



Regional Transportation District Code of Ethics

(Adopted by the RTD Board of Directors January 21, 2003)

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1. Introduction

This Code of Ethics establishes mandatory ethical standards for directors and employees of the Regional Transportation District. To merit the trust of the public we serve, RTD directors and employees must not be motivated by personal or private gain in performing official duties, and must conduct themselves to avoid any appearance of such motives. In addition, federal procurement regulations require RTD to maintain a written code of standards of conduct governing the performance of directors and employees engaged in the award and administration of contracts.¹

At the same time, qualified persons should be encouraged to serve as RTD directors and employees. RTD directors and employees should be permitted to pursue their own private interests except where a conflict of interest would result.

The rules in this Code are intended to be simple and reasonable. **A claim of lack of knowledge or understanding of the standards in this Code will not be accepted. Any RTD director or employee unsure of what is expected should also review the comments following each rule. If after reviewing the Code, including its comments and examples, any person remains in any way uncertain whether an action will violate this Code, the person should request an advisory opinion from the General Counsel *before* taking the action.**

2. Definitions

As used in this Code:

Business means a corporation, partnership, sole proprietor, or any other person or organization carrying on an enterprise for profit.

Confidential information means information that by law or practice is not available to the public.

Consultant means a person retained to render professional services for the District.

Contract means any agreement, whether express or implied, executed or executory, verbal or in writing, and includes leases and accounts.

Emergency situation means a situation that, to the satisfaction of the General Counsel, requires immediate execution of a contract between RTD and an RTD employee (or a business in which an RTD employee has an interest). The emergency situation must not have been caused by the RTD employee's own fault or neglect.

¹ 49 C.F.R. §§ 18.36(b)(3), 18.36(c)(v) (USDOT Uniform Administrative Requirements for Grants and Cooperative Agreements to State & Local Governments – “Common Grant Rule”); FTA Circular 4220.1D (Apr. 15, 1996) §§ 7(c), 8(a); FTA Master Agreement (Oct. 1, 1995) § 3(a); FTA Best Practices Manual § 2.1.3. Section 7(c) of FTA Circular 4220.1D adds board directors as persons to whom the standards must apply.

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Employee means any person employed by RTD, whether paid or unpaid, who:

1. Exercises significant management discretion;
2. Has access to confidential information relevant to contracts or contracting decisions;
3. Is in a position to influence contracting decisions; or
4. Has supervisory control of an inspection or audit function with respect to contract performance or in relation to contract disputes.

The term "employee" **includes RTD directors, officers, agents and consultants** unless expressly excluded elsewhere in this Code. The term "employee" also **includes any person who holds a position with the District at manager level or above**, or who otherwise holds a position from time to time designated as such by the District in accordance with the above standards.

Employment means any rendering of services on request, whether paid or unpaid.

Immediate family means an employee's spouse or domestic partner, and their parents, children, brothers and sisters.

Interest means any direct or indirect pecuniary or material benefit held by or accruing to an employee arising from a transaction involving official action by the District. Unless otherwise provided, the term "interest" does not include any remote interest. **An RTD employee is deemed to have an "interest" in transactions involving:**

1. Any person in the employee's immediate family;
2. Any person with whom a contractual relationship exists, whereby the employee may receive any payment or other benefit;
3. Any business in which the employee is a director, officer, employee, prospective employee, or shareholder; or
4. Any person of whom the employee is a creditor, whether secured or unsecured.

Official act means any administrative, appointive, or discretionary act of the District or its employees.

Participate means to take part in an official act personally as an RTD employee through approval, disapproval, decisionmaking, recommendations, investigation, the rendering of advice, or the failure to act or perform a duty.

Paid means receiving, or having the right to receive, a salary, commission, percentage, brokerage or contingent fee.

Person means any individual, business, labor organization, representative, fiduciary, trust or association, whether paid or unpaid, and includes any RTD employee.

Property means any real or personal property, whether tangible or intangible, and includes currency and commercial paper.

Remote interest means the interest of:

1. A non-salaried director, officer or employee of a nonprofit organization;
2. A holder of less than five percent of the legal or beneficial ownership of the total shares of a business;
3. Any person in solely a representative capacity, such as a receiver, trustee or administrator.

3. The RTD Act and RTD By-Laws

This Code is based on provisions in the state Regional Transportation District Act and RTD's own Bylaws to which RTD directors and employees are subject.

