

Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits

Applicable to:

This Policy applies to staff and contingent workers in the following agencies:

- Transport for NSW (TfNSW)
- Department of Transport (DoT)
- Sydney Trains
- NSW Trains
- State Transit Authority (STA)
- Sydney Metro

The term ‘staff’ is used in this Policy to cover all ongoing, temporary and casual staff.

The term ‘contingent workers’ is used in this Policy to cover staff seconded from another organisation, labour hire workers, professional services contractors and consultants.

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1. Purpose

Integrity is one of our core values, and Transport is committed to providing a fair and ethical environment for the conduct of its operations.

This Policy outlines the expected standards of behaviour in relation to actual, potential or perceived conflicts of interest which may arise from personal interests, secondary employment and gifts and benefits (including hospitality) to ensure, insofar as reasonably practicable, impartial and transparent decision making when interacting with customers, suppliers and stakeholders.

2. Mandatory requirements

All individuals covered by this Policy must perform their duties in a fair and unbiased way, and not make decisions which may be perceived as advancing self interest or personal gain.

Conflicts of interest must be disclosed, and reasonable steps should be taken to avoid these in connection with transport duties and obligations.

2.1 Conflicts of interest

A conflict of interest is a situation where an individual covered by this Policy could be influenced, or be seen to be influenced, by a personal interest in carrying out their official duties. A conflict of interest can arise from avoiding losses or gaining advantage for self or others (whether financial or otherwise) and can be actual, potential or perceived.

- An actual conflict of interest involves a conflict between an individual's duties and responsibilities in serving a transport agency's interest, and the individual's existing private interests.
- A potential conflict of interest arises where an individual has private interests that could conflict with their official duties in the future.
- A perceived conflict of interest exists where it appears, or where it is or could be perceived, that an individual's private interests could improperly influence the performance of their official duties, whether or not this is in fact the case.

To facilitate transparent and ethical decision making, all individuals covered by this Policy must avoid any actual, perceived or potential conflicts of interest.

If an actual, perceived or potential conflict arises, individuals must report the conflict of interest in writing to their manager when the conflict is identified. If the conflict impacts on their manager, they should report the conflict to the two-up manager or to their corruption prevention area. Individuals will receive written acknowledgement that their conflict of interest has been received. The conflict of interest must then be registered in the agency's Conflicts of Interest Register.

Conflicts of interests can involve pecuniary interests (financial interests or other material benefits or costs, including shares), or non-pecuniary interests (such as personal or family relationships). They can involve the interests of the individual or their immediate family or relatives, friends, business partners or associates (where these interests are known by the individual). They include any tendency toward favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group.

All individuals must be careful when dealing with former staff, and make sure former staff do not receive favourable treatment or access to private or confidential information. Individuals must report incidents where attempts are made to influence them by former staff. Failure to disclose a

conflict of interest in accordance with this Policy may constitute corrupt conduct as defined in the [Independent Commission Against Corruption Act 1988](#).

Conflicts of interest must be declared in writing in accordance with agency procedures. Individuals must also:

- identify with managers methods for managing the conflicts
- disclose the conflict and arrange for it to be registered on your agency's Conflicts of Interest Register, and
- monitor the conflict and comply with the methods implemented to manage it.

All Senior Executives and Senior Managers (including staff acting in those roles) are also required to make a written declaration of private financial, business, personal and other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given by the staff member.

Where a Senior Executive or Senior Manager has no such private interests to declare, they must declare a 'nil' return.

After a Senior Executive or Senior Manager makes an initial declaration, a fresh declaration must be made by using the Declaration of Private Interests portal:

- as soon as practicable, following any relevant change in their private interests,
- as soon as practicable, following their movement to a new role or responsibility, or
- at least annually.

2.1.1 Examples of conflicts of interest

The following are examples of conflicts of interest. This list is a guide to assist individuals when considering if situations could be a conflict of interest, and is not exhaustive:

- an individual on a selection panel is a friend, relative or foe of an applicant for the role
- an individual assessing tenders from companies in which they, relatives, friends or foes have an interest
- an individual assessing licensing requests from relatives, friends or foes (e.g. taxi or bus licence applications)
- an individual is in a role to assess grants to a community group to which they belong
- an individual is in a role to influence new transport zones or routes in areas they relatives, friends or foes live
- an individual is the director/shareholder of a company that may be affected by policy changes being considered in their work area
- an individual is engaged in secondary employment and their secondary employment work hours conflict with the hours of work at their Transport agency
- an individual is responsible for approving major station upgrades and is also a member of the local citizens' association which has made a representation for a new lift at the local train station, and/or
- an individual engages a graphic design company owned by a relative or friend to create or print brochures for a project launch.

