

Metrolinx Conflict of Interest Policy

PURPOSE

The purpose of this Policy is to conserve and enhance public confidence and trust in the integrity, objectivity and impartiality of Metrolinx (the “Corporation”).

POLICY STATEMENT

This Policy seeks to minimize the possibility of conflicts of interest occurring or being perceived to occur between the private interests of individuals and their roles and responsibilities with the Corporation and to ensure that if any conflict of interest does arise it will be resolved appropriately.

SCOPE & APPLICATION

This Policy is applicable to all employees and Directors and includes seconded employees, individuals seconded into Metrolinx and employees on leave. Please note that this Policy also places obligations on former employees and former Directors after their service with Metrolinx has ended.

All affected individuals should review this Policy on a regular basis and satisfy themselves that they have taken or are taking such actions as may be required for compliance with this Policy.

Further to this Policy, Metrolinx or divisions within Metrolinx may introduce additional rules for specific activities or processes of the Corporation.

1.0 OVERRIDING CONSIDERATIONS

This Policy sets out the minimum expectations for employees and Directors. Conforming to this Policy does not absolve an individual from responsibility to take such additional precautions as may be necessary to prevent or, if need be, resolve any conflict of interest, nor does it absolve an individual from any requirement to comply with a statutory, common law or contractual obligation or prohibition.

In addition, and as with any policy that regulates individual behaviour for purposes that include public perception, adherence to this Policy does not, in and of itself, absolve an individual from being responsible for considering how their behaviour may be perceived and how those behaviours may affect the Corporation’s reputation.

As a result, individuals within the scope of this Policy are expected to carefully consider public perception, and exercise responsible judgment at all times. A similar approach is expected with respect to all policies that regulate individual behaviour for purposes that include public perception.

2.0 RELATIONSHIP WITH PUBLIC SERVICE OF ONTARIO ACT

The *Public Service of Ontario Act* (PSOA) authorizes public bodies to develop their own conflict of interest rules. The Metrolinx rules, as found in this Policy and its Schedules, have been reviewed and approved by the Office of the Integrity Commissioner (“OIC”) and should

be considered to be a replacement of the rules found in the PSOA and its regulations. If this Policy is inconsistent with the PSOA, the PSOA will prevail. For this purpose, such an inconsistency does not arise where the Policy exceeds the degree of ethical conduct established by the PSOA.

3.0 RULES FOR CURRENT EMPLOYEES

3.01 GENERAL RULES AND PRINCIPLES FOR EMPLOYEES: PROHIBITIONS

The Corporation recognizes the importance of achieving the highest standards of conduct from all employees and expects employees to conduct themselves with personal integrity, ethics, honesty and diligence in performing their duties. An employee must uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of the Corporation are conserved and enhanced.

So as to avoid conflicts of interest, employees are required to conform to at least the following rules:

- (a) An employee shall not use or attempt to use their employment by Metrolinx to directly or indirectly benefit themselves or a family member or friend.
- (b) An employee shall not allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties to Metrolinx.
- (c) An employee shall not accept a gift, including a nominal gift, from anyone outside of Metrolinx unless such acceptance is consistent with section 3.02 of this Policy and the Metrolinx Gifts and Hospitality Guidelines.
- (d) An employee shall not disclose confidential information obtained during the course of their employment by Metrolinx to a person or entity unless the employee is authorized to do so by law or by Metrolinx.
- (e) An employee shall not use confidential information in a business or undertaking outside their work for Metrolinx.
- (f) An employee shall not accept a gift directly or indirectly in exchange for disclosing confidential information, nor in any circumstances outside of those allowed by section 3.02 of this Policy and the Metrolinx Gifts and Hospitality Guidelines.
- (g) When performing their duties to Metrolinx, an employee shall not give preferential treatment to any person or entity, including a person or entity in which the employee or a member of their family or a friend has a personal or private business interest.
- (h) When performing their duties to Metrolinx, an employee shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it.
- (i) An employee shall not offer assistance to a person or entity in dealing with Metrolinx other than assistance given in the ordinary course of the individual's employment.
- (j) An employee shall not, on behalf of Metrolinx, hire their family member or friend. Additional requirements are in the Metrolinx Nepotism Policy.

(k) An employee shall not, on behalf of Metrolinx, enter into a contract with their family member or friend, or with any person or entity in which any of them has a substantial interest.

(l) An employee who hires a person on behalf of Metrolinx shall ensure that the person does not report to, or supervise the work of, the person's family member or friend. Additional requirements are in the Metrolinx Nepotism Policy.

(m) An employee who reports to, or supervises the work of, their family member or friend, shall notify Human Resources. Additional requirements are in the Metrolinx Nepotism Policy.