The Regional Transportation District Act states:

32-9-118. *Conflicts of interest prohibited.* No director, officer, employee, or agent of the District shall be interested in any contract or transaction with the District except in his official representative capacity.

RTD's Bylaws state, at Article X:

Section 1. *Refrain from Participation.* Any member of the Board who is present at a meeting at which is discussed any matter in which he has, directly or indirectly, a private pecuniary or property interest, shall declare that he has a conflict and shall refrain from advocating for or against the matter, and shall not vote in respect to such matter.

Section 2. *Official Interest Only.*

(a) No member of the Board of Directors, nor any employee or agent of the District, shall be interested in any contract or transaction with the District except in his official representative capacity, or as provided in his contract of employment with the District.

(b) Neither the holding of any office or employment in the government of any municipality or other public body or the federal government, nor the owning of any property within the State of Colorado shall be deemed a disqualification for membership on the Board of Directors or employment by the District, nor a disqualification for compensation for services as a member of the Board of Directors, or as an employee or agent of the District.

4. **Impartiality**

RTD employees must avoid giving the impression that any person can improperly influence them in their performance of official acts.

Comment: This section prohibits employees from taking any action, whether in an official or private capacity, which may cause the public to suspect favoritism by the District. This section should be read together with the provisions of section 11 of this Code on disqualification.

Examples:

1. An RTD employee writes a letter to the editor of a local newspaper criticizing the District for failing to hire a contractor with whom the employee has had substantial private business dealings. The employee's actions violate this section.
2. While participating in the selection process for a firm to contract with the District, an RTD employee allows representatives of a potential contractor to pay for the employee's travel expenses and/or lodging. The employee's actions violate this section.
3. An RTD employee is elected to the local city council. The employee may hold office without violating this section; however, the employee should declare that she has a conflict and refrain from advocating or participating in contracts or agreements concerning the District.

5. Gifts, Entertainment and Favors

No employee may solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, food, lodging, loan or other thing of value if:

1. To do so may give the appearance that the employee will be influenced in the discharge of official duties;
2. The employee recently has been, is now, or in the near future may be involved in any official act directly affecting the donor or lender; or
3. The employee has or appears to have influence over actions of the District affecting the donor or lender.

This section does not apply to infrequent, non-pecuniary gifts of insignificant value such as inexpensive food or refreshments in the ordinary course of a business meeting, or such as unsolicited advertising material such as pens, pencils, calendars or other business-related items.

This section also does not apply to items, even if of significant value, when the circumstances should make it clear that an obvious, long-standing social or family relationship rather than the business of the persons concerned is the motivating factor, or when the item is an award publicly presented in recognition of public service, or to random drawings open to and participated in by the public.

An employee may also receive voluntary gifts of nominal value on a special occasion such as a birthday, marriage, birth, religious holiday, illness, retirement or transfer.

Comment: The purpose of this section is to prohibit the solicitation or acceptance of any gift, whether in the form of money, services, loans, travel, entertainment, hospitality or promises, under circumstances in which it reasonably could be inferred that the gift was intended to influence the recipient, or could be expected to influence the recipient, in the performance of official duties.

Examples:

1. An RTD employee asks the president of a company seeking a contract with the District to find employment for the employee's nephew in the company. The employee's request violates this section.
2. An RTD employee enters his name in a special sweepstakes drawing sponsored by a company that from time to time has business dealings with the District. The drawing is not open to and participated in by the general public. The employee's name is drawn as the winner of an all-expense paid vacation valued at \$1,000. The employee's acceptance of the prize violates this section.
3. An RTD employee owns a construction company. An officer of a construction firm

seeking a contract with the District promises to buy the necessary materials for the contract from the employee's company if the officer's firm wins the RTD contract. In reliance upon the officer's promise, the RTD employee tries to have the contract awarded to the officer's firm. The employee's actions violate this section.

4. In the course of a business meeting outside RTD's offices, an RTD employee accepts coffee and sandwiches offered by representatives of a company hoping to bid upon matters for which the employee has responsibility. The employee's actions do not violate this section provided the value of the food is insignificant.

