

PTSC

**Public
Transportation
Services
Corporation**

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Plaza, Los
Angeles, CA 90012

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PTSC Board
September 8, 2005

SUBJECT: POLICIES, PROCEDURES AND CODES OF CONDUCT

ACTION: ADOPT UPDATED POLICIES, PROCEDURES AND CODES OF CONDUCT FOR PTSC

RECOMMENDATION

- Adopt MTA Policies, Procedures and Guidelines including without limitation: Accounting, Administration, Communications, Drug and Alcohol, Equal Employment Opportunity, Finance and Budget, General Services, Human Resources, and Procurement, including all future amendments.
- Adopt for PTSC Board Members, Contractors and Consultants, and Employees, MTA's Codes of Conduct, including all future amendments.

BACKGROUND

The co-location and integrated working relationship between MTA and PTSC Directors, contractors, consultants and employees prompted the PTSC Board in August 1997 to adopt MTA's Policies, Procedures and Codes of Conduct in their entirety. Since August 1997, MTA has amended its policies and Codes in response to legislative enactments and management directives. For example, legislation (Hayden bill) enacted after 1997 imposes new requirements and prohibitions on MTA's Board of Directors. Accordingly, PTSC should update its Policies, Procedures and Codes of Conduct to remain in conformance with MTA.

For the PTSC Board's convenience, the recommended action also provides for automatic updates to these Policies, Procedures and Codes of Conduct whenever changes are made by MTA. Thus, the recommended actions will allow PTSC Directors and employees to function immediately under practices that are consistent throughout MTA/PTSC until such time as the need for specific separate policies for certain functions is identified.



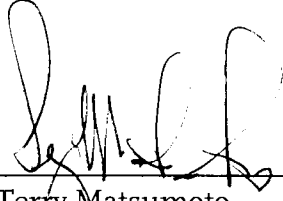
Metropolitan Transportation Authority

Metro

ATTACHMENTS

1. Board of Directors Code of Conduct
2. Contractor Code of Conduct
3. Employee Code of Conduct
4. Listing of all current MTA Policies and Procedures

Prepared by Ronald Stamm, County Counsel

A handwritten signature in black ink, appearing to read 'Terry Matsumoto', written over a horizontal line.

Terry Matsumoto
Chief Financial Officer, PTSC

Board of Director's Code of Conduct Consisting of:

ADMINISTRATIVE CODE 5-10
&
PUBLIC UTILITIES CODE
§130051.20, §130051.25 & §130600-130730

5-10-010 Incorporation of Statutory Provisions. The provisions of Chapter 6, entitled *Code of Conduct for the Board of the Los Angeles County Metropolitan Transportation Authority*, of Division 12 of the Public Utilities Code (commencing with Section 130600), and Public Utilities Code Section 130051.20, along with such other provisions as are included in this chapter, shall constitute the code of conduct for members of the Board of Directors. Any other code of conduct for Board Members which is in existence on the effective date of this chapter is repealed.

5-10-020 Enforcement and Sanctions.

A. An alleged violation of this chapter by any member of the Board of Directors or by a member or his or her staff shall be referred to the Inspector General for investigation. Upon completion of the investigation, and if the matter has been determined not to be criminal in nature and can be disclosed, the Inspector General shall report the findings to the Board of Directors. If the matter is determined to be criminal in nature, the Inspector General shall refer the matter to the appropriate enforcement authorities for prosecution.

B. For any matter reported to the Board of Directors under paragraph A., the Board shall determine the appropriate sanction, if any, to be imposed. The sanction imposed should depend upon the severity of the violation and may be progressive unless the violation is determined to be so egregious as to warrant more severe action as an initial sanction.

C. The Board of Directors may consult with the Inspector General, the Ethics Officer and/or the General Counsel for an opinion regarding the sanctions appropriate for any violation. The sanctions imposed may include any of the following:

1. Public or private censure by the Board of Directors;
2. Disqualification from participation in any discussion or vote on the matter related to the violation;
3. Removal of the Board member from one or more Board committees for a specified period of time;
4. Permanent removal of the Board member from one or more Board committees;
5. Suspension from all Board of Director actions for a period of time;
6. A monetary fine in an amount determined by the Board of Directors, including but not limited to, forfeiture of the stipend for participation as a member of the Board of Directors; and

7. Any other sanction determined by the Board of Directors to be appropriate and reasonable based upon the nature of the violation.
- D. In an instance where a violation of this chapter has been committed by a person who is staff to a member of the Board of Directors, in addition to any sanction imposed on the staff member, a sanction may be imposed on the member of the Board of Directors to whom that staff member reported if the Board of Directors determines that the member of the Board of Directors knew or reasonably should have known of the conduct of the staff member which violated this chapter.
- E. If a violation of this chapter results in a criminal prosecution or the imposition of civil liability, the Board of Directors may recommend additional sanctions after the criminal or civil proceedings are completed.