(n) An employee shall not become employed by or engage in a business or undertaking outside their employment by Metrolinx in any of the following circumstances:

- i. If the employee's private interests in connection with the employment or undertaking could conflict with their duties to Metrolinx;
- ii. If the employment or undertaking would interfere with the employee's ability to perform their duties to Metrolinx;
- iii. If the employment is in a professional capacity and is likely to influence or detrimentally affect the employee's ability to perform their duties to Metrolinx;
- iv. If the employment would constitute full-time employment for another person. However, this paragraph does not apply with respect to a public servant who is employed part-time by Metrolinx. This paragraph also does not apply with respect to an employee who is on an authorized leave of absence from their position, but only if the employment is not contrary to or inconsistent with the terms of the leave of absence;
- v. If, in connection with the employment or undertaking, any person would derive an advantage from the individual's employment with Metrolinx; or
- vi. If Metrolinx or government premises, equipment or supplies are used in the employment or undertaking.

Please refer to the Metrolinx Unpaid Leave of Absence – Non-ESA Policy. While certain alternative full-time work, while on leave, may not result in a conflict of interest, such work may be prohibited by that Policy.

(o) An employee shall not participate in decision-making by Metrolinx with respect to a matter that the employee is able to influence in the course of their duties if the employee could benefit from the decision. This does not apply if the employee obtains the prior approval of the Ethics executive to participate in decision-making by Metrolinx with respect to the matter.

(p) An employee who, in the course of their employment with Metrolinx, is a member of a body or group, shall not participate in, or attempt to influence, decision-making by the body or group with respect to a matter if the employee could benefit from the decision or if, as a result of the decision, the interests of the body or group could conflict with the interests of Metrolinx. An employee so described shall inform the body or group if the circumstances described in this prohibition exist.

The principles set forth above regarding confidential information are not to be interpreted to prevent an employee or former employee carrying out responsibilities under or in relation to any applicable Canadian federal, provincial or territorial law.

If a conflict does arise between the private interests of an employee and the responsibilities of that employee with the Corporation the conflict must be resolved in a manner satisfactory to the ethics executive.

3.02 ADDITIONAL RULES FOR EMPLOYEES REGARDING GIFTS, HOSPITALITY AND OTHER BENEFITS

Reasonable levels of business hospitality are useful practices in the business environment in which the Corporation operates. These practices can contribute to developing good business relationships with the various entities with which the Corporation must work to achieve its objectives and advance the public interest.

Tangible gifts of any value should be refused. This includes promotional gifts or items of nominal value. Other forms of gifts, hospitality or other benefits that could influence, or be perceived by others to influence, an employee's judgment when performing their duties for the Corporation (including a benefit to family members, friends or business associates) should also be refused.

Gifts, hospitality or other benefits should be returned or refused with reference to this Policy. Where it is not practical to decline, return or refuse a gift, hospitality or other benefit as required under this Policy, the employee must make a report on the matter to the ethics executive. On receiving such a report, the ethics executive may require that the benefit, or its reasonable equivalent, be turned over to the Corporation, devoted to charitable purposes or otherwise disposed of by the employee.

As set out in the Metrolinx Gifts and Hospitality Guidelines, attached as Schedule A, in limited circumstances, gifts and hospitality, may be accepted with (1) approval from a member of Senior Management Team ("SMT") and (2) notice to the ethics executive by that SMT member.

3.03 ADDITIONAL RULES FOR EMPLOYEES REGARDING MATTERS THAT MIGHT INVOLVE THE PRIVATE SECTOR: PROACTIVE DECLARATIONS OF FINANCIAL INTERESTS AND PROHIBITIONS ON PURCHASES

(a) The rules in this section apply to every Metrolinx employee who routinely works on one or more matters that might involve the private sector and who has access to confidential information about the matter obtained during the course of their employment by Metrolinx.

(b) "Matter that might involve the private sector" means a matter that relates to services currently provided by Metrolinx with respect to which it is possible that a private sector entity will provide all or part of the financing for the services or will provide some or all of the services.

(c) When an employee as described in 3.03(a) begins work on a matter that might involve the private sector, they shall make a declaration to the Integrity Commissioner in which they disclose the following matters respecting their financial interests:

- i. A legal or beneficial interest of the employee in securities or derivatives of corporations or governments, other than the Government of Ontario; and/or
- ii. A legal or beneficial interest of the employee in a business entity or a commercial operation or in the assets of such an entity or operation; and/or
- iii. A legal or beneficial interest of the employee in real property; and/or

- iv. A legal or beneficial interest of the employee in a mutual fund that is operated as an investment club where,
 - its shares or units are held by not more than 50 persons and its indebtedness has never been offered to the public; and
 - it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees, and
 - all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations.

(d) Notwithstanding the above, an employee is not required to disclose their legal or beneficial interest in any of the following:

- i. A mutual fund within the meaning of subsection 1 (1) of the *Securities Act* other than a mutual fund described at item (c) iv. of this section; and/or
- ii. Fixed-value securities issued or guaranteed by a government or a government agency; and/or
- iii. A guaranteed investment certificate or similar financial instrument issued by a financial institution entitled by law to issue such instruments; and/or
- iv. A registered pension plan, an employee benefit plan, an annuity or life insurance policy or a deferred profit-sharing plan; and/or
- v. Real property that the employee, or a member of their immediate family, uses primarily as a residence or for recreational purposes.