6. Contracts Involving Employees

The District shall not enter into any contract involving goods, services or property with an RTD employee or with a business or organization in which an RTD employee has an interest (as defined in section 2 of this Code). This section shall not apply in the case of:

- 1. Contracts with a business that is the only available source for essential goods, services or property;**
- 2. The designation of a bank or trust company as a depository for District funds, or the borrowing of funds from any bank or lending institution that offers the lowest available rate of interest for such loan;**
- 3. Contracts entered into with a business that employs a District consultant, provided that such employment is not incompatible with the consultant's duties to the District;**
- 4. Contracts under emergency circumstances, provided that a record explaining the emergency is prepared by the General Manager and submitted to the Board of Directors at its next regular meeting and thereafter kept on file;**
- 5. Contracts entered into with full disclosure and knowledge of the conflict, and approval of the contract, by the Board of Directors; or**
- 6. Contracts where the employee's interest in the contract is a remote interest (as defined in section 2 of this Code) and is fully disclosed.**

Comment: This section merely reiterates the general prohibition against public entities contracting with employees. Such contracts may give the appearance of self-dealing. While the District is responsible for avoiding such contracts, it is equally improper for employees knowingly to enter into such a contract.

To come within this section, the contract need not be directly between RTD and an employee, but may also be between RTD and a business in which an employee has an interest.

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Such interest need not be financial in nature; for example, a family relationship may be sufficient to establish a prohibited interest.

Examples:

1. An RTD employee is also an officer of a public utility company that provides the only available service of its kind. Although the District is not prohibited from contracting for such services with the employee's company, the employee should disqualify herself from participating in any discussion or decision concerning the contract or the services provided to RTD.
2. An RTD employee is also an officer of a bank that offers the same rate of interest for loans sought by RTD as do other lending institutions within the District's boundaries. The District should not seek to borrow funds from the employee's bank. However, if the employee's bank offers the lowest rate of interest, the District may borrow funds from the bank provided that the employee discloses his interest and disqualifies himself from participating in any manner in the transaction.
3. An RTD employee approves a contract with a construction firm that, pursuant to a prior agreement, subsequently assigns at a discount the proceeds of the contract to a firm in which the employee is a partner. The employee's approval of the contract violates this section even if the employee sells her partnership interest before the actual assignment of the proceeds.
4. An RTD employee owns a few shares -- less than five percent -- of a publicly-traded company with which the District contracts for goods. The employee's actions do not violate this section because the employee's interest in the company is a "remote interest" as defined in section 2 of the Code.

7. Confidential Information

No employee shall disclose, use, or allow others to use for private interests confidential information acquired by virtue of the employee's position or employment with the District.

Comment: An RTD employee must not use for the employee's or others' financial gain "inside" information not generally available to the public and to which the employee has access solely because of the employee's association with the District.

Even if not intended for financial gain, the unauthorized or premature release of confidential information to a relative, friend or business associate tends to undermine public confidence in the District and is therefore prohibited.

Examples:

1. An RTD employee buys land knowing, but without disclosing, that RTD is planning a new transit line that will substantially increase the land's value. The employee's actions violate this section.
2. An RTD employee invests, or advises a friend to invest, in securities of a company about to be awarded a highly profitable contract with the District. The employee's investment or advice violates this section.

8. Representation

No employee shall represent, advise or appear on behalf of any person or firm concerning any contract or transaction which is or may be the subject of an official act or action of the District. No employee shall use or attempt to use the employee's official position to secure unwarranted privileges or exemptions for the employee or other persons.

Comment: This section is intended to prevent both the actual practice and public appearance of "influence-peddling." The prohibition extends to appeals made on behalf of an undisclosed person.

9. Incompatible Employment or Services

No employee shall engage in, accept employment with, or render services for any private business or professional activity when such would be adverse to or incompatible with the proper discharge of the employee's official duties.

Comment: This section is intended to ensure that District employees do not accept other employment that may impair the employees' abilities to exercise independent, objective judgment in their official roles. Other employment may be incompatible with employment at

RTD either due to physical inability to perform the functions of both jobs or due the duties and functions of the two jobs being inherently inconsistent.

Example:

1. An RTD employee is charged with supervision and approval of work on District property performed by an outside contractor. The employee accepts a second job with the company that performs such work. The employee's dual employment is incompatible and violates this section.

10. Disclosure

An employee who has an interest that the employee has reason to believe may be affected by the employee's official acts, or by the official acts of the District, shall fully disclose such interest to the General Counsel for a determination as to whether such interest violates this Code.