130051.20. (a) (1) No construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity seeking a contract with the Los Angeles County Metropolitan Transportation Authority shall give to a member, alternate member, or employee of the authority, or to any member of their immediate families, a contribution of over ten dollars (\$10) in value or amount. A "contribution" includes contributions to candidates or their committees in any federal, state, or local election. (2) Neither the owner, an employee, or any member of their immediate families, of any construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity seeking a contract with the authority shall make a contribution of over ten dollars (\$10) in value or amount to a member, alternate member, or employee of the authority, or to any member of their immediate families. (3) No member, alternate member, or employee of the authority, or member of their immediate families, shall accept, solicit, or direct a contribution of over ten dollars (\$10) in value or amount from any construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity seeking a contract with the authority. (4) No member, alternate member, or employee of the authority shall make or participate in, or use his or her official position to influence, a contract decision if the member, alternate member, or employee has knowingly accepted a contribution of over ten dollars (\$10) in value in the past four years from a participant, or its agent, involved in the contract decision. (5) No member, alternate member, or employee of the authority, or member of their immediate families shall accept, solicit, or direct a contribution of over ten dollars (\$10) in value or amount from a construction

company, engineering firm, consultant, legal firm, or any company, vendor, or business entity that has contracted with the authority in the preceding four years. (b) A member, alternate member, or employee of the authority who has participated as a decisionmaker in the preparation, evaluation, award, or implementation of a contract and who leaves the authority shall not, within three years of leaving the authority, accept employment with any company, vendor, or business entity that was awarded a contract as a result of his or her participation, evaluation, award, or implementation of that contract.

130051.25. (a) For the purpose of this section, "recordable injury" means any injury requiring treatment beyond simple first aid. (b) A construction firm that contracts with the Los Angeles County Metropolitan Transportation Authority shall report total recordable injuries to the authority on a monthly basis. (c) The authority shall annually determine if the number of recordable injuries reported to the authority during the preceding calendar year exceeded the national average of similar injuries as reported by the Bureau of Labor Statistics for the most recent published year. If the authority determines that the number of recordable injuries reported to the authority during the preceding calendar year exceeded the national average, the authority shall not base any safety bonus program for contractors on injuries that result in lost time, and shall base such a program on the overall rate of recordable injuries.

130600. For purposes of this chapter, the following terms have the following meanings:

- (a) "Board" means the board of directors of the Los Angeles County Metropolitan Transportation Authority.
- (b) "Entitlement for use" includes all contracts except competitively bid, labor, or personal employment contracts, regardless of whether an individual accepts, solicits, or directs the contribution for himself or herself or on behalf of any other candidate or committee.
- (d) "Gift" has the same meaning as defined in Section 82028 of the Government Code.
- (e) "Indirect investment or interest" means any investment or interest owned by the spouse or dependent children of an individual, by an agent on behalf of the

individual, or by a business entity or trust in which the individual, the individual's agents, spouse, or dependent children own directly, indirectly or beneficially a 10 percent interest or greater.

- (f) "Participant" means any person, other than a party, as defined in subdivision
- (g), who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license permit or other entitlement for use, including contract actions, and who has a financial interest in the decision. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the board members or MTA employees, testifies in person before the MTA, or otherwise acts to influence officers of the agency.
- (g) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use to competitively bid on contracts, including contract amendments and change orders.
- (h) "MTA" means the Los Angeles County Metropolitan Transportation Authority.

130605. Any reference in this chapter to "chief executive officer," "general counsel," "counsel," "inspector general," "board secretary," or "secretary" is to the officers of the Los Angeles County Metropolitan Transportation Authority appointed under Sections 130051.9 and 130051.25.