(e) Employees shall disclose the information required by this section, with necessary modifications, in respect of their spouse and dependent children, but only to the extent that the legal or beneficial interests of the spouse or a child could create a conflict of interest.

For this purpose, employees shall make reasonable efforts to obtain information about the financial interests described in this section of their spouse and dependent children.

(f) Affected employees shall give the Integrity Commissioner a revised declaration whenever there is a change in any of the information required to be disclosed.

(g) Employees described in section 3.03(a) of the Policy shall not purchase, or cause another person to purchase on their behalf, a legal or beneficial interest in an entity that is carrying on, or proposes to carry on, an activity relating to a matter that might involve the private sector.

However, an employee may purchase an interest in a mutual fund (within the meaning of subsection 1(1) of the *Securities Act*) that includes securities of a person or entity described in the first paragraph of this section 3.03(g) but not an interest in a mutual fund described at item (iv) of section 3.03(c) of this Policy that includes such securities.

(h) The prohibition described in the first paragraph of section 3.03(g) of this Policy ceases to have effect with respect to the matter,

- i. six months after the date on which the action in respect of the matter is completed; or
- ii. six months after the date that Metrolinx ceases to work on the matter.

3.04 EMPLOYEE COMPLIANCE WITH POLICY

From time to time, the Corporation shall establish procedures to monitor and help ensure employee compliance with the Policy. These procedures will include an annual written review and attestation completed by all employees at or above the Manager level, who were also at or above that level in the preceding calendar year, in which each such employee confirms that: (a) they have read the Policy and Guidelines as at the date of attestation; (b) they are unaware of any potential conflict of interest other than those specifically set out in the completed attestation; and (c) they were in compliance with the Policy and Guidelines in the preceding calendar year.

An employee who fails to comply with this Policy may be subject to disciplinary measures. Disciplinary measures may include termination of employment

4.0 RULES FOR FORMER EMPLOYEES

4.01 POST-SERVICE RESTRICTIONS FOR ALL FORMER EMPLOYEES

Counsel or Advice

In addition to any applicable restrictions set out in section 4.02 of this Policy, a former employee, after cessation of employment with the Corporation, either personally or through or on behalf of any other person or entity, where that employee advised the Corporation on a particular proceeding, negotiation or transaction, must not advise any other person or entity in connection with that proceeding, negotiation or transaction unless the Corporation ceases to be involved in the proceeding, negotiation or transaction.

Preferential Treatment and Privileged Access

A former employee shall not seek preferential treatment by, or privileged access to, public servants who work in a minister's office, a ministry or a public body, including Metrolinx employees and Directors.

Confidential Information

A former employee shall not use confidential information in a business or undertaking. A former employee shall not disclose confidential information obtained during the course of their employment by the Corporation to a person or entity unless the former employee is authorized to do so by law or by the Corporation.

Determinations with respect to post-service restrictions, for former and current employees, are appropriately made by the Commissioner.

4.02 ADDITIONAL POST-SERVICE RESTRICTIONS FOR FORMER RESTRICTED EMPLOYEES

Notwithstanding and in addition to any other provision in this Policy, Restricted Employees shall not, within a period of one year after cessation of employment with the Corporation:

- (a) Accept employment with a public body, person, private sector organization or other entity (collectively "Prohibited Entities" and individually a "Prohibited Entity"), serve as a member of the board of directors or other governing body of a Prohibited Entity, or provide services or advice to a Prohibited Entity, where that Restricted Employee has,

at any time during the immediate one year preceding their cessation of employment, on behalf of the Corporation:

- i. had a substantial involvement with that Prohibited Entity on a material proceeding, initiative or transaction of ongoing interest to the Corporation; and
 - ii. had access to confidential information that, if disclosed to that Prohibited Entity, could result in harm to the Corporation or could give that Prohibited Entity an unfair advantage in relation to one or more third parties; or
- (b) On behalf of a public body or another person or entity, lobby an employee or Director of the Corporation.

Requests for determinations with respect to post-service restrictions, for former and current employees, should be made to the Commissioner.

5.0 RULES FOR DIRECTORS AND FORMER DIRECTORS

5.01 GENERAL RULES AND PRINCIPLES FOR DIRECTORS

Directors shall maintain the highest standards of ethical behaviour and business conduct in the performance and exercise of their responsibilities as Directors of the Corporation or when otherwise representing the Corporation, so that public confidence and trust in the integrity, objectivity and impartiality of the Corporation are conserved and enhanced.

So as to avoid conflicts of interest, Directors are required to conform to the following rules:

(a) A Director shall not use or attempt to use their Metrolinx appointment to directly or indirectly benefit themselves or a family member or friend.

