

ETHICS POLICY
METROPOLITAN PLANNING ORGANIZATION
TRANSPORTATION POLICY BOARD
EL PASO URBANIZED TRANSPORTATION STUDY AREA

I. Policy

All members of the Transportation Policy Board (“TPB”) for the El Paso Metropolitan Planning Organization (“MPO”) have a fiduciary duty to be ethical in fulfilling their responsibilities. Ethical conduct includes, but is not limited to, behavior that is in compliance with applicable local, state, and federal laws. Toward that end, and in compliance with § 472.034 of the Texas Transportation Code, the TPB adopts the following Ethics Policy as part of its bylaws.

II. Purpose

A. Ethical conduct is motivated by sources inside and outside the law. The Texas Local Government Code and the Texas Transportation Code regulate aspects of the conduct of members of the Transportation Policy Board. However, as ethical conduct means more than complying with state and federal laws, the Transportation Policy Board strongly encourages all of its members to maintain the highest personal values and standards. While it is impossible to establish specific and exhaustive standards for all situations, the standards established in this policy reflect minimum standards below which no conduct of a member of the TPB should fall. This Policy has the following purposes:

1. To maintain and improve standards of public service;
2. To improve public confidence in the integrity of the El Paso MPO and its Transportation Policy Board;
3. To provide a process by which members of the TPB may identify and resolve ethical issues;
4. To avoid conflicts between the personal interest and the public responsibilities of TPB members;
5. To establish minimum standards of conduct to be adhered to by TPB members;
6. To require disclosure of private financial interests by members of the El Paso TPB;
7. To require reporting of certain gifts received by members of the El Paso TPB; and,
8. To provide for complaints and resolution of ethical issues and concerns.

B. This chapter is cumulative of and supplemental to all applicable provisions of state and federal laws and regulations. Compliance with this Ethics Policy does not excuse or relieve any person from any obligation imposed by any applicable state or federal laws or regulations.

III. Definitions

For purposes of this Ethics Policy, the following definitions shall apply. Terms not defined in this policy, but defined in the Texas Local Government Code and the Texas Transportation Code, shall have the meanings assigned to them in those statutes.

“Benefit” means anything reasonably regarded as economic gain or economic advantage to a member of the TPB, or to a relative of a member of the TPB . “Benefit” does not include:

1. Political contributions made or received and reported in accordance with law;

2. Awards, such as plaques, certificates, trophies or similar mementos, publicly presented in recognition of public service;
3. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient as a member of the TPB;
4. Gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities;
5. Commercially reasonable loans made to a member of the TPB in the ordinary course of the lender's business;
6. Complimentary copies of trade publications;
7. Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official TPB or MPO business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity;
8. Any economic gain or economic advantage, excluding cash or a negotiable instrument as described by Section 3.104, Texas Business and Commerce Code, conferred by any one person or organization if the economic value totals less than fifty dollars per calendar year; or
9. An honorarium, transportation or lodging, the acceptance of which is not prohibited under Sections 36.07 and 36.08, Texas Penal Code.

"Board" means the Transportation Policy Board;

"Committee" means any committee established or created by the TPB;

"Business days" means the weekdays excluding city holidays.

"Confidential information" means any written information that could be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written, could be excepted from disclosure under that Act, unless disclosure has been authorized.

"Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit. The term does not include an expenditure required to be reported under Section 35.006(b), Texas Government Code.

"Contributor" means a person making a contribution and the person's spouse.

"Executive Director" means the Executive Director of the El Paso Metropolitan Planning Organization.

"In-kind expenses" means the value of personal services provided without compensation by any person on behalf of a member of the TPB and includes incidental vehicular travel expenses incurred in conjunction with the provision of the personal services.

"Official business" means a purpose or function related to the duties or activities of the TPB or the MPO.

"Person" means an individual, corporation, partnership, labor union or labor organization, or any unincorporated association, firm, committee, club, or other organization or group of persons, excluding a

political committee organized pursuant to the Texas Election Code.

“Public event, appearances or ceremonies” means those functions, activities and ceremonies conducted by or for the benefit of any governmental entity; a function, activity or ceremony conducted by a non-profit corporation or similar organization formed for educational, scientific, community-betterment or economic development purposes which relates to the purpose for which the non-profit corporation or organization was formed; or a function, activity or ceremony which honors or recognizes the accomplishments of a political, prominent or public figure.