130610. (a) The board shall appoint an ethics officer, who shall report to the board.
(b) When in doubt as to the applicability of any provision of this chapter to any particular situation, a board member shall contact the general counsel or the ethics officer for advice.

130615. (a) The provisions of this chapter shall be enforced by the inspector general.
(b) Any violation of this chapter that is also a violation of other state law or of local or federal law may also be prosecuted by the appropriate authority.
(c) Upon notice of a possible violation of this chapter, the board shall refer the matter to the inspector general for investigation. Upon completion of the investigation, if

the matter has been determined not to be criminal in nature and to be of such a nature that it may be disclosed, the inspector general shall report the findings to the board. If the matter is determined to be criminal in nature, the inspector general shall refer the matter to the appropriate enforcement authorities for prosecution.

130620. (a) Sanctions for violations of this chapter shall be determined by the board. The sanctions imposed shall depend upon the severity of the infraction and may be progressive unless the violation is determined to be so egregious as to warrant more severe action initially.
- (b) The board may consult with the inspector general for an opinion regarding the sanctions appropriate to any particular violation.
- (c) Sanctions imposed under this section may include, but are not limited to, any of the following:
- (1) Private reprimand by the board.
 - (2) Public censure by the board at a regularly scheduled meeting.
 - (3) Disqualification from participating in any discussion or vote on any matter related to the violation.
 - (4) Removal of the board member from one or more committees for a period of time.
 - (5) Permanent removal of the board member from one or more committees.
 - (6) Suspension from all board actions for a period of time.
 - (7) A monetary fine in an amount determined by the board.
- (d) If a board member is criminally indicted, he or she shall be suspended from all board actions for the duration of the criminal proceeding. If the board member is acquitted of the charges, he or she shall return to the board as a full, participating member.
- (e) For violations of this chapter that result in findings of criminal or civil liability, the board may recommend additional sanctions to the inspector general after the civil or criminal proceedings are completed.

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130625. Confidential information, particularly investigative reports for the inspector general, shall not be disseminated beyond the authorized recipient of the report.
130630. The role of the board as it relates to the MTA is as follows:
- (a) The board provides counsel and direction to management and shall not be involved in the day-to-day affairs of the MTA.
 - (b) Board members do not have individual power or authority over the MTA. That power and decision-making authority lie with the full board.
130635. The rules of conduct at board meetings shall apply to all matters under consideration by the board except for ceremonial matters and are as follows:
- (a) Board members shall treat MTA staff members and each other with respect and courtesy.
 - (b) Disagreements shall not result in personal comments or attacks against an MTA staff member or another board member.
 - (c) When any member is recognized to speak at a board meeting, the board member shall address the chair.
 - (d) When two or more members address the chair at the same time, the chair shall name the member who is to be the first to speak.
 - (e) When speaking, a member shall confine his or her remarks to the topic under debate or discussion.
 - (f) Each member, in the order recognized by the chair, shall have not more than five minutes to speak.
 - (g) Answers to questions asked by a member shall be counted against the member's five minutes.
 - (h) Once having recognized a member to speak, the chair shall not recognize that member to be heard again, except to answer questions, until all other board members have had an opportunity to speak.
 - (i) All members shall have an opportunity to speak before the chair may enter the discussion.
 - (j) After all members desiring to speak have had an opportunity to be heard once, the time for each member desiring to speak again, or for the first time, shall be limited to a maximum of three minutes.
 - (k) There shall be no limit to the number of times a member is allowed to speak.
 - (l) The secretary shall time the members when discussion of an

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issue begins and notify the chair when a member's time has expired.