(b) A Director shall not allow the prospect of their future appointment or employment by a person or entity to detrimentally affect the performance of their duties to Metrolinx.

(c) A Director shall not accept a gift, including a nominal gift, from anyone outside of Metrolinx unless such acceptance is consistent with section 5.02 of this Policy.

(d) A Director shall not disclose confidential information obtained during the course of their Metrolinx appointment to a person or entity unless the Director is authorized to do so by law or by Metrolinx.

(e) A Director shall not use confidential information in a business or undertaking outside of their Metrolinx appointment.

(f) A Director shall not accept a gift directly or indirectly in exchange for disclosing confidential information, nor in any circumstances outside of those that are consistent with section 5.02 of this Policy.

(g) When performing their duties to Metrolinx, a Director shall not give preferential treatment to any person or entity, including a person or entity in which the Director or a member of their family or a friend has an interest.

(h) When performing their duties to Metrolinx, a Director shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it.

(i) A Director shall not offer assistance to a person or entity in dealing with Metrolinx other than assistance given in the ordinary course of the individual's appointment.

(j) A Director shall not, on behalf of Metrolinx, cause or influence the hiring or appointment of their family member or friend.

(k) A Director shall not, on behalf of Metrolinx, cause or influence the entering into a contract with their family member or friend, or with any person or entity in which any of them has a substantial interest.

(l) A Director shall not become employed by or engage in a business or undertaking outside their Metrolinx appointment in any of the following circumstances:

- i. If the Director's private interests in connection with the employment or undertaking could conflict with their duties to Metrolinx;
- ii. If the employment or undertaking would interfere with the Director's ability to perform their duties to Metrolinx;
- iii. If the employment or engagement is in a professional capacity and is likely to influence or detrimentally affect the Director's ability to perform their duties to Metrolinx;
- iv. If, in connection with the employment or undertaking, any person would derive an advantage from the individual's Metrolinx appointment; or
- v. If Metrolinx or government premises, equipment or supplies are used in the employment or undertaking.

(m) A Director shall not participate in decision-making by Metrolinx with respect to a matter that the Director is able to influence in the course of their duties if the Director could benefit from the decision. This does not apply if the Director obtains the prior approval of their Ethics executive to participate in decision-making by Metrolinx respect to the matter.

(n) An Director who, in the course of their Metrolinx appointment, is a member of a body or group, shall not participate in, or attempt to influence, decision-making by the body or group with respect to a matter if the Director could benefit from the decision or if, as a result of the decision, the interests of the body or group could conflict with the interests of Metrolinx. A Director so described shall inform the body or group if the circumstances described in this prohibition exist.

(o) A Director shall not participate in or attempt to influence a decision of the Board in respect of which the Director, their family member or friend could personally benefit.

(p) in accordance with the Ontario *Business Corporations Act* conflict of interest provisions, incorporated by reference in the *Metrolinx Act*, a Director who:

- i. is a party to a material contract or transaction or proposed material contract or transaction with the corporation; or
- ii. is a director or officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation,

shall disclose in writing to the corporation, through the Chair, or request to have entered in the minutes of meetings of Directors the nature and extent of his interest in accordance with section 7.02 below.

Further, such a Director shall not attend any part of a meeting of Directors during which the material contract or transaction is discussed and shall not vote on any resolution to approve the contract or transaction.

The principles set forth in section 5.01 are not to be interpreted to prevent a Director or former Director carrying out their responsibilities under applicable law.

5.02 RULES FOR DIRECTORS REGARDING GIFTS, HOSPITALITY AND OTHER BENEFITS

Reasonable levels of business hospitality are useful practise in the business environment in which the Corporation operates. These practises can contribute to developing good business relationships with the various entities through which the Corporation must work to achieve its objectives and advance the public interest.

Tangible gifts, including those with a nominal value, should be refused. Where a gift, hospitality, favour or other benefit could influence, or be perceived by others to influence, a Director's judgment when performing their duties for the Corporation (including a benefit to family members, friends or business associates), it should be refused.

A Director shall not solicit or accept any gift, hospitality or other benefit arising out of any activity associated with their responsibilities with the Corporation unless it is provided by the Corporation.

Where it is not practical to decline a gift, hospitality or other benefit that is prohibited under this Policy, the Director must make a report on the matter to the ethics executive. On receiving such a report, the ethics executive may require that the benefit, or its reasonable equivalent, be turned over to the Corporation, devoted to charitable purposes or otherwise disposed of by the Director.

5.03 RULES FOR FORMER DIRECTORS

A former Director, after cessation of appointment with the Corporation, either personally or through or on behalf of any other person or entity, where that Director advised the Corporation on a particular proceeding, negotiation or transaction, must not advise any other person or entity in connection with that proceeding, negotiation or transaction unless the Corporation ceases to be involved in the proceeding, negotiation or transaction.