“Quasi-judicial proceeding” means a hearing or proceeding held by a public administrative officer, to include but not be limited to a hearing officer, arbitrator or administrative law judge, who is required to hear or investigate facts and to draw conclusions from them as a basis for his or her official action and to exercise discretion of a judicial nature.

“Relative” means a person who is related to a TPB member as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, step son-in-law, stepdaughter, step daughter-in-law, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

IV. Standards of Conduct

Members of the TPB:

A. Shall not accept or solicit for personal financial gain, any benefit that might reasonably tend to influence them to act improperly in the discharge of official duties, or that may tend to give the appearance of improper influence;

B. Shall not use their official positions improperly to secure unwarranted privileges or exemptions for themselves, relatives, or others. This provision does not preclude members from acting in any manner consistent with their official duties or from zealously providing public services to anyone who is entitled to them;

C. Shall not participate in making or influencing any TPB decision or action in which they know that they have any financial interest distinguishable from that of the public generally or from that of other members generally;

D. Shall not give reasonable basis by their conduct for the impression that any person can improperly influence, or unduly enjoy their favor in, the performance of their official duties, or that they are unduly affected by the kinship, rank, position or influence of any person;

E. Shall not use his or her position to secure official information about any person or entity for any purpose other than the performance of official responsibilities;

F. Shall not use or disclose, other than in the performance of their official duties or as may be required by law, confidential information gained in the course of or by reason of their positions. This provision applies to former members as well as to current ones;

G. Shall not knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the policies, rules or regulations of the Board or the MPO;

H. Shall not utilize Board and MPO resources for personal benefit or the personal benefit of a relative, friend or business associate, except to the extent that the benefit received is strictly incidental to the performance of official duties, or to the extent that the person is entitled by law to obtain public services from the Board or the MPO;

I. Shall not transact any business (other than ministerial acts) on behalf of the Board or the MPO with any business entity of which they are officers, agents, members, or employees, or in which they have a financial interest. A Board member is considered to have a financial interest in a business entity if a person related to the Board member in the first degree by consanguinity or affinity has a financial interest in the business entity. In the event such a circumstance arises, then the Board member shall make known their interest, and:

1. Abstain from voting on the matter and refrain from discussion of the matter at any time with the other Board member.

J. Shall not personally provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, investigation, or determination from the Board or the MPO. This restriction does not apply to outside employment of a member if the employment is the member's primary source of income;

K. Shall not accept employment or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the Board or the MPO, or which might impair their independent judgment in the performance of their duties;

L. Shall not personally participate in a decision in a matter if the member is negotiating or has an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter under consideration by or within the jurisdiction of the Board or the MPO. For purposes of this section, the term "decision" shall mean a decision, approval, disapproval, recommendation, investigation or rendering of advice, and the term "matter" shall include but not be limited to a matter, proceeding, application, request for ruling or determination, contract or claim which involves the Board or the MPO. In such instance, the member shall:

1. Immediately notify the Chair of the Board of the nature of the negotiation or arrangement, file an affidavit with the Executive Director describing the nature of the negotiation or arrangement and:

- a. Refrain from discussing the matter at any time with other Board members; and,

- b. Abstain from voting on the matter.

M. Shall not receive any fee or compensation for their services as Board members. This shall not prohibit their performing the same or other services for a public or private organization that they perform for the MPO if there is no conflict with their duties and responsibilities;

N. Shall not personally represent or appear in behalf of the private interest of another before the Board; or, if the represented person's interest is adverse to that of the Board or the MPO, represent any person:

1. In any quasi-judicial proceeding involving the Board or MPO; or

2. In any judicial proceeding to which the Board or the MPO is a party.

Nothing in this subsection shall preclude:

- a. A Board member from speaking or appearing without compensation before the Board, any governmental body, or any board or department on behalf of constituents in the course of his or her duties as an elected official;

- b. Any Board member from appearing before any governmental body, board, or department, in a manner consistent with other Board and MPO policies and rules, to discuss any general Board or MPO policies or public issues, including the presentation of viewpoints or petitions of other members;

- c. A Board member from testifying as a witness under subpoena in a judicial or quasi-judicial proceeding.

O. Shall not personally represent or appear in behalf of the private interests of another:

1. Before the Board, unless the member discloses his or her status as a Board member and the representation or appearance does not relate to a matter that was heard or decided by the Board; or

2. In a judicial or quasi-judicial proceeding to which the Board or the MPO is a party, if the interest of the person being represented is adverse to that of the Board or the MPO and the subject of the proceeding involves the Board or the MPO.

