



CODE OF ETHICS

POLICY HR008, EFFECTIVE 2013-08-06

POLICY STATEMENT

All public employees, Minnesota Department of Transportation (MnDOT) staff must maintain a high standard of conduct and level of scrutiny. The public trust and confidence in MnDOT employees is critical to the success of the Department. MnDOT expects employees to use their authority and resources in the public interest. The department also expects its employees to adhere to the highest ethical values when conducting state business and to follow the **MnDOT Code of Ethics policy** and related statutes and policies

REASON FOR POLICY

- To safeguard the reputation of MnDOT and the State of Minnesota
- To safeguard state assets
- To establish expectations for ethical business conduct
- To ensure compliance with the law, [Minnesota Statute §43A.38](#):
 - Subd 2 Acceptance of gifts; favors
 - Subd 3 Use of confidential information
 - Subd 4 Use of state property or time
 - Subd 5 Conflicts of interest

WHO NEEDS TO KNOW THIS POLICY?

All MnDOT employees must be aware of and comply with this policy.

DEFINITIONS

Confidential Information

Any information obtained under government authority, characteristics include:

- Not part of the body of public information and,
- If released prematurely or in non-summary form, may provide unfair economic advantage or adversely affect the competitive position of an individual or a business.

Conflict of interest

A situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as say, a public official, an employee, or a professional. Conflict of interest is not just

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POLICY HISTORY

2013-08-06, Established

[MnDOT Policy Website](#)

about money. It is about the presence of factors – any factors – that a reasonable person might think is likely to bias the objectivity of the decision-making process.

Honorarium

An honorarium is “a payment for a service (as making a speech) on which custom or propriety forbids a price to be set.”
(Source: Merriam Webster)

Nominal value

Not having market value

Private interest

Any interest, including but not limited to a financial interest, whereby the employee would gain a benefit, privilege, exemption or advantage that is not available to the public.

PROCEDURES

State law requires all executive branch employees to comply with [Minnesota Statutes §43A.38](#). Compliance with the policy is mandatory and employees who fail to comply are subject to discipline, up to and including discharge from employment. Employees must discuss any questions they have about the policy and potential violations with their supervisor or Human Resources

Acceptance of gifts, favors

Employees may not receive anything of value for doing their state job, except for the compensation and benefits provided by the state. They may not receive any payment of expense, compensation, gift, reward, gratuity, favor, service, promise of future employment, or the promise of a future benefit, except those provided by the state.

The *only exceptions* to this ban on the acceptance of gifts are as follows:

- Snacks or refreshments provided at a meeting, conference or other event as a normal courtesy offered to all attendees.
- Gifts of “nominal value” are unsolicited and infrequent. Nominal value means not having a market value. A good question to ask is whether the employee could sell the gift to a third party. If that is a reasonable possibility, the gift is *not* nominal. Some examples of gifts of nominal value:
 - Pens, cups, t-shirts, totes, flash drives or other trinkets bearing a company’s name/logo, that do not have a value greater than \$10.00 and whose main purpose is to advertise the company
 - Plaques or mementos recognizing individual service in a field of specialty or to a charitable cause
- Payment or reimbursement of expenses for travel or meals that:
 - are not reimbursed by the state,
 - have been approved in advance by the employee’s supervisor,
 - are associated with a work assignment, and
 - do not create a conflict of interest
- Honoraria or expenses paid for papers, talks, demonstrations, or appearances that are:
 - made by employees on their own time,
 - not part of their regular job duties, and
 - do not result in a conflict of interest
- Food and lodging from a vendor if the employee:
 - is planning a MnDOT-sponsored meeting where the facility for the meeting has been selected, and a major requirement of planning involves testing food, accommodations, and services from the vendor, and
 - Has approval from the Commissioner, Minnesota Management & Budget using the “Meeting Planner’s Request for Exemption” form.

Use of confidential information

Employees may not use confidential information learned because of their MnDOT job to further their own private interest. Additionally, employees may not accept outside employment that requires them to disclose or use confidential information.

- “Confidential Information” is as any information obtained under government authority which has not become part of the body of public information and which, if released prematurely or in non-summary form, may provide unfair economic advantage or adversely affect the competitive position of an individual or a business.
- "Private interest" means any interest, including but not limited to a financial interest, whereby the employee would gain a benefit, privilege, exemption or advantage that is not available to the public.

Use of state property or time

Employees may not use state work time, supplies, equipment, or other property for their private interests.