A former Director must not, after cessation of their appointment, seek preferential treatment by, or privileged access to, public servants who work in a minister's office, a ministry or a public body, including Metrolinx employees or Directors.

Directors shall not, within a period of one year after cessation of their appointment with the Corporation:

- a. Accept employment with another public body, person, private sector organization or other entity (collectively "Prohibited Entities" and individually a "Prohibited Entity"), serve as a member of the board of directors or other governing body of a Prohibited Entity, or provide services or advice to a Prohibited Entity, where that Director had, at any time

during the immediate one year preceding the cessation of their appointment, on behalf of the Corporation:

- i. had a substantial involvement with that Prohibited Entity on a material proceeding, initiative or transaction of ongoing interest to the Corporation; and
 - ii. had access to confidential information that, if disclosed to that Prohibited Entity, could result in harm to the Corporation or could give that Prohibited Entity an unfair advantage in relation to one or more third parties; or
- b. On behalf of a public body or another person or entity, lobby an employee or Director of the Corporation.

Confidential Information

A former Director shall not use confidential information in a business or undertaking. A former Director shall not disclose confidential information obtained during the course of their appointment to the Corporation to a person or entity unless the former Director is authorized to do so by law or by the Corporation.

Requests for determinations with respect to post-service restrictions, for former and current Directors, should be made to the Commissioner.

5.04 RULES FOR DIRECTORS REGARDING OUTSIDE FINANCIAL INTERESTS

In this section, “matter that might involve the private sector” means a matter that relates to services currently provided under a program or initiative of the Corporation with respect to which it is possible that a private sector entity will provide all or part of the financing for the services or will provide some or all of the services.

Subject to the clarification below, when a Director begins work on a matter that might involve the private sector, as defined above, they must make a financial declaration to the Commissioner in the manner prescribed for employees in section 3.03. They will also be subject to the restrictions on certain purchases as set out in section 3.03.

For greater clarity, the section 3.03 requirements apply only to a Director who routinely considered matters that might involve the private sector and who has access to confidential information about the matter obtained during the course of a Director’s appointment. This restriction applies both during a Director’s appointment with the Corporation and for six months after the matter is completed, or for six months after the date the matter ceases to be under consideration by the Corporation.

6.0 ETHICS EXECUTIVE

6.01 ROLE OF THE ETHICS EXECUTIVE

The role of the ethics executives is to:

- (a) Promote the ethical conduct of employees and Directors;
- (b) Ensure that employees and Directors are familiar with this Policy;
- (c) Determine whether a conflict of interest contrary to this Policy exists; and
- (d) Provide advice to employees and Directors about the application of this Policy.

Employees and Directors may seek the advice of the appropriate ethics executive on the application of this Policy to them. The ethics executive may seek the advice of or refer a matter to the Integrity Commissioner.

6.02 POWERS AND DUTIES

If the ethics executive for employees or for Directors receives a request for a determination, a notification of a conflict of interest, or otherwise has concerns that this Policy has been or will be contravened by an employee or Director, they may make such enquiries as they consider appropriate in the circumstances. Depending on the circumstances, the ethics executive may alternatively refer the matter to the Commissioner. Matters regarding post-service restrictions should always be referred to the Commissioner.

Where a breach of the Policy is found, the ethics executive must give directions to address the actual or potential conflict of interest. Employees and Directors must comply with the ethics executive's directions, including those of the Commissioner.

6.03 DETERMINATIONS

Under the PSOA, the Ethics executive has broad powers to make a determination on any matter brought to their attention, and give any direction that the ethics executive considers appropriate in order to address the conflict of interest. For example, following the ethics executive's determination of a conflict of interest or other breach under this Policy, they may, among other possibilities:

- a. Determine that an employee be transferred to another position, assigned other duties, or temporarily be relieved of duties in order to avoid or remedy the actual or potential breach;
- b. Direct that the employee or Director transfer ownership or control of an asset to a neutral third party in order to avoid a conflict of interest; and/or
- c. Direct disciplinary measures, including suspension or dismissal, or require that an employee's or Director's resignation be accepted.

In addition, a breach of this Policy by a Director, as determined by the ethics executive or the Commissioner, as the case may be, shall be reported to the Minister of Transportation.

A more complete description of the role, rights and responsibilities of the ethics executive, and potential consequences of a finding of a conflict of interest or other breach of this Policy, the PSOA or its Regulations, is contained in the PSOA and its Regulations.

7.0 REPORTING REQUIREMENTS

7.01 EMPLOYEE REPORTING OF A CONFLICT OF INTEREST

All Employees must report a conflict of interest situation to the ethics executive. The employee's report must clearly identify the nature of the conflict of interest.

The ethics executive may address the outside activity or interest, and require that it be curtailed, modified or stopped. The ethics executive may place restrictions on the employee's duties; for example, recusals from certain activities or screening of decisions.