P. Shall not use for their personal benefit and shall not disclose, except as may be required by law, confidential information gained in the course of or by reason of their positions. This provision shall not prohibit the disclosure of such information to incumbent public officials or employees to whose duties such information may be pertinent.

Q. Each Board member shall acknowledge in writing receipt of this Ethics Policy.

V. Reporting requirements

A. Financial Disclosure

1. Each Board member, excluding officials whose financial disclosure requirements are governed by local, state, or federal law, shall file with the Executive Director, within ten business days after the date of his or her appointment to the Board, a signed, sworn statement disclosing:

a. Where, by whom and in what specific capacity that person is employed or self-employed;

b. Membership on boards of directors of corporations, whether organized for profit or not;

c. Partnership interest in any business conducting business with the TPB or the MPO;

2. Each person submitting a statement of financial disclosure required under this section shall utilize a form provided by the Executive Director.

3. No person submitting such a statement of financial disclosure must indicate therein the extent of financial involvement in any investments.

4. Each person subject to this section shall thereafter file with the Executive Director a signed and sworn financial disclosure statement, on or before January 15 of each year while a member of the Board, or at any other time in which the person changes his or her primary employment or has made changes in financial investments which require disclosure under this section. Those persons who have no changes to report regarding the information required to be reported, may, in lieu of filing a complete financial disclosure form, file a short form annual report, provided that they have filed a complete financial disclosure form within the previous five years.

5. The Executive Director shall, no later than March 15 of each year, prepare a report which notes whether each person subject to the filing requirement of this section has filed the required financial disclosure statement as of the date of the report. In the event that a person subject to the filing requirement has not filed his or her financial disclosure statement by the date of the completion of the report or in the event that a person fails to file his or her financial disclosure form within ten business days after the date of their appointment and they do not already have a current financial disclosure form on file, the Executive Director shall send a written notice by certified mail, return receipt requested, with a copy sent by regular mail, to the person to advise the person that the Executive Director's records indicate that the person is subject to the requirement of this section, the person has not filed a financial disclosure statement as required by this section and that the person has fifteen days from the date of the letter to file

his or her financial disclosure statement. The Executive Director will also advise the board member that the intentional or deliberate failure to timely file the financial disclosure statement may result in the removal of that board member as a member of the TPB.

6. In the event that a Board member fails to file his or her financial disclosure statement by the deadlines calculated in paragraph 5 above, the Executive Director shall prepare and send a notice of the failure to each member of the Board for their review and consideration regarding the possible removal of the Board member as a member of the TPB Board. A Board member who fails to file his or her financial disclosure statement as required by this section forfeits his or her voting rights on the Board until he or she complies with such financial disclosure requirements.

B. Reporting of Gifts

It is the policy of the Board that all Board members shall be careful about accepting gifts from any source, particularly from those sources who may transact business with the Board or the MPO.

1. Each Board member, excluding officials who are required to report the receipt of gifts by local, state or federal law, shall keep a written record of all reportable gifts received during his or her term of office as a Board member.
2. Such record shall be made on a quarterly basis each year. The record shall include a description of the reportable gift received; the name of the person and organization giving the reportable gift; the relationship of the donor to the reporter, if any; the value or estimated value of the reportable gift; and the immediate or intended disposition of the reportable gift. A reportable gift consisting of a certificate or admission ticket to a future event or activity shall be deemed to have been received on the date on which the certificate or admission ticket was received.
3. Such record shall be submitted to the Executive Director on a form prepared by the Executive Director no later than the tenth day of the month following the end of the quarter. If a Board member has no gift to report for a quarter, a statement to that effect shall be included on the reporting form.
4. If a gift is returned to the sender or donated to a suitable charity immediately upon its receipt, reporting of the gift is unnecessary. Any gift, the receipt of which is prohibited by this policy, shall be returned to its source.
5. In no event shall any Board member accept a gift, if the source of the gift is not identified. If the source of any gift cannot be ascertained, the gift shall be donated to a suitable charitable organization.
6. Door prizes are not reportable as gifts unless (a) the likelihood of winning a prize of some sort is at least one chance in ten or (b) the combined value of all prizes is greater than \$10 multiplied by the number of persons eligible to win.
7. Except as provided herein, no Board member shall accept any expenses related to travel from an outside source. Acceptance of such expenses shall be made only if:
 - a. The Board specifically authorizes receipt of the expenses; and,
 - b. A public record of that action is maintained in the minutes of the Board.
8. Reportable gifts shall mean the following:
 - a. Any thing of value, including edibles, if the fair market value exceeds \$50;
 - b. Any hosting, such as travel and expenses, entertainment, meals or refreshments, that has a value of more than fifty dollars, other than hosting provided on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