130640. (a) Members shall not publicly engage in personal attacks on MTA employees or attempt to discipline any employee.
- (b) Any concerns regarding an employee's performance shall be communicated to the chief executive officer.
- (c) Any concerns regarding the performance of an officer of the board shall be communicated to that officer.
- (d) Nothing in this section limits the right of the board to evaluate board officers.
130650. Committee chairs shall present items from their committee meetings and the recommendation of their committee.
130655. (a) All members shall be afforded an adequate opportunity to review written motions having financial or policy implications prior to the board meeting.
- (b) A written motion having financial or policy implications shall be referred to the appropriate committee for recommendation to the full board, unless the motion is distributed to all board members not later than 48 hours prior to the board meeting or this requirement is waived by the vote of nine board members.
130660. (a) Board members or their staff are prohibited from soliciting or accepting any gift from MTA contractors or from persons or entities that have submitted a proposal or bid for an MTA contract.
- (b) Board members or their staff shall not accept gifts aggregating two hundred eighty-nine dollars (\$289) or more, as specified in Section 89502 or 89503 of the Government Code, from a single source in any calendar year.
- (c) Board members shall disqualify themselves from participating in a decision that may have a financial effect upon a source of income aggregating two hundred fifty dollars (\$250) or more or a donor of gifts aggregating two hundred eighty-nine dollars (\$289) or more, if those gifts were received within 12 months preceding the time of the decision.
- (d) Board members shall not accept gifts aggregating more than ten dollars (\$10) in a calendar month from an MTA registered lobbyist, lobbying firm, or lobbyist employer.
- (e) Board members shall report on their annual Statement of Economic Interest gifts aggregating fifty dollars (\$50) or more and income of two hundred fifty dollars (\$250) or more received from a single source in a calendar year.

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130665. (a) Board members or their staff shall not accept any payment made for a speech given, an article published, participation in a program, or any other appearance at a public or private conference, convention, meeting, social event, meal, or similar gathering.
- (b) This section does not prohibit payments for actual personal services rendered in connection with a member's practice of a bona fide business, trade, or profession.
130670. Reimbursement for travel or lodging may be exempt from the provisions prohibiting gifts if the travel is related to MTA business. That reimbursement, however, shall be reported in the annual Statement of Economic Interest. The general counsel may be consulted prior to accepting payment or reimbursement to determine whether that reimbursement should be disqualified as a gift.
130675. Board members shall not direct any MTA employee, contractor or potential contractor to make a charitable contribution to a specified agency.
130680. (a) The chief executive officer shall be responsible for ensuring the MTA has an independent professional procurement staff. The chief executive officer and designated procurement staff shall be responsible for conducting an independent, autonomous procurement process in accordance with state and federal law.
- (b) Board members shall use objective judgment in voting on a procurement award and base their decision on the criteria established in the procurement documents.
- (c) Board members or their staff shall not attempt to influence contract awards.
- (d) During any procurement process, board members or their staff shall not communicate with MTA staff regarding the procurement.
- (e) Before the staff recommendation for an award is made public, board members or their staff shall only communicate with the chief executive officer or his or her designee regarding the procurement. The chief executive officer shall keep a log of those communications and shall report those communications and responses in writing at the board meeting where action on the procurement is scheduled.
- (f) Board members or their staff shall not attempt to obtain information about the recommendation of the award of a contract until the recommendation is made public.

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- (g) Board members shall not release information about the procurement to the public until the award recommendation is made public.
 - (h) If a board member attempts to communicate with MTA staff to influence the recommended award, this communication shall be reported by staff to the inspector general.
- 130685.
- (a) Prior to the issuance of a request for proposal (RFP), request for interest in qualification (RFIQ), or invitation for bid (IFB), and ending on the date of the selection of the contractor, no person or entity submitting a proposal in response to the RFP, RFIQ, or IFB, nor any officer, employee, representative, agent, or consultant representing the proposer shall contact by any means or engage in any discussion concerning the award of the contract with any board member or his or her staff. Any contact shall be grounds for the disqualification of the proposer.
 - (b) A board member who receives any communication from a proposer in violation of this chapter shall report that communication to the inspector general. The inspector general shall forward this information to the director of contracts and responsible procurement staff.
 - (c) Board members shall not meet with a person or entity who submitted a proposal in response to the RFP, RFIQ, or IFB, nor any officer, employee, representative, agent, or consultant representing the proposer regarding a protest submitted regarding the recommended contract award or any lawsuit or potential lawsuit regarding the recommended contract award.
130690. Board members and their staff shall refrain from conduct that they know or reasonably should know is likely to create in the minds of reasonable observers the perception that the board member or staff member used his or her public position improperly.
- 130700.
- (a) Board members or their staff shall not participate in an MTA decision in which they know or have reason to know that they have a financial interest.
 - (b) Board members shall not be purchasers at any sale, or vendors at any purchase, that is made personally by that member.
 - (c) An individual is deemed to have a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on that individual or the individual's immediate family, distinguishable from its effect on the public generally, or on any of the following:
 - (1) Any business entity in which the board member or staff member has a direct or indirect investment worth one thousand dollars