Metrolinx's processes for reporting and managing a possible in-service conflict of interest are at Schedule B, "In-Service Conflict of Interest Declaration and Determination Process for Metrolinx Employees."

7.02 DECLARATION OF A CONFLICT OF INTEREST BY A DIRECTOR

Directors are responsible for identifying actual and perceived conflicts of interest. Once a Director becomes aware of a conflict of interest, it is their duty to report it as follows:

(a) Where a Director has a conflict of interest:

- i. The Director shall declare the conflict of interest to the Chair of the Board, as well as to the Chair of the Committee for the meeting at which the matter that is the subject of the Director's conflict arises, at the earliest opportunity, prior to discussion or decision on the matter by the Board or Committee. If the Chair of the Board is absent at such meeting, the Committee Chair shall report the conflict to the Board Chair at the first opportunity. The Director shall disclose the nature and extent of the interest and to the extent to which the interest or information is within their knowledge or control. The Director shall further disclose any steps they have taken to mitigate the conflict of interest.
- ii. If the Director was not then interested in the proposed contract or transaction at the time that it is considered by the Board, they shall declare the conflict at the first meeting after they became so interested.
- iii. If the person who is interested in a contract or transaction later becomes a Director, they shall declare the conflict at the first meeting after they became a Director.
- iv. Any declared conflicts will be noted in the meeting minutes. Directors shall follow-up in writing to the Chair of the Board in a timely manner regarding specific conflicts of interest disclosed during Board or Committee meetings. The written disclosure should address the specific matter, nature and extent of the conflict and the steps taken by the Director to mitigate and manage the conflict situation.

(b) Directors have an obligation to update their conflict declarations and keep the Chair of the Board apprised of changes in their situations impacting any conflict of interest. The Corporate Secretary's office maintains a register of such conflicts so declared.

(c) In addition to declaring the conflict at any meeting at which the conflict may arise, if the Chair of the Board has a personal or pecuniary interest that could raise an issue of conflict of interest under this Policy, the Chair shall also declare any conflict of interest to the Commissioner. The Chair shall disclose the nature and extent of the conflict of interest and the extent to which the interest or information is within his knowledge or control. The Chair shall further disclose any steps they have taken to mitigate the conflict of interest.

8.0 RECORDS AND DISTRIBUTION

8.01 RECORDS OF CONFLICT OF INTEREST DECLARATIONS

Human Resources shall maintain records of employee declarations of possible conflicts of interest as follows:

- a. The declaration itself, the resolution of the declaration, and any documents leading to that resolution, in files that are dedicated to PSOA matters;
- b. The declaration itself and its resolution in the employee's employee file; and
- c. An electronic summary of declarations and their resolutions.

Items (a) and (b) shall be maintained for the period of time that is determined by Corporate Records and Information Management for Human Resources records.

Records pertaining to Director conflicts of interest shall be maintained by the Corporate Secretary's office.

8.02 DISTRIBUTION OF CONFLICT OF INTEREST DETERMINATIONS

Where the ethics executive for employees has determined that an employee is in a conflict of interest, Human Resources shall share with Procurement a summary of the conflict and its resolution. In recognition of the confidential nature of this information, only such information as may be required for Procurement to enforce the resolution, with respect to its processes, shall be shared.

REFERENCES

METROLINX POLICIES

Code of Business Conduct and Ethical Employee Behaviour
Code of Business Conduct and Ethical Behaviour for Directors
Political Activity Policy
Disclosure of Wrongdoing Policy
Nepotism Policy
Meals, Expenses and Accommodation Policy
Unpaid Leave of Absence – Non-ESA Policy

STATUTES, REGULATIONS AND DIRECTIVES

Public Service of Ontario Act, 2006, S.O. 2006
Regulation 381/07: Conflict of Interest Rules for Public Servants (Ministry)
and Former Public Servants (Ministry)
Travel, Meals and Expenses Directive

DEFINITIONS

In this Policy, the following words or phrases are defined as follows:

"Board" means the Board of Directors of the Corporation.

"Chair" means the Chair of the Board.

"Chief Executive Officer (CEO)" means the President & Chief Executive Officer of the Corporation.

"Confidential Information" means information that is not available to the public, including third-party confidential information in the custody or control of the Corporation, and that, if

disclosed, could result in harm to the Crown or the Corporation, or could give the person to whom it is disclosed an advantage.

“Conflict of Interest” or **“Conflict”** means a situation or potential situation in which private interests may influence, or, in the opinion of the ethics executive, be reasonably perceived by others to influence, an employee’s, or Director’s, judgment when performing their duties for the Corporation.

All conflicts of interest arise from perception. For this purpose, the question before the Ethics executive will be whether or not a reasonable person would perceive a conflict of interest between the outside interest and the employee’s or Director’s judgment. The decision as to whether or not a perceived conflict exists will include some degree of subjectivity. The decision would take into account the facts of the outside interest and of the employee’s/Director’s role, rather than an alternative scenario that might be imagined, speculated or misperceived. In other words, it is the conflict itself that may or may not be perceived, rather than the underlying facts.