To assess if there may be a conflict of interest, individuals may find it useful to consider, either by themselves or in consultation with their manager, the following five points:

1. Is the decision or conduct lawful?
2. Is the decision or conduct consistent with Government policy and in line with the department's objectives and the Code of Conduct?
3. What will be the outcomes for staff, work colleagues or Transport?
4. Do these outcomes raise a conflict of interest or lead to private gain at public expense?
5. Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

2.1.2 Recruitment selection panels

Where a selection panel member has a personal or previous relationship with an applicant that may give rise to a conflict of interest (or be perceived as a conflict of interest), it must be declared in accordance with agency procedures.

2.2 Secondary Employment

Transport does not restrict individuals covered by this Policy from seeking secondary employment, but expects them to prioritise fulfilling their designated duties with a Transport agency safely, effectively, efficiently, honestly and ethically. Any other employment is therefore considered secondary employment and must not interfere or conflict with an individual's responsibilities to the Transport agency.

Secondary employment refers to any additional paid employment or voluntary emergency service work that an individual is engaged in outside of their primary role in the Transport agency. Involvement in unpaid Union activities or Union activities for which an honorarium is paid is not considered secondary employment.

Approval may be granted to undertake secondary employment, provided that it does not conflict with or adversely affect an individual's official duties.

Secondary employment includes, but is not limited to:

- any ongoing, casual, temporary, part time or full time employment with another organisation or Transport agency
- all self-employment or sole trader activity
- all paid or unpaid independent contracting or consulting
- operating or being involved in a paid capacity in a business, including but not limited to, occasional duties such as book-keeping, employment as an employee, engagement as a contractor/consultant, being a partner, (this includes anyone who has an Australian Business Number (ABN), whether it be in use or not), majority shareholder or officeholder (such as a director or secretary)
- operating or being involved in a paid capacity in a private business (excluding self managed superannuation funds), including as a director, a partner, paid office holder (this includes anyone who has an ABN, whether it be in use or not), secretary or majority shareholder
- all paid or voluntary emergency services work (refer to section 2.2.2 of this Policy), and/or
- holding any office or engaging in any employment for which an individual is entitled to be paid, but where they choose not to accept payment or accept only an honorarium or allowance for their services.

Staff must obtain prior written approval in accordance with the agency's delegation manual, this Policy and agency procedures before engaging in any form of secondary employment (refer to section 2.2.2 of this Policy for agency specific information on obtaining approval for volunteer emergency services work) outside of their primary role in a Transport agency. This requirement also applies to new staff who on joining a Transport agency have outside employment they wish to continue.

Secondary employment must:

- not involve the use of a Transport agency's intellectual property, confidential information or resources (e.g. stationery, printer, photocopier, telephone, vehicles), excluding emergency services work
- not be conducted during work hours or on work premises (excludes emergency services work)
- be determined as lawful, and must not damage the reputation of a Transport agency
- take into consideration potential issues of fatigue and impact on work, health and safety. All individuals have a duty of care to themselves and others. Rail Safety Workers and Bus Operators in particular are responsible for ensuring they attend duty in a fit and well-rested condition, to enable them to commence and complete their shift unimpaired by the effects of fatigue
- not actively be misrepresented as being under the auspice of any Transport agency, and/or
- not involve directing work colleagues to perform tasks for the individual's own secondary employment.

To minimise the risk of corruption, individuals who are directly involved in procurement (e.g. as a member of a procurement team, tender evaluation panel or engaged in low-end purchasing) are prohibited from undertaking secondary employment with a supplier, or potential supplier, of goods, works or services to any Transport agency.

2.2.1 Charity Work/Unpaid Voluntary Work

This Policy is not intended to apply to genuine charity or community service activities where individuals are not entitled to receive any financial gain or benefit. However, individuals engaged in such activities, particularly activities involving heavy physical work or long hours, must ensure that this does not adversely impact on their fitness for work, including fatigue, and that they do not use their primary role in the Transport agency to obtain an advantage or benefit.

Actual, potential or perceived conflicts of interest must also be considered in relation to such work and must be declared.

2.2.2 Volunteer Emergency Services Work

Staff must refer to relevant agency procedures for information on the level of approval required to engage in voluntary emergency services work.