An employee with any interest, direct or indirect, in any contract to which the District is or is about to become a party, or in any other business with the District, shall fully disclose such interest to the General Counsel for a determination as to whether such interest violates this Code.

Employees with responsibility for District procurements shall complete and submit to the General Counsel a yearly interest disclosure form. The information required by the disclosure form is intended only to disclose the nature of relationships that an employee may have that could result in a conflict of interest, and therefore no financial data is required. The information is intended to disclose investments in businesses that engage in activities related to the business of RTD, such as: transit equipment suppliers, companies engaged in manufacturing rail transit rolling stock and related components, and construction companies engaged in transit systems, etc. The General Counsel will use the disclosure forms to prepare a general, non-personalized list of those persons or entities with whom the District should not do business. The General Counsel will provide the list to the Manager of Materials Management. Should the Manager of Materials Management question whether it is proper for RTD to do business with a person or entity appearing on the list, the Manager will request the General Counsel for a determination as to whether a conflict of interest exists.

Comment:

Disclosure is fundamental to monitoring potential conflicts of interest, and in maintaining public confidence in the good faith and impartiality of employees making official acts on behalf of the District. The burden of making such disclosures rests on the individual employees. The District's employees are held to a high standard of care and good faith to ensure that no potential interest goes undisclosed. Any concerned individual should, on his or her own initiative, request the General Counsel for an advisory opinion as to whether a particular personal or financial relationship warrants disclosure under this section.

The increasingly complex nature and scope of the activities of the District means that inadvertent conflicts may arise, causing public embarrassment or scrutiny of both the employee involved and the organization. To prevent the possibility of an inadvertent conflict of interest and to provide as much protection as possible to employees and the District from being placed in such a position, this Code requires yearly disclosure of interests in certain categories of businesses by employees with responsibility for procurements.

Examples:

1. An employee is a creditor of an insolvent company being considered for construction work by the District. The employee should disclose her interest to the General Counsel.
2. An employee is uncertain whether his relationship with a company being considered for work by the District warrants disclosure. The employee should disclose his relationship to the General Counsel for an advisory opinion.
3. An employee has responsibility for approval of certain District contracts. The employee should fill out and submit a yearly disclosure form.

11. Disqualification

An employee is disqualified from participating in any official act directly affecting a business or activity in which the employee has any interest or remote interest.

Comment:

This section is intended to prevent conflicts of interest from arising after the District has awarded a contract to a business in which an employee has an interest. For example, while this Code permits transactions involving businesses in which District employees have remote interests, this section prohibits employees with even remote interests from participating in official acts affecting such businesses.

Examples:

1. An employee holds less than five percent of the shares of a business with which the District does business. The employee should not participate in any official act directly affecting the business.
2. An employee is a director of a nonprofit organization with which the District has a contract. The employee should not participate in any official act directly affecting the organization.
3. An employee is seeking employment with a business that is bidding on a District contract. Since a person is deemed to have an interest in transactions involving a prospective employer, the employee should not participate in any official act directly affecting the business.

12. Acquiring an Interest

No employee shall acquire an interest in any contract or transaction when such an interest may be affected, directly or indirectly, by the employee's or the District's official acts.

Comment:

This section prevents employees from making investments or otherwise acquiring interests that create or may give the appearance of creating a conflict with their official duties or the District's official acts. If an employee acquires an interest in good faith and without reason to believe that a conflict or the appearance of a conflict is created, the employee is not required to divest herself of the interest; however, as required elsewhere in this Code, the employee should fully disclose the nature and extent of the interest when she discovers the conflict or appearance of a conflict, and should refrain from participating in any official acts affecting her interest.

This Code does not prohibit employees from retaining an otherwise prohibited interest acquired prior to the interest holder's election, appointment, or employment with the District, provided that the existence of such interest is properly disclosed. However, this section prohibits renewal or expansion of such an interest.

Examples:

1. An employee acquires stock in a company from which the District has recently made a cash purchase of equipment. Because the purchase is a completed transaction and unlikely to be affected by the official acts of either the employee or the District, the employee's stock ownership does not violate of this section.
2. An employee who supervises and approves certain construction work by a contractor acquires an interest in a company to which some of the work is later subcontracted. If the employee had no reason to foresee that a conflict might

arise, his interest in the subcontractor does not violate this section; however, the employee should disclose his interest and disqualify himself from the work of both the principal contractor and the subcontractor.