“Commissioner” means the Integrity Commissioner appointed under the PSOA and its Regulations.

“Corporation” means Metrolinx.

“Director” means any individual who is a member of the Board of Directors.

“Employee” means any employee of the Corporation, whether full or part-time, whether employed for an indefinite, fixed or otherwise limited term, and includes individuals either seconded to the Corporation from another employer, seconded to another employer from the Corporation or on a leave of absence, subject to the terms of the leave or secondment.

“Ethics Executive” means (a) for employees (apart from the CEO), the Chief Executive Officer; (b) for the Chief Executive Officer, the Integrity Commissioner; (c) for the Chair, the Integrity Commissioner; (d) for all other Directors, the Chair; (e) for former employees and Directors, the Integrity Commissioner; and (f) for all matters regarding post-service restrictions, including determinations for current employees and current Directors, the Integrity Commissioner.

“Family Member” means a family member as defined by the Metrolinx Nepotism Policy, being a parent, spouse, aunt, parent-in-law, sibling, uncle, step-parent, sibling-in-law, niece, child, half-sibling, nephew, child-in-law, grandparent, first cousin, step-child, or grandchild.

“Gift” includes any benefit, favour or hospitality of any kind that is offered from outside of Metrolinx in a business context.

“Private Interest” means an employee’s or Director’s interest that is distinct from her or his relationship with Metrolinx. That interest may be in the form of a personal interest or a private business:

“Personal Interest” means an employee’s or Director’s non-pecuniary commitment, obligation, duty or goal that is distinct from her or his relationship with Metrolinx. A personal interest and a private business interest are both outside interests or outside activities that might influence, or be perceived to influence, an employee’s or Director’s judgment on behalf of Metrolinx. Unlike a private business interest, a personal interest is primarily of a non-financial nature. For example, an employee’s commitments and obligations to a family member constitute a personal interest. Should the employee

report to, or have their work supervised by, that family member, they will be in a conflict of interest, as explained further at section 3.01(l) of this Policy and in the Metrolinx Nepotism Policy. For example, an employee's commitment or obligation to an organization that takes public positions on Metrolinx activities may be in a conflict as a result of that personal interest. Whether they are in a conflict will depend also on their role within Metrolinx.

“Private business interest” means an employee's or Director's pecuniary interest that is distinct from her or his relationship with Metrolinx. A private business interest and a personal interest are both outside interests or outside activities that might influence, or be perceived to influence, an employee's or Director's judgment on behalf of Metrolinx. Unlike a personal interest, a private business interest is primarily of a financial nature. The financial gains of an employee's or Director's family member or friend also constitute a private business interest for the purpose of this Policy, possibly giving rise to a conflict.

“Public Body” means a public body that is identified as such under the PSOA.

“Public Servant” means any public servant as defined by the PSOA. All Metrolinx employees and appointees to its Board of Directors are public servants.

“Restricted Employee” means (a) the Chief Executive Officer; (b) all Presidents and Executive Vice-Presidents serving as the senior employee heading any Corporation division or subsidiary; (c) all Vice-Presidents of the Corporation, the Corporation's divisions and the Corporation's subsidiaries; (d) all management level employees reporting directly to the CEO; and (e) any other employee designated as such in their terms of employment with the Corporation.

“Spouse” means (a) a spouse as defined in section 1 of the *Family Law Act* (Ontario), or (b) either of two persons who live together in a conjugal relationship outside marriage.

APPENDIX

Schedule A: Gifts and Hospitality Guidelines for Employees

SCHEDULE A

To the Conflict of Interest Policy:

GIFTS AND HOSPITALITY GUIDELINES FOR EMPLOYEES

Metrolinx's Conflict of Interest Policy describes employee responsibilities in assessing and avoiding conflicts of interest. Determining whether or not a situation gives rise to a conflict of interest, or to the appearance of any impropriety, requires an examination of the specific context in which the situation arises including, for example, who is involved, their role(s), the employee's role, and the actual gift or event.

In addition, general optics of the gift, hospitality or event must be considered, recognizing that optics may change due to timing, recent news, general public perception and the environment in which Metrolinx operates.

Exceptions to these Guidelines may be approved only by the President & CEO.

PROHIBITED GIFTS

The acceptance of the following gifts is prohibited in any circumstances:

- a. Wine, spirits or other alcohol-based products;
- b. Travel or accommodation;
- c. Invitations to attend sporting events;
- d. Invitations to entertainment or cultural events;
- e. Payment of entry fees for participatory events;
- f. Cash;
- g. Tangible items of any value; and
- h. Gifts or benefits of any kind, including hospitality, from a vendor where employees are directly involved in the active procurement of goods or services involving that vendor.