Sydney Trains and NSW Trains staff must obtain prior approval before engaging in voluntary emergency services work.

RMS, STA, DoT and TfNSW staff are not required to obtain prior approval before engaging in voluntary emergency services work.

Staff engaged in such activities, particularly activities involving heavy physical work or long hours, must ensure that this does not adversely impact on their fitness for work. Where required,

managers and staff may consider emergency leave provisions to ensure they present fit for work. Actual, potential or perceived conflicts of interest must also be considered in relation to such work and must be declared.

2.3 Gifts and Benefits (including hospitality)

A gift is an item of value which one person or organisation presents to another (for example, this may include but is not limited to such things as gift vouchers, entertainment, hospitality, travel, commodity, property etc).

A benefit is a non-tangible item of value (for example, this may include but is not limited to such things as a new job or a promotion, preferential treatment or access to confidential information) that one person or organisation confers on another.

Hospitality includes free or subsidised meals or beverages provided to individuals infrequently (and/or reciprocally) by individuals and representatives of other agencies (including private sector organisations) associated with meetings or visits in connection with official functions.

Acceptance of a gift or benefit can create a sense of obligation that may compromise impartial and honest decision making, and may be perceived as a bribe to further personal or business interests. In the business context, gifts and benefits can have different meanings and purposes. The purpose of the gift or benefit, to a certain extent, affects how it should be managed.

A bribe is a gift or benefit that is offered to or solicited by a public officer to influence that person to act in a particular way. Individuals must refuse to accept any gift or benefit that they believe is offered as a bribe.

Significant personal loans (regardless of whether interest is applied or not) exchanged between individuals and/or potential or actual providers of services to a Transport agency may be considered a gift and/or benefit, and may result in an actual, potential or perceived conflict of interest.

2.3.1 Examples of gifts or benefits

Gifts and/or benefits related to official duties or personal relationships may include, but are not limited to:

- offers of cash, gift vouchers/cards, shares or other monetary equivalents
- gifts, such as bottles of wine and/or manufacturers' samples
- promotional materials, including clothing, books, CDs or DVDs
- provision of goods or services for personal use, such as labour or building materials
- sponsored travel
- use of facilities, such as gyms or holiday homes
- accommodation and car hire discounts
- discounts on commercial items
- gifts to family members that arise in connection with the individual's member's official duties
- prizes obtained during work related functions being organised by a third party
- prizes, gifts and/or benefits that are won as a result of entering a competition while engaging in official duties, e.g. lucky door prizes at seminars, supplier run competitions

- invitations to potential or actual supplier-organised event including, but not limited to, a conference/award dinner, Christmas parties
- personal benefits gained from Transport purchases under a purchase incentive scheme, and/or
- preferential treatment or favouritism.

2.3.2 Examples of hospitality

Examples of low risk hospitality include, but are not limited to:

- functions where the recipient attends in an official capacity as their organisation's representative
- hospitality provided as part of a conference package, where the agency has paid a fee for the staff member to attend
- catered briefings where invitees from a range of external organisations are present, and/or
- occasional working lunches, where the hospitality is incidental and of low value.

Examples of higher risk hospitality include, but are not limited to:

- restaurant meals (except as described above)
- invitations to lunches, dinners or other events to secure a deal or to celebrate the finalisation of a procurement process, and/or
- invitations to functions held in private homes.

2.3.3 Managing gifts, benefits and hospitality

STA and RMS staff and contingent workers must not accept gifts or benefits in any circumstance.

TfNSW, Sydney Trains, NSW Trains and RailCorp have a set monetary amount (token value) under which gifts and benefits can be accepted if it does not compromise the individual, the agency or cause an actual, potential or perceived conflict of interest.

Sydney Trains, NSW Trains and RailCorp staff and contingent workers have additional restrictions on gifts or benefits which must not be accepted. Acceptable monetary amounts also apply to cumulative gifts and benefits. Refer to the relevant Transport agency procedures for more information.

Staff and contingent workers who are directly involved in procurement (e.g. as a member of a procurement team, tender evaluation panel or engaged in low-end purchasing) are prohibited from accepting any gift or benefit from a supplier, or potential supplier of goods, works or services to any Transport agency.

This Policy is not intended to apply where individuals attend events sponsored or organised by transport, or to staff recognition incentives. Where gifts and/or benefits are awarded in order to recognise staff performance or contribution to the organisation, agencies must apply the conflict of interest principles outlined in this Policy.

