

**CODE OF ETHICS FOR DIRECTORS, OFFICERS, AND
EMPLOYEES OF THE METROPOLITAN ATLANTA RAPID
TRANSIT AUTHORITY**

SECTION 1. DECLARATION OF POLICY

It is essential to the proper administration and operation of the Metropolitan Atlanta Rapid Transit Authority that its Board members, Officers, and Employees, be, and give the appearance of being, independent and impartial; that public employment not be used for private gain; and that there be public confidence in the integrity of the Authority. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interests and public responsibilities of Authority personnel, the public interest requires that the Authority protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of its Board members, Officers, and Employees in situations where a conflict may exist. It is also essential to the efficient operation of the Authority that those persons best qualified be encouraged to serve the Authority. Accordingly, the standards hereinafter set forth must be so interpreted and understood as not unreasonably to frustrate or impede the recruitment and retention by the Authority of those persons best qualified to serve it. To that end, those Authority personnel who are covered by this Code should not be denied the opportunity available to all other citizens to acquire and maintain private economic and other interests except where a conflict of interest situation would necessarily result. The policy and purpose of this Code, therefore, is to make clear those standards of ethical conduct that shall be applicable to the Authority, its Board members, Officers, and Employees in the discharge of their official duties; to implement the objective of protecting the integrity of the Authority; and to prescribe only such essential restrictions against conflict of interest as will not impose unnecessary barriers against public service.

Comment: A conflict of interest exists whenever a person has placed himself in a position where any official act or action taken by him is, may be, or appears to be influenced by considerations of personal gain rather than the general public interest. The fundamental theory underlying conflict of interest rules is that a public servant occupies a position of public trust and confidence and that as a fiduciary he should conscientiously avoid not only actual breaches of public trust, but also the appearance of a conflict of interest. The two criteria determining a conflict of interest are actions inconsistent with or repugnant to the general public good and the derivation of private gain.

Clearly no public person can dissociate himself so completely from anything other than the Authority as to preclude the possibility of a conflict situation from arising. Accordingly, in judging conduct, the Board of Ethics herein created should consider the intention and motives in addition to the external actions of the person concerned. Although exterior appearances and actions often are an accurate manifestation of interior motivation, intent and motive become particularly relevant whenever the acts themselves fall into a gray area.

The principal responsibility for adherence to the provisions of this Code rests with the persons to whom those provisions apply. Thus, the Board of Ethics should dismiss any claim of lack of knowledge or understanding of the standards hereinafter set forth. Whenever a question arises with respect to the applicability of this code to a particular course of conduct, the person concerned should make application to the Board of Ethics for an advisory opinion.

The comments and examples do not have the force and effect of the sections of the Code which they follow, but should be used to aid in interpreting the Code and to safeguard against misconstruction.

SECTION 11. CONTRACTS INVOLVING EMPLOYEES

A. The Authority shall not enter into any contract involving services or property with a Board member, Officer, or Employee (including Public Employees), or with a business in which a Board member, Officer, or Employee has an interest. This section shall not apply in the case of:

- (1) the designation of a bank or trust company as a depository for Authority funds;
- (2) the borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loan;
- (3) contracts entered into with a business which employs a Consultant, provided that such employment is not incompatible with the Consultant's official duties under Section 7 of this Code;
- (4) contracts for services entered into with a business which is the only available source for such goods or services; and
- (5) contracts entered into under circumstances which constitute an emergency situation, provided that a record explaining the emergency is prepared by the General Manager and submitted to the Board of Ethics at its next regular meeting and thereafter kept on file.

B. The Authority is not precluded from entering into any contract involving services or property with a Public Employee (or with a business in which that Public Employee has an interest) who serves solely by appointment as an unpaid or nominally paid member of a public board, commission, committee, council or task force, but only if the likelihood of an actual conflict of interest of the Public Employee with the Authority is remote.

In determining whether the likelihood of such conflict of interest is remote, all relevant information shall be considered, including the following factors:

- (1) whether the board, commission, committee, council or task force on which the Public Employee serves has legal, regulatory, governmental or advisory jurisdiction over the affairs of the Authority or over matters that may affect MARTA's duties or responsibilities or in which MARTA has a special or particularized concern;
- (2) the interest of the Public Employee in the contracting entity; and
- (3) the subject matter of the contract.

Comment: This section merely reiterates the common law prohibition against contracts entered into by public bodies with the officials in their employ and is directed primarily at deterring the practice and appearance of self-dealing. It should be noted that while the principal onus for avoiding

contracts prohibited by this and the following section is placed on those Authority personnel without any direct interest in the contract, it would be equally improper for interested parties knowingly to enter such a contract.