Employees cannot circumvent the gift acceptance prohibition through the acceptance of "prizes" or by accepting benefits that are sponsored in any manner by vendors.

Such gifts should be politely returned or refused with reference to this Policy.

"Entertainment or cultural events," for this purpose, are considered to be those events, performances and activities as provided by others to entertain. Such events include but are not limited to concerts, cinema, theatre, galleries and dance.

Many events may be considered to be both entertainment and cultural events. For these Guidelines, the reference to cultural events expands the prohibition against attendance at entertainment events to also prohibit attendance at events that include but are not limited to festivals, parades and exhibitions.

Entertainment or cultural events may be presented in a live format, but not necessarily in such format, as in the case of cinema or galleries. Sporting events may be considered to be a form of entertainment, but are referred to uniquely as sporting events in these Guidelines.

These Guidelines prohibit attendance at entertainment, cultural and sporting events regardless of the purpose of the event. These Guidelines prohibit attendance at such events regardless of the associated value or costs, and regardless of who is covering those costs.

MEALS (as stand-alone events)

The following guidelines are with respect to meals as stand-alone events. Where meals are included in a larger event, see the guidelines under the heading "All Other Offers and Invitations, Including Business Events".

Employees should be making their best efforts to discuss business with third parties during regular business hours and in business settings. Nevertheless, representatives of external organizations often invite employees to meals, most commonly to lunch either preceding, following or during business discussions or other business interactions.

Employees may be permitted to accept gifts of paid meals from the following groups with (1) approval from a member of Senior Management Team ("SMT") and (2) notice to the ethics executive from the approving SMT member, if applicable:

- a. A person, group or entity that has dealings with Metrolinx;
- b. A person, group or entity to whom the public servant provides services in the course of their duties to Metrolinx; and
- c. A person, group or entity that seeks to do business with Metrolinx

In providing such approval, and assessing whether a reasonable person might conclude that the gift could influence the public servant when performing their duties to Metrolinx, at least the following shall be taken into consideration:

- a. Expected value of the meal: Is it modest or appropriate for the circumstances? The invitation to pay should not be permitted if the expected value of the meal is not modest or appropriate for the circumstances.
- b. Business or educational context: Is the meal expected to provide an opportunity for business exchange or education, or is it merely social? Consider the role of the employee in Metrolinx's interaction with the source of the gift. Paying for the meal should only be approved if the meal is expected to provide a business or educational value.
- c. Frequency: How often have representatives of this organization paid for meals for this employee? If representatives of the organization have paid for four meals for the employee in a twelve-month period, no further payments by representatives of this organization for this employee should be approved.
- d. Venue: Is the location of the meal appropriate? If the venue itself is likely to give rise to perceptions of impropriety, the paying for the meal should not be approved.

Where the paying for meals has not been approved, and employees believe that participation in the meal itself is appropriate, employees may be eligible to claim related expenses pursuant to the Travel, Meals and Expenses Directive, as mirrored in the Meals, Expenses and Accommodation Policy, subject to the requirements of that Directive.

Except where noted otherwise, these Guidelines are intended to apply to paying for meals that stand alone from other events.

HONORARIUMS

As a token of appreciation for providing a voluntary service, such as public speaking, organizations will often provide employees with honorariums. Such honorariums, regardless of their value, shall be refused by the individual and donated to charity.

ALL OTHER OFFERS OR INVITATIONS, INCLUDING BUSINESS EVENTS

The following guidelines are in place for all other offers or invitations, including business events, and including those events that include meals within that larger event. For stand-alone meals, see the guidelines under the heading "Meals (as stand-alone events)."

Employees may be permitted to accept all other offers or invitations as described in the above paragraph with (1) approval from an SMT member and (2) notice to the ethics executive from the approving SMT member, if applicable:

- a. A person, group or entity that has dealings with Metrolinx.
- b. A person, group or entity to whom the public servant provides services in the course of their duties to Metrolinx.
- c. A person, group or entity that seeks to do business with Metrolinx.

In providing such approval, and assessing whether a reasonable person might conclude that the gift could influence the public servant when performing their duties to Metrolinx, at least the following shall be taken into consideration:

- a. Value of the item or invitation: Is it modest or appropriate for the circumstance? Material gifts cannot be accepted in any circumstance.
- b. Frequency: Are gifts or invitations routinely received and accepted from the individual or organization?
- c. Venue: Is the location of the event appropriate?
- d. Business Context: Does the event offer an opportunity for business exchange, or is it social? Consider the role of the employee in Metrolinx's interaction with the source of the gift. Is there an appropriate and possible alternative; that is, can business items be addressed in an appropriate business environment during business hours?
- e. Group Setting: Does the event occur in a group setting? Are there other individuals from different organizations also present?
- f. Educational Component: Does the event include training, knowledge or an educational component?
- g. Aggregate Amount: what is the total amount (value and number) of gifts and hospitality received by an employee from all sources? Is this number and amount appropriate?