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- (\$1,000) or more.
- (2) Any real property in which the board member or staff member has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
 - (3) Any source of income, other than gifts and other than loans by a commercial lending institution made in the regular course of business in terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the board member or staff member within 12 months prior to the time when the decision is made.
 - (4) Any business entity in which the board member or a member of his or her staff is a director, officer, partner, trustee, or employee, or holds any position of management.
 - (5) Any donor or, or any intermediary of, agent for a donor of a gift or gifts aggregating two hundred eighty-nine dollars (\$289) or more in value provided to, received by, or promised to, the board member or staff member within 12 months prior to the time the decision is made.
- (d) This section does not prohibit a board member from participating in a decision if that participation is legally required in order for the decision to be made. In that case the individual shall disclose the nature of his or her interest before he or she participates in the decision. For the purposes of this subdivision, the fact that a board member's vote is necessary to break a tie does not make his or her participation legally required.
130705. (a) Board members or their staff shall not engage in any employment, activity, or enterprise that is inconsistent, incompatible, or in conflict with the duties of an MTA officer.
- (b) Board members or their staff shall not use the MTA's facilities, equipment, supplies, badge, prestige, or influence for private gain.
130710. The MTA shall not contract with any of the following:
- (a) MTA board members or their staff.
 - (b) Any profit-making firm or business in which a former board member or member of his or her staff is an officer, principal, partner, or major shareholder.
130715. (a) Former board members or their staff shall not participate in any contract with the agency for a period of 12 months after leaving the board.
- (b) MTA shall not contract with any profit-making firm or business in which a former board member or member of his or her staff is an

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officer, principal, or partner, or is a shareholder who holds more than 10 percent of the stock in the company, for a period of 12 months after the board member has left the board.

130720. Board members shall file Statements of Economic Interest with the ethics officer pursuant to state law, within 30 days of assuming office, annually, and within 30 days of leaving office.

(b) Board members shall file an addendum to the statement required under subdivision (a), disclosing all financial interests both within and outside Los Angeles County, including those financial interests received during the reporting period by all entities in which the member is an officer, principal, partner, or major shareholder.

c) Any amendments to the Statement of Economic Interest or addendum shall be filed within 30 days of the occurrence of the change.

130725. Any person who receives compensation to regularly provide advice, recommendations, or counsel to board members regarding MTA activities shall file a Statement of Economic Interest with the MTA within 10 days of the commencement of the consultant relationship and shall update that statement within 30 days of the end of each calendar quarter. This requirement does not apply to a full time employee of a governmental entity who is already required to file a statement.

130730. Any person who regularly provides advice, recommendations, or counsel to board members regarding MTA activities and also advises another agency or entity that has a financial interest in an item before the board shall be prohibited from giving advice to board members and MTA staff regarding that item.

Contractor Code of Conduct consisting of:
Administrative Code Chapter 5-20 &
Public Utilities Code Section §130685, §130051.20 & §130051.25

5-20-010 Application of the Contractor Code of Conduct. This chapter shall govern the conduct of all Contractors of the MTA. These standards supersede all prior written ethics policies adopted by the MTA which are in conflict with these standards. These standards are to be read in conjunction with applicable provisions of the MTA Procurement Manual and other applicable MTA ordinances, policies and procedures. All Contractors shall ensure that their subcontractors comply with this chapter.

5-20-020 Purpose.

- A. The purposes of this chapter are to protect the integrity of the procurement process, and to provide a comprehensive statement of pertinent regulations and obligations governing the conduct of contractors doing business with the MTA so they will be able to compete fairly and perform their work and services in an ethical manner.
- B. This document does not purport to respond to all ethical issues which may arise in the course of doing business with the MTA. Each person and entity doing business with the MTA is expected at all times to conduct himself or herself in the manner of an ethical, reasonable person.

5-20-030 Interpretation. The Ethics Officer is charged with educating and advising regarding ethical issues. All persons subject to this chapter are authorized to contact the Ethics Officer for an interpretation of this chapter.

5-20-040 Enforcement. The provisions of this chapter may be enforced by the Inspector General and other appropriate enforcement authorities. Violations of law or of this chapter by a contractor should be reported to the Inspector General.