The **only exception** is that an employee may use state time, property, or equipment to *communicate electronically* for other purposes provided such use:

- Results in no additional charge to MnDOT or a charge so small as to make accounting for it unreasonable or administratively impractical
- Is limited and reasonable
- Is during non-working hours or results in very limited state work time lost
- Does not adversely affect employee performance or the performance of other employees
- Can withstand public scrutiny without embarrassment to MnDOT

The Minnesota Department of Transportation (MnDOT) fully adopts the updated state policy, [Statewide Policy: Appropriate Use of Electronic Communication and Technology](#), issued by Minnesota Management & Budget in December 2012.

Conflicts of Interest

Employees must avoid any action, whether or not specifically prohibited by law or regulation, which might result in a conflict of interest or the appearance of a conflict of interest. Conflicts of interest include, but are not limited to, the following actions:

- Using an employee’s official position to secure benefits, privileges or advantages for the employee, the employee’s immediate family or an organization the employee is associated with, which are different than those available to the general public
- Accepting employment or establishing a contractual relationship that will affect the employee’s independence of judgment in the exercise of official duties; for example, accepting employment with a business that is subject to the direct or indirect control, inspection, review, audit or enforcement by the employee
- Acting as an agent or attorney in a matter pending before MnDOT, except in the proper discharge of official duties or on the employee’s behalf
- Competing with the state where the state is currently engaged in a service or where the state has expressed an intention to engage in competition for providing a service, unless the state waives this clause
- Using state time, facilities, equipment, supplies, badge, uniform, prestige or influence of state office or employment for private gain
- Receiving money or anything of value from anyone other than the state for performing your state job duties in the regular course or hours of state employment

RESPONSIBILITIES

Employees

- All employees have a responsibility to familiarize themselves with the Code of Ethics policy.
- Employees must discuss any questions they have about the Code of Ethics policy and potential violations with their supervisor or Human Resources.

Conflicts of Interest

- When faced with a potential or actual conflict of interest employees must notify their supervisor, manager or Human Resources as soon as possible (but no more than three working days).
- If the conflict of interest or an appearance of a conflict of interest is created by outside employment the employee must:
 - Notify his or her supervisor, the Office Director, District Engineer or Human Resources *in writing prior to accepting outside employment.*
 - If permitted to accept the outside employment, request time off to engage in outside employment that occurs during MnDOT regularly scheduled work.

- Not use state resources, time, facilities, or supplies in performing the outside employment.
- Not accept outside employment that will adversely affect the employee's mental or physical efficiency in fulfilling MnDOT job duties.

Supervisors/Managers

- All supervisors and managers have a responsibility to become familiar with the Code of Ethics policy and ensure that the employees they supervise are aware of and comply with the policy.
- Supervisors and managers must take appropriate administrative action with all employees who are out of compliance with this policy.

Conflicts of Interest

- Upon becoming aware of a potential or actual conflict of interest, discuss the situation in detail with the employee.
- Consult with the appropriate person(s) in the chain of command and/or Human Resources.
- If there appears to be no conflict of interest, notify the employee.
- If a potential or actual conflict of interest exists, take appropriate action including but not limited to:
 - Informing the employee that a conflict of interest exists and that the employee must cease the activity or avoid the situation which is causing conflict of interest.
 - Reassigning the employee and, when appropriate, assigning the duties causing the conflict to another employee who does not have a conflict of interest.
 - Allowing the employee to continue with the assignment and notifying interested parties of the conflict if it is not possible to reassign the duties to another employee.
 - Proceeding with disciplinary or remedial action in consultation with the Labor Relations Section
- Send a copy of any correspondence regarding the conflict and its resolution to Human Resources.
- When faced with a potential or actual conflict of interest *applicable to himself*, the supervisor or manager must avoid the situation and immediately notify their manager. Consult Human Resources for assistance.

Office Directors, District Engineers, Division Directors

- All Office Directors, District Engineers, and Division Directors have a responsibility to familiarize themselves with the Code of Ethics policy and ensure that managers and supervisors properly implement this policy.
- All Office Directors, District Engineers, and Division Directors must take appropriate administrative action with all employees who out of compliance with this policy.

Conflicts of Interest

- Upon becoming aware of a potential or actual conflict of interest, obtain all relevant details regarding the conflict.
- Consult with the appropriate person(s) in the chain of command and/or Human Resources.
- If there appears to be no conflict of interest, notify the employee.
- If a potential or actual conflict of interest exists, take appropriate action, including but not limited to:
 - Informing the employee that a conflict of interest exists and that the employee must cease the activity or avoid the situation which is causing the conflict of interest.
 - Reassigning the employee or, when appropriate, assigning the duties causing the conflict to another employee who does not have a conflict of interest.
 - Allowing the employee to continue with the assignment and notifying interested parties of the conflict, if it is not possible to reassign the duties to another employee.
 - Proceeding with disciplinary or remedial action in consultation with the Labor Relations Section
- Send a copy of any correspondence regarding the conflict and its resolution to Human Resources.
- When faced with a potential or actual conflict of interest applicable to themselves, Office Directors, District Engineers, or Division Directors must avoid the situation and immediately notify the appropriate person in the chain of command. Consult Human Resources for assistance.