13. Contracts Involving Former Employees

The District shall not contract with, or take any official act favorably affecting, any person, or any business represented by a person, who has within the preceding twelve month period been an employee of the District.

Comment:

This section is intended to prevent employees from improperly using knowledge and influence acquired through employment with the District in subsequent post-employment dealings with the District. It is also intended to prevent the consideration of future employment from improperly influencing a District employee.

The following factors should be considered in determining whether a proposed action is prohibited by this section:

1. The employee's position and duties with the District;
2. The identity of the new or prospective employer;
3. The employee's position and duties with the new or prospective employer;
4. The nature of the relationship between the new or prospective employer and the District; and
5. The nature and extent of the employee's contact with the new or prospective employer while employed by the District.

A person or business may be considered to be "represented by" a former District employee based on the following factors:

1. Whether the employee meets or would meet in the new or prospective employment the definition of an "employee" under this Code;
2. The nature and extent of the knowledge and influence acquired by the employee from employment with the District;
3. Whether in the new or prospective employment the employee has or will have the power to negotiate or influence agreements or otherwise bind the new or prospective employer;
4. Whether in the new or prospective employment, the employee has or will have duties (1) that allow the use of knowledge or influence acquired from employment

with the District; or (2) that include direct or indirect dealings with the District.

Examples:

1. An employee resigns from his position at the District, accepts employment in a company, and participates in negotiating a contract between the company and the District. The District should discontinue negotiations with the company.
2. An employee is terminated by the District as part of a reduction in force, and seeks employment with an affiliate of the District's general engineering consultant at an out-of-state construction project. While employed by the District, the employee had no direct influence upon the scope of work to be performed or the compensation to be received by the consultant or its affiliate. The employee's employment with the affiliate would not prevent the District from continuing its existing contract or entering into new contracts with the consultant.
3. An employee resigns from his position with the District and accepts employment with a large automobile company. While with the District, the employee was an administrative assistant whose duties included preparation of a departmental budget, purchase of office supplies, and supervision of two clerical workers. At her new company the employee is an office manager and does not have the authority to bind the new employer or to negotiate agreements, does not have direct or indirect dealings with the District, and does not perform bid or proposal presentation. Since the likelihood is remote that the knowledge or influence the employee acquired at the District could be used by others within her new company to obtain confidential information, the company is not "represented by" the employee, and her new employment with the company will not prevent the District from contracting with the company.
4. An employee resigns from a position as an engineer at a District construction project and takes a job at a subcontractor that has performed work on the same construction project. The employee's new job is as a site manager for a number of his new employer's construction subcontracts, none of which currently involve District projects. The District will not be permitted to enter into a contract with the new employer or with any prime contractor that proposes to subcontract with the new employer.

14. Political Activity

District employees are free to engage in political activity to the widest extent consistent with restrictions exposed by law. Employees may participate in all political activity not restricted by law, including candidacy for office in non-partisan elections and candidacy for political party office. However, under federal law (see 5 USC sec. 1501-1502) certain employees of the District (excluding Directors) may not:

1. **Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;**

2. **Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, or organization, agency or person for political purposes; or**
3. **Be a candidate for public elective office in a partisan primary, general, or special election.**

Whenever a question arises with respect to whether an employee's political activity is prohibited by law or by this Code of Ethics, the person concerned should seek the advice of the General Counsel.

15. Violation

An employee (excluding a Director) violating this Code of Ethics may be subject to discipline up to and including termination. An employee (including a Director) violating this Code may be subject to such action or penalties as authorized by law. A contractor violating this Code of Ethics may be subject to disbarment from future RTD contracts, and violation may be considered a breach of the contractor's contract with RTD.

16. Construction and Application

This Code shall be construed liberally to promote its purposes and policies and to supplement such existing laws as may relate to the conduct of employees. This Code replaces all previous RTD Codes of Ethics. This Code is prospective, not retroactive, in application. The provisions of this Code are severable; if any of its provisions are deemed unconstitutional or invalid, such decision shall not affect or impair any of the remaining provisions.



RTD Code of Ethics – Acknowledgement of Receipt

(Please return this Acknowledgement of Receipt form to _____.)

I hereby acknowledge that I have received a copy of the Regional Transportation District's Code of Ethics (adopted January 21, 2003).

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NAME (please print) _____

EMPLOYEE NUMBER _____

SIGNATURE _____

DATE: _____