

BC TRANSIT CORPORATE POLICY STATEMENT

FUNCTION:	NUMBER:	ISSUE DATE:	AMENDMENT DATE:
Corporate Services	CP-3	February 1, 2001	June 24, 2002

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SUBJECT: CONFLICT OF INTEREST - BOARD OF DIRECTORS

Sponsored by: President and Chief Executive Officer
Accountable Manager: Vice President, Customer Service and Corporate Secretary
Working Contact: Vice President, Customer Service and Corporate Secretary

PURPOSE:

To define a conflict of interest policy to be observed by members of the BC Transit Board of Directors (Directors). The policy application and procedure support the BC Transit Conflict of Interest policy for Directors.

POLICY:

No Director shall allow a situation to exist where:

1. the opportunity for personal gain, or
 2. the fiduciary obligations of a position held outside BC Transit,
- could influence the way in which his or her duties and responsibilities as a Director are carried out.

POLICY APPLICATION:

Each BC Transit Director owes a fiduciary duty to BC Transit. Included within this fiduciary duty is a duty to make business decisions that are in the best interests of BC Transit. Decisions must not be influenced in any way by the opportunity for personal gain, personal relationships or fiduciary responsibilities held outside BC Transit. The conflict of interest procedure is designed to ensure that BC Transit Directors are not involved in real or potential conflict of interest situations.

Conflict of interest exists if the opportunity for personal gain influences, influenced, or could have influenced the way in which a Director carries or has carried out his or her duties and responsibilities as a Director.

Potential conflict of interest exists if the opportunity for personal gain could influence the way in which a Director carries out his or her duties and responsibilities as a Director, when the Director has not yet carried out such duty or responsibility.

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Apparent conflict of interest exists if there is a reasonable perception that a conflict of interest exists, even when in fact there is neither a potential nor a real conflict.

Conflict of interest may also arise without the element of personal gain, when a person holds a fiduciary position outside BC Transit. Under certain circumstances, a decision or action which is in the best interests of the outside organization may be contrary to the best interests of BC Transit.

The conflict of interest policy and procedure are designed to eliminate actual and potential conflict of interest situations, without having to examine whether or not a Director was *in fact* influenced by the opportunity for personal gain.

DEFINITIONS:

Definitions for key terms are included following section 14.

PROCEDURE:

Prohibitions

1. As stated in the conflict of interest policy for Directors, no Director (as defined) shall allow a situation to exist wherein the way in which his or her duties and responsibilities as a Director are carried out could be influenced by:
 - a) the opportunity for personal gain, or
 - b) the fiduciary obligations of a position held outside BC Transit.
2. No Director shall, directly or indirectly:
 - a) use his or her position at BC Transit to further his or her own interest or the interest of an Associate (as defined);
 - b) enter into any contract with BC Transit unless the contract has been examined and approved as described in sections 6 and 7;
 - c) seek any gift, or accept any gift having more than token value, from any person or company which has dealings with BC Transit;
 - d) participate in a social function, paid for by a person or company which deals with BC Transit, if the value is not appropriate to the circumstances;
 - e) accept any other personal benefit (including remuneration, profit, discounts, goods and services), no matter what the value, other than what he or she may be entitled to as a Director; or

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- f) use non-public information obtained in the course of acting as a Director of BC Transit to gain a personal benefit for the Director or his or her Associate.

Disclosure

3. Every Director must file an annual Director's Disclosure Statement with the Corporate Secretary. The Director's Disclosure Statement is to be filed each year, no later than March 31, and updated during the year if circumstances change (sample of format attached).

Each Director must identify any organization in which the Director or the Director's Associate is involved as an elected official, owner, manager or employee if that organization has, or is pursuing, a contract with BC Transit or has any other business dealings with BC Transit. "Owner" refers to a proprietor, partner or owner of shares. Ownership of shares through a mutual fund is not included. If the Director has no such business relationships, he or she shall indicate this on the Director's Disclosure Statement.