- c. Any honorarium with a value of more than fifty dollars; and
 - d. Any other economic gain or economic advantage that has a value of more than fifty dollars and which was conferred on account of the official status of the recipient or in connection with official Board or MPO business.
5. Any hosting, honorarium or other economic gain or economic advantage that is refused and returned to the sender within seventy-two hours of receipt shall not constitute a reportable gift under this section.
6. For purposes of this section, "honorarium" shall mean a payment, other than reimbursement for meals, travel or lodging expenses, for services provided in connection with addressing an audience or engaging in a seminar.

VI. Complaints

A. Any person may submit matters concerning an ethical issue under the provisions of this Ethics Policy to the Executive Director. Upon receipt of such written complaint, in a form prepared by the Executive Director, the Executive Director shall refer the Complaint to the Chair of the Board. Upon its receipt, the Chair shall refer the complaint to the Executive Committee of the Board. If the Executive Committee finds just cause in support of the complaint, the complaint shall be referred to the Board for its review and consideration. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this policy.

B. If a complaint is referred to the Board by the Executive Committee, the Board will schedule a review of the matter at the next Board meeting. The person submitting the complaint and any persons named in the complaint will be sent written notice of the date, time and place of the meeting by the Executive Director so that these persons may have the opportunity to attend the meeting at which the review will take place.

C. If neither the Executive Committee nor the Board finds just cause in support of the complaint, the complaint shall be dismissed and the Executive Committee's findings shall be referred to the Board. If the Board finds just cause in support of the complaint, the Board shall file a report with the Executive Director identifying in the report the particular provision or provisions of this Ethics Policy found to have been violated, and issue one or more of the following sanctions:

1. Letter of Notification. When the Board finds that a violation of the Ethics Policy was clearly unintentional or when the action or conduct found to have been a violation of the Ethics Policy was performed by the Board member in reliance on a written opinion of legal counsel the Board may issue a letter of notification advising the Board member of any steps to be taken to avoid future violations.
2. Letter of Admonition. When the Board finds that a violation of the Ethics Policy was minor and/or may have been unintentional, but where the circumstances merit a more substantial response, the Board may issue a Letter of Admonition.
3. Letter of Reprimand. When the Board finds that a violation of the Ethics Policy was committed intentionally or through reckless disregard of the provisions of the Ethics Policy, the Board may issue a letter of Reprimand.
4. Removal from Office. When the Board finds that a violation of the Ethics Policy was committed intentionally or through deliberate disregard of the provisions of the Ethics Policy, the Board may take action to remove the Board member as a member of the Board.

ADOPTED this 22nd day of February, 2008.

Mayor John Cook
Chairman, Transportation Policy Board

ATTEST:

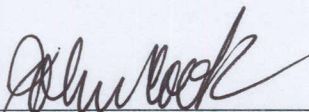
Roy Gilyard
Executive Director

APPROVED AS TO FORM:

Eduardo Miranda
Legal Counsel

RESOLUTIONS
TRANSPORTATION POLICY BOARD
FOR THE
EL PASO METROPOLITAN PLANNING ORGANIZATION
MEETING, February 22, 2008

- Item 2 Approved minutes for January 25, 2008.
- Item 3a Approved to Amend the TPB Bylaws as may be necessary.
- Item 3b Approved to include an MPO Ethic's Policy.
- Item 3c Approved proposed changes to the MPO Executive Director Performance Evaluation Form.
- Item 4 Approved the proposed FY 08-09 Unified Planning Work Program (UPWP) Amendment to:
Add task 2.7.1 UrbanSim Land Use Forecast Development.
Add additional New Mexico funds.
Redistribute the allocation of existing New Mexico funds.
- Item 5 No action necessary.
- Item 6 No action necessary.
- Item 7 No action necessary.



Mayor John Cook, Chairman
Transportation Policy Board

February 22, 2008

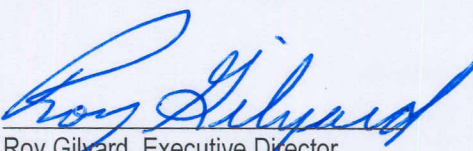
Date

APPROVED AS TO FORM:



Eduardo Miranda
Attorney

APPROVED AS TO CONTENT:



Roy Gilyard, Executive Director
Metropolitan Planning Organization