5-20-050 Contract Performance. All contractors doing or seeking to do business with the MTA should refrain from conduct which they know or reasonably should know is likely to create in the minds of an objective observer the perception that they are using or performing their contract with the MTA in an improper manner. Improper conduct in the performance of a contract which will constitute a violation of this chapter includes, but is not limited to, the following:

- A. The making of false or misleading representations regarding any aspect of the performance of the contract;
- B. An intentional breach of any contract term;
- C. Intentional or grossly negligent use of inferior products; and
- D. Misuse of MTA information or access to MTA personnel.

5-20-060 Contacts by Staff Prior to the Issuance of a Solicitation. While informational and market research contacts by MTA employees with prospective contractors can be a valuable source of data to the MTA, such contacts can sometimes provide an unfair advantage in a future procurement to persons contacted as part of the market research. All parties must

exercise sound judgment and caution to ensure that there is no preferential treatment of any prospective contractor and to avoid even the appearance of such preferential treatment.

5-20-070 Lobbying. The MTA shall not award a contract to any person or entity who is in violation of chapter 5-25.

5-20-080 Prohibition Regarding Gifts and Contributions. No bidder or proposer or any of their consultants or proposed subcontractors shall offer, give, or promise to offer or give, directly or indirectly, any gift to any MTA Board Member or employee. No contractor or person doing business with the MTA, or any of their subcontractors, shall offer or give, directly or indirectly, to any MTA Board Member or employee any gift(s) totaling more than fifty dollars (\$50) in a calendar year or more than ten dollars (\$10) in any calendar month. All persons doing business with the MTA or seeking to do business with the MTA, and each of their subcontractors and proposed subcontractors, are charged with full knowledge of the requirements of Public Utilities Code Section 130051.20, regarding the making of campaign contributions, and shall not violate or conspire with any other person to violate said Section.

5-20-090 Prohibition Regarding Offers of Employment. No bidder, proposer, or contractor shall offer, or promise to offer, either directly or indirectly, any future employment or business opportunity to any MTA official, or member of his or her immediate family, significant other or business associates of such persons if such offer of employment is conditioned expressly or impliedly on the awarding of a present or future contract or preference in the awarding of a contract to anyone at any time by the MTA.

5-20-100 Prohibition Regarding Information. Prior to a contract award, no bidder, proposer or contractor shall solicit or obtain, directly or indirectly, from any MTA employee, any information relating to current or future contracts, or a specific pending procurement, unless such information is at the time a public record required to be disclosed under the California Public Records Act, or has otherwise been made available at the same time in the same form to all other bidders, proposers and contractors.

5-20-110 Prohibitions on Use and Disclosure of Confidential Information. At no time shall any contractor who obtains confidential or proprietary MTA information in the course of doing or seeking to do business with the MTA disclose any such information to any person not authorized by the MTA to receive such information or use such information for any personal gain except as necessary to fulfill its contractual obligations to the MTA.

5-20-120 Contractor Pre-Qualification. The MTA will accept bids and proposals for contracts and procurement of goods or services only from firms or entities which are complying with the MTA pre-qualification process as set forth in chapter 4-05. Firms or entities seeking certification as pre-qualified shall submit a completed pre-qualification application. Firms or entities intending to bid as a joint venture should submit a separate pre-qualification application for each joint venture.

5-20-130 Prohibition Regarding Participation in Procurement Development. No contractor who participates in the development of a scope of work, solicitation documents, contractual instruments or technical specifications may participate as a proposer or sub-proposer on that

particular procurement or perform any work on that particular procurement or any other procurement that would constitute an organizational conflict of interest or would give that contractor an unfair advantage over other bidders on that procurement. This prohibition may be waived in writing by the administrative head of procurement for the MTA upon a showing of good cause.

5-20-140 Contractor's Personnel. Each contractor retained by the MTA is fully responsible for the quality and performance of its staff and retains full responsibility for the selection of its personnel. MTA officials are not permitted to direct or recommend personnel that the contractor should hire, and no contractor shall request such a recommendation. However, the MTA retains the right in its absolute discretion to require the removal of any personnel of a contractor or subcontractor assigned at any level to perform services on an MTA contract if the MTA determines, in its sole discretion, that the personnel to be removed are not able to adequately or appropriately perform the services required for the particular contract. Any direction by the MTA to a contractor that specified personnel be removed from work on an MTA contract shall be made in writing.