Human Resources

Human Resources staff has a responsibility to become familiar with the Code of Ethics policy.

Conflicts of Interest

- On receipt of a report of a potential or actual conflict, Human Resources must take appropriate action.
- Appropriate action includes but is not limited to assigning the matter under investigation, issuing a conflict of interest opinion, or requesting the Commissioner of Minnesota Management & Budget to issue a conflict of interest opinion.
- Retain records of determinations of conflicts of interest.
- All current and new employees follow this policy.

FREQUENTLY ASKED QUESTIONS

Offer of a free meal

Q: *An employee attends a meeting at a vendor's office where snacks and refreshments are served; or an employee attends a conference where a vendor is hosting a "hospitality room" with snacks and refreshments. Can the employee partake in the snacks and refreshments?*

A: Yes, these items are likely of "nominal value" and offered as a courtesy.

Q: *An employee is invited to a breakfast, lunch, or dinner meeting with a vendor to discuss official business. Should the employee accept a meal paid by the vendor?*

A: Generally, MnDOT's policy is **not** to allow vendors to pay for meals. One exception is the vendor and employee meet regularly and can take turns paying for the meal. Another exception is a meal is part of the meeting that began before the meal and continues during and after the meal.

Q: *Groups of MnDOT employees attending a conference are invited to breakfast, lunch, or dinner by hosts who are also vendors of MnDOT. Should the MnDOT employees accept meals paid by the vendors in this circumstance?*

A: No. The MnDOT employees are in travel status and MnDOT is responsible for their expenses. MnDOT employees must pay their share of meals and be reimbursed by the state. Additionally, an employee attending a local conference must not accept meals paid by vendors. An alternative approach is to arrange with the host for MnDOT to pay its share of meal costs directly to the host via a "special expense" approved in advance.

Gifts from a vendor or company

Q: *An employee is offered tickets to a sporting event or other entertainment event by a MnDOT vendor. Should the employee accept the tickets?*

A: No. Since the tickets could be resold, they are not of "nominal value."

Q: *An employee receives an unsolicited gift at home from a vendor with whom MnDOT does business. Should this employee accept the gift?*

A: No. If the gift is more than "nominal value," it is unacceptable and must be refused and returned. See above in **Responsibilities, Acceptance of Gifts** for a definition of nominal value. Vendors should discontinue this practice.

Q: *An employee is attending a conference with attendees other than MnDOT employees with door prizes. Can the employee accept and keep the door prize?*

A: If the item is of "nominal value," yes. However, if the items have more than a "nominal value" a gift may not be accepted. Although the selection process to determine the winner of the door prize is random, this does not change the fact that the employee for attending the conference, which is a work assignment, is receiving something of value. Keep in mind that many vendors at a conference who typically contribute the raffle prize have an existing or potential business relationship with MnDOT. Additionally, the [Minnesota Department of Public Safety, Alcohol and Gambling Enforcement Division](#) have advised MnDOT that door prizes at many conferences constitute a "raffle" under Minnesota statutes and rules governing lawful gambling and frequently violate the requirements of these statutes.

Q: *Can employees attend a vendor's annual "open house" or an association's annual social event?*

A: If employees attend an association's annual social event or a vendor's annual open house, which is not exclusive to MnDOT, they may attend. Employees can attend a vendor social event on personal time and expense.

Q: *An employee who administers a contract between MnDOT and a vendor invites the employee to spend a weekend at a resort at the vendor's expense. Can the employee accept this gift?*

A: No. This is a gift of more than "nominal value," that has direct influence over the business relationship with the vendor. Finally, it has nothing to do with official MnDOT business.

Q: *A contractor offers the gift of a turkey to all technicians on a project. Can MnDOT employees accept the gift?*

A: No. A turkey does not meet the test of “nominal value” because it is a marketable item.

Q: *If an employee stays at a motel/hotel on state business and receives reimbursement from the state for this lodging expense, can he accept motel/hotel “reward points” that can be used in the future for personal lodging expenses not reimbursed by the state?*

A: No. Employees may not receive anything of value for doing their state job, except for the compensation and benefits provided by the state. They may not receive any payment of expense, gift or reward.