In relation to the management of gifts, benefits and/or hospitality, individuals must:

- refer to agency procedures in relation to the acceptable values of gifts, benefits and/or hospitality
- under no circumstances, request gifts, benefits or hospitality for themselves, their friends or family from any of the people they deal with in the course of their work

- report offers of bribes immediately to the appropriate person
- record all offers of gifts and benefits that are declined, and
- treat prizes at external functions, courses, etc as gifts.

The following gifts, benefits and/or hospitality must not be accepted:

- gifts of money (including monetary equivalents such as gift vouchers and shares);
- gifts or benefits that seek to influence an individual's duties;
- attempts at bribery;
- hospitality that extends beyond reasonable courtesy and may therefore be perceived as attempting to influence;
- gifts offered to staff or contingent workers who exercise discretionary authority in relation to the gift-giver;
- gifts and benefits to family members that arise in connection with the individual's official duties; and/or
- bonus gifts for agency purchases that will benefit the receiver personally.

3. Accountabilities

3.1 Staff Member/Contingent Worker

3.1.1 Conflicts of Interest

- Avoid any situation that could compromise their ability to perform their job impartially.
- Treat all persons fairly and not show preference to any individual or organisation.
- Assess their private and personal interests and whether they conflict, or have the potential to conflict, with their official duties and responsibilities.
- Avoid, where possible, conflicts of interest and manage those conflicts of interest that cannot be avoided in accordance with this Policy and the agency's respective procedure/s.
- Disclose all conflicts of interests, including potential or perceived conflicts of interest, according to their respective agency's procedure/s.
- Immediately inform management of any changes which may affect an actual, potential or perceived conflict of interest.

3.1.2 Gifts and Benefits

- Not seek any payment, gift or benefit, for themselves or a family member or friend.
- Take all reasonable steps to ensure family members and friends do not receive gifts and benefits intended to influence the individual's decision making as a public official and to declare any such offers.
- Declare gifts and/or benefits that are accepted or declined in accordance with relevant agency procedures.

3.1.3 Secondary Employment

- Obtain written approval prior to engaging in secondary employment. This includes:
 - wishing to undertake secondary employment in addition to their current primary employment

- wishing to undertake secondary employment while they are on leave (including leave without pay), and/or
- staff of one Transport agency wishing to apply for concurrent employment with another Transport agency.

3.2 Transport Agencies

3.2.1 Conflicts of Interest

- Establish a system for managing conflicts of interest, gifts and benefits and secondary employment in the form of clear policies and procedures
- Establishing and maintaining a Conflicts of Interest Register.
- Raise awareness and routinely disseminate information on responsibilities in relation to conflicts of interest, gifts and benefits and secondary employment.
- Include conflicts of interest as a risk to be assessed in the agency's corruption risk management processes.
- Implement processes for staff to complete a statement of private interests (such as secondary employment, business dealings, property, shares) on commencement, annually or at another appropriate time which may result in a conflict.
- Formally record arrangements for addressing each conflict of interest and details of the approving manager so that the agency can demonstrate how each conflict of interest is/was managed.
- Implement a method for identifying conflicts of interest when procurement or recruitment panels are being convened, to ensure individuals with related interests are not members of panels.
- Provide points of contact for managers wanting assistance in identifying a conflict of interest and/or the type of conflict including management strategies in accordance with agency procedures.
- Incorporate conflicts of interest, gifts and benefits and secondary employment awareness into agency induction programs.

3.2.2 Gifts and Benefits

- Set a monetary limit beyond which gifts or benefits should be declined or disposed of in accordance with agency procedures.
- Provide guidance on the disposal of gifts deemed to be unacceptable.
- Maintain a register containing details of gifts and benefits and the decision associated with each. For each gift or benefit offered (i.e. both accepted and declined), the register should include the date of the offer, details of the person and/or organisation making the offer, relationship of the gift-giver to the recipient, disclosure of any conflict of interest, reason for the offer (as assessed by the recipient), description of the gift, estimated value, name (and verification) of the person who was offered the gift, decision regarding what should happen with the gift and reasons for that decision and approval of the delegated manager.

3.2.3 Secondary Employment

- Maintain records of all secondary employment applications and approvals, including the projected hours of work.
- Implement processes to review secondary employment applications annually.