5-20-150 Duty to Disclose Conflicts of Interest.

- A. Each bidder, proposer and contractor, and each of their consultants and subcontractors, seeking to do business, or doing business, with the MTA has an obligation to promptly disclose in writing to the administrative head of procurement for the MTA any of the following potential conflicts of interest which become known to the management of the bidder, proposer or contractor:
1. Any financial relationship between the bidder, proposer or contractor and a Board Member or member or his or her staff, or an MTA employee;
 2. Any financial or close personal relationship between any officers, directors or key employees of the bidder, proposer or contractor and a Board Member or member of his or her staff, or MTA employee;
 3. Any outstanding offer of employment to, or the current or former employment of, any current or former Board Member or member or his or her staff, or of an MTA employee or former employee, by the bidder, proposer or contractor; or
 4. Any campaign contributions exceeding ten dollars (\$10) made by or on behalf of the bidder, proposer or contractor or its lobbyist to any current Board Member within the previous four (4) years.
- B. The duty to disclose potential conflicts of interest as described in paragraph A. exists prior to and during any employment or contract and regardless of whether the facts actually constitute a conflict of interest under any law. The Ethics Officer, in consultation with the General Counsel, shall provide advice to the administrative head of procurement for the MTA and to the Board of Directors as to whether any facts disclosed under this section constitute a prohibited conflict of interest, and of the impact, if any, of that conflict on the relationship between the bidder, proposer or contractor and the MTA.
- C. Failure to make a disclosure as required by this section, shall be sufficient cause for the MTA to decline to do business with the bidder, proposer or contractor or any of its subcontractors or consultants.

5-20-160 Sanctions.

- A. The MTA encourages good faith reporting of all suspected violations of this chapter. There shall be no penalty or other adverse consequences imposed upon anyone making a good faith report of a suspected violation of this chapter. The identity of any person reporting a violation of this chapter not be disclosed except as necessary to carry out the purposes and requirements of this chapter.
- B. Any party alleged to have violated this chapter, shall be presumed innocent of that charge unless and until a violation is demonstrated by credible evidence, and prior to any such determination of any actual violation no penalty may be imposed.
- C. Suspected violations of this chapter shall be reported immediately to the Inspector General for investigation. The Inspector General shall investigate the allegations and, if they are determined to have merit, the matter will be referred to the appropriate enforcement authorities.
- D. In any instance where the Inspector General has determined that an allegation of a violation of this chapter has merit, the administrative head of procurement for the MTA, or his or her designee, may take one or more of the following actions:
 - 1. Meet with the contractor to obtain an explanation of the violation;
 - 2. Impose a fine upon the contractor as authorized by the contract documents;
 - 3. Suspend the contract or subcontract involving the offending contractor and commence debarment proceedings under chapter 4-10;
 - 4. Direct the prime contractor to remove the offending subcontractor from the project;
 - 5. Rescind, void, or terminate the contract; and/or
 - 6. Impose another reasonable and appropriate penalty.
- E. In any instance where the administrative head of procurement for the MTA proposes a sanction under this section, he or she shall notify the contractor in writing of the recommended action. The contractor may request an informal hearing with the administrative head of procurement for the MTA or his or her designee to explain the contractor's position regarding the alleged violation and/or the proposed sanction. Any such request must be made in writing and received by the administrative head of procurement within ten (10) working days of the issuance of the notice of the recommended sanction. If no request is received within the ten (10) working day period, the sanction may be imposed forthwith. If a timely request for an informal hearing is received, the informal hearing shall take place within ten (10) working days after the administrative head of procurement receives the request. The contractor may be represented by legal counsel at its own expense at the hearing. Within ten (10) working days after the informal hearing, the administrative head of procurement or his or her designee shall advise the contractor in writing of the outcome of the hearing. Except as set forth in paragraph F., the decision of the administrative head of procurement shall be final.
- F. If the administrative head of procurement for the MTA imposes a sanction under paragraph D.3., the contractor shall have such hearing rights as are set forth in chapter 4-10. If the administrative head of procurement imposes a sanction under paragraph D.2., which involves a fine in excess of one thousand dollars (\$1,000), or