Honoraria/expense reimbursement

Q: *Can a MnDOT employee who works in an information technology position make a presentation to a private-sector business about a new technology-related subject that the employee has gained knowledge about at his MnDOT job? The business wants to pay the employee an honorarium (a non- wage payment for your voluntary services; or a payment to cover travel, preparation, and meals related to the presentation). What should the employee do?*

A: Before accepting this offer, the employee needs to inform his supervisor about the potential opportunity so that a determination regarding a conflict of interest. An employee can accept an honorarium for making a presentation if:

- Making the presentation is not a part of his regular job duties;
- No conflict of interest exists between the MnDOT job duties and the company;
- The employee does not use state time, resources or confidential information to prepare for the presentation and;
- The employee uses vacation leave if the presentation occurs during work time.

Use of State property and time

Q: *A number of wellness organizations, such as Weight Watchers® offer classes at MnDOT and charge employees a fee to participate in their programs. A MnDOT employee would like to offer an exercise class at the building and charge a minimal fee. Is that activity permissible under the Code of Ethics policy?*

A: No. An employee cannot use state property or facilities for “private gain or advantage.”

Q: *An employee has a MnDOT vehicle and takes it home for the evening, but needs to stop by the grocery store and run some other errands before going home. Is that okay?*

A: No. The employee would be using state property, in a very public way, for a private interest. This use would violate the Code of Ethics policy and the [MnDOT Take Home Vehicles Policy](#).

Q: *An employee works at a truck station and uses a state truck during her shift for work-related duties. Can she also use the state truck to run personal errands on her work breaks or go to lunch?*

A: No. As with the previous scenario, the employee would be using state property for a private interest. This use would violate the Code of Ethics policy and the [MnDOT Take Home Vehicles Policy](#). However, if an employee is in travel status, they can use the vehicle to obtain a meal.

Q: *MnDOT is sponsoring a meeting and an employee wants to place brochures for his private training business at the meeting, hoping to solicit some business from the attendees. Can the employee do this?*

A: No. The employee would be getting a benefit or an advantage for himself that is not available to the public. Similarly, it is not appropriate to advertise for a personal business on the ihub internal MnDOT website bulletin board.

Q: *An employee wants to borrow survey equipment over the weekend so she can measure some land for a friend as a favor. Is that OK?*

A: No. It is not appropriate for an employee to use state equipment for her private interest (doing a favor for a friend) or any other use not in the interest of the state.

Q: *An employee is on her lunch break and checks her personal email account through her state computer. She sees a message from her friend that contains a link to information that she has been waiting for. Is it appropriate for her to use her state computer for this purpose, and if it is, can she open the link contained in her personal email?*

A: It is permissible for the employee to use her state computer to check her personal email account on her lunch break. The [Statewide Policy: Appropriate Use of Electronic Communication and Technology](#), states “While employees may make personal use of State technology such as e-mail and Internet access, the amount of use during working hours is expected to be de minimis. De minimis use is so small or minimal in difference that it does not matter or the law

does not consider it. Excessive time spent on such personal activities during working hours will subject the employee to disciplinary action.”

However, the employee must not use MnDOT equipment to open an attachment or click on links in personal email accounts. Employees must not open any attachments or links in your MnDOT account, even from a known source, unless they are expected or verified.

Q: *An employee is on his lunch break and is doing some online shopping using his state computer. He makes a purchase and lists his MnDOT email address as the place to send the purchase confirmation email. Is this OK?*

A: It is OK for the employee to do some shopping on his own time; however, he must not use the MnDOT email address to make a personal purchase. The MnDOT email address is for state-related business.

Q: *An employee does not have a personal computer so she has signed up to get regular sales updates from Pet World at her state email address and only looks at these email updates during breaks or lunch. Should the employee be doing this?*

A: No. Employees must not subscribe to automatic emails unless they are job-related. Exceptions are emails received from school or childcare providers or military duty communications.

Q: *Can an employee use MnDOT trash receptacles to dispose of personal household trash or appliances?*

A: No. This would be using state property/resources for personal benefit. The disposal of personal trash or appliances is the responsibility of each individual.

Conflicts of Interest

Q: *A MnDOT employee is planning a conference. Can the employee solicit or accept money, prizes, food, or sponsorship of a hospitality room from a vendor the MnDOT has a business relationship with or a party that the department regulates?*

A: No. Based on Minnesota Management & Budget response, “this would be using your employment with the state to secure benefits or privileges not available to the general public. A business could see this type of solicitation as pressure. They might construe the solicitation as a requirement to do business with the state even if attempts are made to make the gift voluntary. Any contributions to the state must be approved by Minnesota Management & Budget unless otherwise provided by law.”