4. Any Director who, or whose Associate, is an elected official, owner or manager of an organization which has, or is pursuing a contract with BC Transit, or has any other business dealings with BC Transit, must report the relevant facts as soon as possible to the Corporate Secretary in writing.

Note: The fact that a Director or a Director's Associate is involved as an elected official or in the ownership or management of an organization which contracts with BC Transit does not necessarily mean that the Director is in a conflict of interest. However, the Director does have a requirement to disclose any such involvement so that the Conflict of Interest Committee (note section 11) has the opportunity to examine the situation and determine whether any steps should be taken to avoid or eliminate any real or potential conflict of interest (examples: require that the Director have no involvement in, and be excused from, any discussions concerning business dealings between BC Transit and the other organization; avoid contact with BC Transit as a representative of the other organization).

5. Any Director who believes he or she may be in a potential conflict of interest situation under this policy, or may have breached any part of this policy, must report the relevant facts as soon as possible to the Corporate Secretary in writing.

All information provided by Directors under sections 3, 4 and 5 and filed with the Corporate Secretary will not be disclosed to any person, except:

- a) to the Conflict of Interest Committee;
- b) to certain Employees, as required to avoid or eliminate potential or actual conflicts of interest; and

- c) to other persons inside or outside BC Transit, as required by law (example: *Freedom of Information and Protection of Privacy Act*).

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Contracts with Directors or Associates of Directors

6. BC Transit will not enter into any contract, in the absence of compelling financial or operational reasons, with any business which is:
 - a) owned by a BC Transit Director, or by his or her Associate; or
 - b) owned by a former BC Transit Director who left BC Transit within the previous 12 months, or by his or her Associate.
7. The conflict of interest review for examining contracts under section 6 is as follows:
 - a) Full details of the contract (including the extent of any likely personal benefit to the Director, former Director, or the Associate), and any alternatives to entering into that contract, must be provided to the Corporate Secretary in writing for review by the Conflict of Interest Committee. This information shall be provided by the BC Transit Manager sponsoring the proposed contract.
 - b) If, in the opinion of the Conflict of Interest Committee, there is no compelling argument in support of the proposed contract, the Corporate Secretary will notify the Director, former Director or Associate in writing that BC Transit will not enter into that contract.
 - c) If, in the opinion of the Conflict of Interest Committee, a compelling argument has been presented in support of a proposed contract, the Committee will advise the parties that the contract can be entered into. The Committee may impose certain conditions on the Director, former Director or the Associate (examples: require that the Director or former Director disclose any personal benefit; require that the Director, in his or her role at BC Transit, refrain from any direct involvement with the contract).

Consequences of Breach

8. If the Corporate Secretary is of the opinion that a conflict of interest or other breach of this policy may have occurred, the Corporate Secretary will refer the matter to the Conflict of Interest Committee for a ruling.
9. If the Conflict of Interest Committee determines that a Director may be in a conflict of interest or has breached this policy, BC Transit will require the Director to take such action as may be available to avoid or eliminate the conflict of interest or remedy the breach. The actions required of the Director may include, but are not limited to, one or more of the following actions:

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- a) excusal of the Director from, and having no involvement in, certain discussions at Board and Committee meetings;
- b) resignation from his or her position as a BC Transit Director;

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- c) return of the gift received, if the conflict arises under section 2(c); or
 - d) repayment of the value of the personal benefit received by the Director or the Associate.
10. Compliance with this Policy and Procedure is a fundamental condition of appointment to the Board of Directors of BC Transit. Breach of this Policy or Procedure *may lead to prosecution* under section 122 of the Criminal Code, which makes breach of trust by a public official an indictable offence.

