to influence the Board Member or was intended as a reward for any action on the Member's part.

3. Board Members may accept unsolicited Gratuities:

- (i) whose value is \$75 or less, provided the cumulative value of Gratuities from a single source in any calendar year is \$200 or less; or
- (ii) when participating in widely-attended events that are open or part of the regularly-scheduled program for gatherings and conferences, such as those held by the American Public Transportation Association and similar organizations.

4. The restriction on the receipt of Gratuities shall not apply to the solicitation or acceptance of bona fide religious or charitable donations, or political contributions by a Board Member or a Household Member provided, with respect to political contributions to or for the benefit of a Board Member or a Household Member, the contribution has been reported in accordance with the law of the Board Member's jurisdiction.

5. A Board Member shall not personally solicit any support or financial assistance for any political party, candidate, or committee for any political, charitable, or other purpose from the Authority or any WMATA employee. This prohibition is not intended to preclude solicitations by mass mailing or other similar anonymously directed solicitations.

F. Use of Official Position. Board Members shall not use, nor give the appearance that they are using, their official position with the Authority in a manner inconsistent with their responsibilities to the Authority. Board Members shall not:

1. use or permit others to use information not generally available to the public obtained from the Authority through the Board Member's official position with the Authority to further the Direct or Indirect Financial Interests of a Board Member, any Household Member, a Member's Business Associate, or any Party to any actual or prospective Financial Transaction with the Authority, excluding the Federal government and governmental entities within the Transit Zone;

2. disclose or permit others to disclose to anyone outside the Authority information obtained through their official position with the Authority and not generally available to the public except where and to the extent necessary to fulfill the Board Member's public responsibility;

3. use WMATA property other than for authorized purposes, nor seek assistance from other WMATA personnel, while in duty status, to assist them in connection with business enterprises (including self-employment, home-based businesses, consulting, purchase or sale of real estate or other professional services) or personal matters (non-WMATA matters including a Board Member's social, religious or educational interests);

4. offer money or anything of value for or in consideration of obtaining an appointment or privilege in the Board Member's official position with the Authority; or

5. receive compensation from WMATA except for reimbursement for necessary expenses incurred incident to the performance of their duties.

G. Post WMATA Service Restrictions. Board Members shall not, for a period of one year following the end of their term or effective date of their resignation, accept Employment with any private third Party to work on a matter in which the Board Member has Participated.

H. No Party shall have, nor seek to have, an Actual or Prospective Business Relationship with the Board or the Authority if to do so would create a violation by a Board Member of the provisions of Sections B or C of this Article. No Party shall induce or seek to induce a Board Member to violate the provisions of Section D of this Article.

I. Each Board Member shall disclose, on the form in Attachment B, each contact with a WMATA contractor or bidder in which the Member has a Direct or Indirect Financial Interest during the Initiation and Pre-Award Phases of the Procurement Process. Forms will be kept on file for one year beyond the date of the financial

closeout of the procurement contract, at which time they shall be destroyed unless otherwise instructed by the filing Board Member.

#### Article IV. Submission of Disclosure Form.

Upon appointment, a Board Member shall submit a statement in substantially the form provided in Attachment A disclosing potential conflicts of interest of the Board Member, Household Members and Business Associates. The statement shall be available for public review in the office of the Board Secretary. Each Board Member shall annually submit a new signed statement by April 30. Each Board Member shall also submit a new signed statement whenever significant relevant changes have occurred.

#### Article V. Recusal.

If a Board Member is precluded by these Rules or by other applicable laws or regulations from Participating in a matter, the Board Member shall so notify the Chair and request, using the form in Attachment C, that the Board's official records reflect that the Board Member is recused from Participating in the matter to which the prohibition applies.

#### Article VI. Interpretation; Ethics Allegations; and Disqualification and Sanctions.

A. The Board is responsible for interpreting and enforcing these rules. It may seek general guidance regarding interpretation from the General Counsel.

B. Specific allegations of misconduct shall be reported to the Board Chair, or to the Vice-Chair if the allegations relate to the Board Chair and shall be addressed as provided in Procedures Section X.

C. Any Board Member who willfully violates any provision of Article III, Section B, hereof, shall, at the discretion of the Board, forfeit the Board Member's position with the Authority. The Board shall provide the Board Member notice and an opportunity to be heard, in writing and in person, directly or through counsel, before taking official action to cause the Board Member to forfeit the position.

D. Any Financial Transaction, to which the Authority is a party, made in contravention of Article III, Section B hereof, may be declared void by the Board. The Board shall provide notice and an opportunity to be heard, in writing and in person, directly or through counsel, to any Party whose Financial Transaction with the Board or the Authority is considered to contravene these sections before taking action to void the transaction.

Article VII. Severability.

The provisions of this Code of Ethics shall be severable and if any phrase, clause, sentence or provision is declared invalid, the validity of the remainder shall not be affected thereby.

Article VIII. Effective Date; Duration; Amendment.

These Rules shall become effective when adopted by the Board and shall remain in effect unless and until amended or revoked by the Board in accordance with § 8 of the Compact.



## WMATA Board of Directors

## DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

All Board Members are required to submit a statement regarding financial Interests, outside employment and gratuities upon appointment, by April 30 of each year, and at such other times that significant relevant changes have occurred. Throughout the rest of this form, terms defined by the Code of Ethics for Members of the WMATA Board of Directors are in **bold**.

The interests of a spouse, domestic partner, dependent child, any relative over whose financial affairs you have legal or actual control and any other person who resides in your household; of **Business Associates**; and of an organization which employs or is about to employ any of the above are included in determining whether there is a reportable conflict.