3.3 Managers

3.3.1 Conflicts of Interest

- Be conscious of the work of individuals in relation to the risks they may be exposed to regarding conflicts of interest and gifts and benefits.
- Raise awareness of relevant agency procedures linked to this Policy.
- Address breaches of this Policy and/or associated procedures as soon as possible directly with the individual, or seek assistance from TSS Solutions Centre.
- Provide advice to and assist individuals with appropriate ways to manage conflicts of interest in accordance with agency procedures.
- Evaluate whether the conflict of interest in question is likely to affect the individual's ability to complete Transport duties in a fair, impartial and honest manner.
- Document the receipt and outcome of disclosures of conflicts of interest reported to them by individuals, and notify the person tasked with maintaining the agency's Conflicts of Interest Register, including details of decisions made and actions taken.
- Re-assess the conflict of interest management strategy when a change of circumstances is declared.
- Managers involved in procurement or selection processes may have additional responsibilities in accordance with agency procedures.

3.3.2 Gifts and Benefits

- Consider and approve the treatment of gifts and benefits reported to them by individuals, including documentation of decisions and ensure that the Gifts and Benefits Register is updated with the required details, decisions made and actions taken.

3.3.3 Secondary Employment

- Review all secondary employment approvals every 12 months or earlier if required.
- Regularly review attendance records of all staff granted permission to undertake secondary employment to ensure the secondary employment is not impacting on their hours or work.
- Follow up outstanding applications/renewals for staff members within their unit.

4 Privacy and confidentiality

Information provided about conflicts of interest, gifts and benefits and secondary employment will be managed in accordance with the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

5. Breaches of this policy

Transport agencies may commence disciplinary action if a person to whom this Policy applies breaches this Policy (or any of its related procedures), up to and including termination of employment, or contract.

Breaches of this Policy or non-disclosure may be reported to the Independent Commission Against Corruption (ICAC) or, if they involve criminal activity, to the NSW Police Force.

6. Document history

Date & Policy No	Approved by	Amendment Notes
27 Oct 2014 CP14036	Secretary	Approved
1 Sep 2015 CP14036.1		Include requirement for senior service staff to make annual declarations of relevant private interests
12 Oct 2016 CP14036.2	Deputy Secretary People and Corporate Services	Replaces CP13036.1. Reviewed for senior service staff to make annual declaration of relevant private interests by using the Declaration of Private Interests Portal. Reference to Railcorp and Westconnex deleted.
3 July 2017 CP14036.3	Executive Director Group Human Resources	Amended to reflect GSELA
1 July 2018 CP14036.4	Secretary	Inclusion of Sydney Metro as agency to which this policy applies from 1 July 2018.
8 February 2019 CP14036.5	Secretary	Consequential amendment to 2.1.2, 3.3.1, and 3.3.4 (deleted) as a result of the Transport Recruitment and Filling Vacancies Policy.
29 July 2019 CP14036.6	Chief People Officer	Updates to obsolete job titles, Division/Branch name and template changes to front page.
11 February 2020 CP14036.7	Chief People Officer	Removal of RMS as an Agency to which this Policy applies (update to front page).

7. Attachments/related links

The following documents relating to this Policy can be found on the intranet at the following location:

Title	Agency
Transport Code of Conduct	All
Conflicts of Interest Procedure	TfNSW
Gifts and Benefits Procedure	TfNSW
Secondary Employment Procedure	TfNSW
Statement of Business Ethics	TfNSW
Conflict of Interest Procedure	RMS
Secondary Employment Procedure	RMS

Title	Agency
Bribes, Gifts and Other Benefits Procedure	RMS
STA Conflict of Interest (Proc 17.06)	STA
STA Secondary Employment (Proc 55.12)	STA
STA Gifts and Benefits (Proc 16.04)	STA
STA Statement of Business Ethics (Pol 73)	STA
Gifts and Benefits (including hospitality) Procedure	NSW Trains
Conflict of Interest Procedure	NSW Trains
Secondary Employment and Emergency Services Work Procedure	NSW Trains
Gifts and Benefits (including hospitality) Procedure	Sydney Trains
Conflict of Interest Procedure	Sydney Trains
Secondary Employment and Emergency Services Work Procedure	Sydney Trains
Secondary Employment and Emergency Services Work Instruction	Sydney Trains
<i>Privacy and Personal Information Protection Act 1998 (NSW)</i>	All
<i>Independent Commission Against Corruption Act 1988</i>	All
<i>Health Records and Information Privacy Act 2002</i>	All