Conflict of Interest Committee

11. The Conflict of Interest Committee consists of the BC Transit Chair, President and CEO, Corporate Secretary, and the Vice President, Finance. The Committee may also include Corporate Counsel when dealing with issues related to Directors. The Committee will meet to review contract proposals with potential conflict of interest elements, potential breaches of the Conflict of Interest Policy or Procedure and other related matters, including policy revisions.

Communication of Policy

12. The Corporate Secretary will review the Conflict of Interest Policy and Procedure with Directors at the time they are appointed.

Policy Interpretation

13. Directors who have questions concerning interpretation of the Policy or Procedure should refer to the President and CEO or Corporate Secretary.

Relationships Outside the Conflict of Interest Policy:

14. The Conflict of Interest Policy refers to specific family relationships under the definition of Associate. It does not include rules governing contracts between BC Transit and friends, relatives other than those specifically noted, or persons otherwise associated with the Director. However, it is recommended that Directors notify the Corporate Secretary of *any* family or other personal relationships they may have with owners or managers of organizations which have business dealings with BC Transit. Any relationship that could be seen as an *apparent* conflict of interest will be reviewed by the Conflict of Interest Committee.

DEFINITIONS:

- < **Associate** means:
- a) a spouse, cohabitee, or a son or daughter under 19 years of age, of a Director;
 - b) other than a person referred to in (a), a relative of a Director or of his or her spouse or cohabitee, who lives with the Director;

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- c) a corporation of which the Director beneficially owns, directly or indirectly, more than 20% of the voting rights attached to all outstanding voting securities of the corporation;
- d) a trust or estate in which the Director has a substantial beneficial interest or for which he or she serves as a trustee; or
- e) a corporation of which a person referred to in (a) or (b) beneficially owns, directly or indirectly, more than 20% of the voting rights attached to all outstanding voting securities of the corporation.

- < **Director** means any person serving as a member of the Board of Directors of BC Transit under a current Order in Council of the Lieutenant Governor of British Columbia.
- < **Employee** means, for the purpose of this policy:
 - any Manager or other employee at BC Transit, whether working on a full-time, part-time, permanent or temporary basis;
 - any person or employee of any person, firm or corporation which performs contract employee services for BC Transit.
- < **Director's Disclosure Statement** means a statement (form similar to that attached to this policy statement on Conflict of Interest setting out all business interests of a Director and of a Director's Associate which does, or may, result in a conflict of interest as defined in this policy and the associated procedures.
- < **Manager** means the President or any Vice President, officer, director, manager, or other person performing a management function at BC Transit.
- < **Policy** means the BC Transit Corporate Policy Statement: *Conflict of Interest – Board of Directors*
- < **Procedure** means the specific policy applications associated with this policy statement on Conflict of Interest – Board of Directors

Sample

DIRECTOR'S DISCLOSURE STATEMENT

Director Name: _____

Title or Position: _____

Please complete all portions of this form. If the answer is "none" or "nil," please indicate. If the form does not provide sufficient space to complete the information requested, please attach a separate sheet.

BUSINESS INTERESTS

List all firms, corporations, sole proprietorships, partnerships or joint ventures in which you (or your associate) are involved by way of ownership, management or control, or as a director or consultant, which does or may result in a conflict of interest contrary to BC Transit Corporate Policy. Ownership refers to not only direct ownership, but the holding of shares in a company. Shares held by a mutual fund are not included. (Attach additional pages if more space is required)

NAME OF BUSINESS	ADDRESS OF BUSINESS	NATURE OF BUSINESS	DIRECTOR'S OR ASSOCIATE'S ROLE/SHARES HELD

DIRECTOR DECLARATION

This Disclosure Statement, to the best of my knowledge, information and belief, accurately discloses all particulars concerning firms, corporations, sole proprietorships, partnerships or joint ventures in which I (or my associate) am involved by way of ownership, management or control, or as a director or consultant, which does or may result in a conflict of interest contrary to BC Transit Corporate Policy.

Signature of Witness

Signature of Director

Witness - Name (please print)

Address of Director

Date

Date