The following are excluded from the definition of **Direct Financial Interest** and need not be disclosed:

- (a) checking or savings accounts, money market accounts and other demand deposits;
- (b) IRA's or similar investments;
- (c) government bonds;
- (d) certificates of deposit;
- (e) publicly traded mutual funds; and
- (f) government pensions or other income received pursuant to a government retirement program (civilian or military).



WMATA Board of Directors

DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

**PART I – BACKGROUND INFORMATION**

Type or print your first name and middle initial	Last name	Jurisdiction
<input type="text"/>	<input type="text"/>	<input type="text"/>

**PART II – ACTIVITIES AND INTERESTS**

A. Restricted Financial Interests in a Party. (Article III.C)

Please check all that apply:

1. I  have, or a **Household Member**  or **Business Associate**  has a financial interest in a **Party** to an **Actual or Prospective Business Relationship with the Authority.**
2. If that financial interest is a **Direct Financial Interest**  or an **Indirect Financial Interest** , as defined Articles II.D and II.I of the Code of Ethics (including exceeding the 3% thresholds), explain below.

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WMATA Board of Directors

DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

B. Voting/Participation Restrictions. (Article III.D)

Please check all that apply:

1. I \_\_\_\_ have, or a **Household Member** \_\_\_\_ or **Business Associate** \_\_\_\_ has a financial interest in a **Party** or prospective **Party** to a WMATA **Financial Transaction**.
2. If that financial interest is a **Direct Financial Interest** \_\_\_\_ or an **Indirect Financial Interest** \_\_\_\_, as defined Articles II.D and II.I of the Code of Ethics (including exceeding the 3% thresholds), explain below.

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3. I \_\_\_\_ have, or a **Household Member** \_\_\_\_ has non-governmental, non-WMATA **Employment** with a **Party** or a prospective **Party** to a WMATA **Financial Transaction**.  
If checked, explain below.

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WMATA Board of Directors

DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

4. I \_\_\_\_\_ have, or a **Household Member** \_\_\_\_\_ has a real property interest located within the WMATA Transit Zone other than an interest in the primary residence that you occupy. If checked, provide the location/address of the interest below.

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5. List any situations of which you are aware and believe may create an appearance of a conflict of interest.

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WMATA Board of Directors

DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

C. Gratuities and Solicitation. (Article III.E)

List each **Party** with an **Actual or Prospective Business Relationship with the Authority** that, during the past 12 months, furnished you with any **Gratuity** or from which you solicited any **Gratuity**. Do not list **Gratuities** received at widely attended gatherings (as excluded by Article III.E.3).

NAME OF SOURCE	TYPE OF GRATUITY	VALUE

List each **Party** with an **Actual or Prospective Business Relationship with the Authority** that, during the past 12 months, furnished a **Household Member** with any **Gratuity** or from which he or she solicited any **Gratuity**. Do not list **Gratuities** received at widely attended gatherings (as excluded by Article III.E.3).

NAME OF SOURCE	TYPE OF GRATUITY	VALUE



WMATA Board of Directors

DISCLOSURES OF AFFILIATIONS AND FINANCIAL INTERESTS

PART III – CERTIFICATION AND RECEIPT

I certify that the statements I have made are true, complete, and correct to the best of my knowledge.

SIGNATURE

DATE

RECEIVED BY BOARD SECRETARY:

SIGNATURE

DATE

PART IV - REVIEW BY GENERAL COUNSEL

To be completed only if the Board Member answered affirmatively to any question above.

I have examined this statement and any attachments, and

\_\_\_ I find no conflicts.

\_\_\_ I recommend Board review of the following:

Four horizontal lines for listing items for Board review.

SIGNATURE

DATE

PLEASE SUBMIT COMPLETED FORM TO THE BOARD SECRETARY AND BOARD CHAIR.



WMATA Board of Directors

**DISCLOSURES OF CONTACTS WITH BIDDERS AND CONTRACTORS**

Identify each WMATA bidder or contractor in which you have a **Direct** or **Indirect Financial Interest** with whom you have had contact during the Initiation and Pre-Award Phases of the Procurement Process.\*

NAME OF CONTRACTOR	NATURE OF FINANCIAL INTEREST	DATE OF CONTACT
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Subject(s) Discussed and Disposition, if any \_\_\_\_\_


\_\_\_\_\_  
SIGNATURE \_\_\_\_\_  
DATE

\*Initiation and Pre-Award Phases of the Procurement Process means that period beginning on the earliest date upon which an identifiable, specific action is taken by the Board for a particular procurement and ending upon award. Such actions shall include approvals by the Board or by Committees acting on behalf of the Board of any plan or budget which specifically authorizes an identifiable procurement, the drafting of specifications, statements of work or development of procurement requests therefore, or Board issuance of directives or taskings requiring that such actions be undertaken.

**PLEASE SUBMIT COMPLETED FORM TO THE BOARD SECRETARY AND BOARD CHAIR.**



WMATA Board of Directors

NOTIFICATION OF RECUSAL

**DATE:** \_\_\_\_\_

**TO:** BOARD CHAIR

**FROM:** Type or print your first name and middle initial      Last name      Jurisdiction

_____	_____	_____
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**SUBJ:** RECUSAL FROM \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please accept this notice that I am precluded by the Code of Ethics, Article III. \_\_\_\_\_, of the WMATA Board of Directors, or other applicable laws or regulations, from participating in the above-referenced matter.

I request that the WMATA Board of Directors' official records reflect that I am recused from participating in the above-referenced matter.

\_\_\_\_\_  
Signature

***PLEASE SUBMIT COMPLETED FORM TO THE BOARD CHAIR AND BOARD SECRETARY.***