Q: *Can state employees take advantage of special discounts or offers made by private businesses to “government employees” without violating the Code of Ethics for Executive Branch employees? For example, would acceptance of a special discount or offer from AAA, AARP, a cell phone company, etc., violate the prohibition on employees accepting gifts or violate the conflict of interest prohibition?*

A: Special discounts or offers made generically to “government employees” are generally not a violation of the Code of Ethics prohibition on gifts. Employees may generally take advantage of these offers, unless there is a conflict of interest between their work responsibilities and the private business that is making the offer.

Q: *A MnDOT employee is part owner in his son-in-law’s company that manufactures road-paving equipment, but is not employed by the company. The son-in-law’s company wants to bid on contract with MnDOT to supply road-paving equipment. The state employee’s job duties do not involve making decisions about the contract award. Should the state employee be concerned?*

A: Yes! According to [Minnesota Statute §161.33](#), “unlawful for any member or employee of the Department of Transportation to be directly or indirectly interested in any contract for the construction or improvement of any public road or bridge, or in any contract for the repair, purchase or sale of any road machinery, equipment, materials, or supplies to be used thereon. Any person violating any of the foregoing provisions shall be guilty of a *gross misdemeanor*_(emphasis added).”

Outside Employment

Q: *An employee applies for a job with a contractor who does business with MnDOT. The employee has no influence in selecting contractors who work on MnDOT projects. However, the employee’s work duties include inspecting work performed by this specific contractor. Should the employee report this situation to anyone?*

A: Yes. Under this policy, it is the responsibility of the employee to report this situation to his or her supervisor or Human Resources. Accepting employment with a business that is subject to the direct or indirect control, inspection,

review, audit or enforcement by the employee is a conflict of interest. This matter must be discussed to determine if the employee can accept this outside employment.

Q: *An employee is offered a consultant contract by a trucking company to assist it in achieving U.S. DOT safety ratings. The employee's MnDOT job duties include the regulation of trucking companies. Can the employee accept the trucking company's offer to be its consultant?*

A: If the trucking company were regulated by MnDOT, it would be a conflict of interest to become a consultant for this company. If it is not regulated by MnDOT, it may be possible for the employee to become a consultant if no other conflicts of interest are apparent. No state property or time could be used by the employee to perform the consultant services.

Q: *An employee runs a private business from home. The brochures and business cards for the employee's business list the employee's MnDOT e-mail and business address for contact information. Occasionally, the employee corresponds with clients from his MnDOT office and sells them products. Is this permitted under the Code of Ethics policy?*

A: The employee's actions are inappropriate since state property (state computer, office and e-mail) and time are being used for private gain. In general, MnDOT property must only be used for state business.

Q: *An employee is a licensed attorney, but her MnDOT job is not a legal position. An acquaintance has asked the employee to represent him in a lawsuit against MnDOT. Can the employee have this type of outside employment?*

A: No. An employee cannot act as an attorney or any type of an agent in a matter pending before or against MnDOT.

Q: *MnDOT has a contract with the County of Up North to provide snowplowing. A state employee runs a snow plowing business in her off-hours in the same county. Can the employee bid against MnDOT in an attempt to be awarded the county's snowplowing contract?*

A: No. A state employee cannot compete with the state where the state is currently engaged in a service or where the state has expressed an intention to engage in competition for providing a service, unless the state waives this restriction.

FORMS/INSTRUCTIONS

[MMB Political Activity of State Employees Form](#)

RELATED INFORMATION

[MMB Code of Ethics FAQs, HR/LR General Memo #2015-5](#)

[MMB Code of Ethics - Acceptance of Discounts Offered to Government Employees, HR/LR Policy #1332](#)

[MMB Code of Ethics - Meeting Planners' Exemption, Policy #1339](#)

[MMB Solicitations, Policy #1393](#)

[MMB Statewide Policy: Appropriate Use of Electronic Communication and Technology](#)

[Minnesota Statutes §15.435](#)

POLICY OWNERSHIP AND AUTHORIZATION

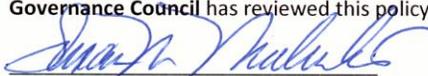
Policy Owner



Karin van Dyck
Acting Director, Human Resources

Date Signed 6-24-13

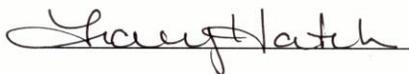
Governance Council has reviewed this policy and recommends approval



Susan Mulvihill (on behalf of the Board)
Deputy Commissioner and Chief Engineer

Date Signed 8/2/13

Responsible Senior Officer



Tracy Hatch
Deputy Commissioner/Chief Operating Officer/Chief Financial Officer

Date Signed 8.6.13