To come within the proscription of this section, however, the contract need not be one entered into with a Board member, Officer, or Employee (including Public Employees) individually, but may be one executed by and between the Authority and a business in which such persons have an interest. Although complete ownership of an enterprise contracting with the Authority, either as sole proprietor or one hundred per cent stock owner, clearly amounts to a prohibited interest, the interest which disqualifies such contracts need not be financial in nature. Thus, a family relationship may be sufficient to establish such an interest.

Specifically excepted from the operation of this section are contracts for needed goods or services entered into with a business which is the only available for such goods or services, notwithstanding the existence of an otherwise disqualifying interest in such a business. The exception is intended primarily to sanction the furnishing of services by public utility companies, whose services may be unique to the community and whose rates are fixed by law.

- Examples:
- 1) **W**, a Board member, is an Officer of a public utility company which provides the only available service of its kind. Although the Authority is not prohibited from contracting for such services, **W** should disqualify himself under section 9 from participating in any discussion or decision concerning such contract or the services provided thereunder.
 - 2) **X**, a Board member, is an Officer of a bank which offers the same rate of interest for loans sought by the Authority as other lending institutions in the metropolitan Atlanta area. The Authority should not seek to borrow funds from the bank. If, however, the bank offers the lowest rate of interest, the Authority may borrow funds from it, provided that **X** discloses his interest and disqualifies himself from participating as a Board member or Officer of the bank in the transaction.
 - 3) **Y**, an Officer, approves the letting of a contract to a construction firm, which, pursuant to a prior agreement, subsequently assigns at a discount the proceeds of the contract to a firm in which **Y** is a partner. **Y**'s approval of the contract constitutes a violation of this section even though **Y** sells his partnership interest before the actual assignment of the proceeds.
 - 4) **Z**, an Officer, is the controlling shareholder of a company which rents equipment from the Authority. The leasing of such equipment constitutes a violation of this section.

SECTION 15. BOARD OF ETHICS

(1) Creation, membership - There is hereby created and established a Board of Ethics which shall consist of the following members:

- (a) One (1) member to be selected from the membership of the Atlanta Bar Association by the President of said Association;
- (b) One (1) member to be selected from the membership of the DeKalb-Decatur Bar Association by the President of said Association;
- (c) One (1) member to be selected from the membership of the Gate City Bar Association by the President of said Association;
- (d) One (1) member to be selected from among the Employees by the General Manager of the Authority;
- (e) One (1) member to be selected by and from those Authority employees whose conduct is not governed by the provisions of this Code;
- (f) One (1) member to be selected from the membership of the Atlanta Chamber of Commerce by the President of said organization;
- (g) One (1) member to be selected from the membership of DeKalb-Decatur Chamber of Commerce by the President of said organization;
- (h) One (1) member to be selected from the membership of the Metropolitan Atlanta Rapid Transit Overview Committee (MARTOC) by the Chairman of said Committee; and
- (i) One (1) member to be selected from the membership of the Board of Directors of the Authority by the Chairman of said Board.

The members shall serve without compensation and shall elect a chairman and effect their own organization internally.

(2) Classification of Board members and Term of Office

- (a) The members of the Board of Ethics shall be divided into three classes. The first class shall consist of those representatives selected from the membership of Atlanta and DeKalb Decatur/-Chamber of Commerce; the second class, of those representatives selected from the membership of the Atlanta, DeKalb-Decatur, and Gate City Bar Associations; and the third class, of those remaining representatives.
- (b) The initial term of office of those of the first class shall expire one year from the time this code shall take effect; of the second class, one year after the expiration of the term of the first class; and of the third class, two years after the expiration of the term of the first

class. Each representative selected after the expiration of such initial terms shall serve for a full term of three years or until the termination of his membership in the particular organization from which he was selected, whichever occurs first.

(3) Vacancies

Any vacancy on the Board of Ethics caused otherwise than by expiration shall be filled for the unexpired portion thereof by a person or organization which made the original selection or appointment to the vacant position.

(4) Duties -The Board of Ethics shall have the following duties:

- (a) To establish procedures, rules, and regulations governing its internal organization and conduct of its affairs.
- (b) To render advisory opinions with respect to the interpretation and application of this Code to all persons who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed herein. Such opinions shall be binding on the Board of Ethics in any subsequent complaint concerning the person who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion.
- (c) To prepare and make available on request a list, by job classification or individual name, of all Authority personnel covered by the provisions of this Code.
- (d) To prescribe forms for disclosures required under this Code and to make available to the public the information disclosed as provided under this Code.
- (e) To receive and hear complaints of violations of the standards required by this Code.
- (f) To make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Code.
- (g) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and powers.
- (h) To recommend to the Authority any disciplinary action, including dismissal or censure, deemed appropriate for violations of this Code and to make such recommendations, absent the identity of the person concerned, available to the public.
- (i) To make proposals and recommendations to the Board of Directors of the Authority for the adoption of any revisions or amendments to this Code.