



MEMBERS:

- City of Lacey
- City of Olympia
- City of Rainier
- City of Tenino
- City of Tumwater
- City of Yelm
- Confederated Tribes of the Chehalis Reservation
- Nisqually Indian Tribe
- Town of Bucoda
- Thurston County
- North Thurston Public Schools
- Olympia School District
- Tumwater School District
- Intercity Transit
- LOTT Clean Water Alliance
- Port of Olympia
- PUD No. 1 of Thurston County

ASSOCIATE MEMBERS:

- Lacey Fire District #3
- Puget Sound Regional Council
- The Evergreen State College
- Thurston Conservation District
- Thurston Economic Development Council
- Timberland Regional Library

MEMORANDUM

TO: Thurston Regional Planning Council

FROM: Veena Tabbutt, Deputy Director

DATE: April 30, 2021

SUBJECT: Agency Ethics and Non-discrimination Policies

PURPOSE

The purpose of this agenda item is to review changes to the 2017 Ethics and Non-discrimination Policies and provide feedback to staff.

Summary:

- As a recipient of Federal funds, Thurston Regional Planning Council (TRPC) is required to have policies that address how we will conduct business in a non-discriminatory, ethical, and open manner.
- The policies apply to Council members, Transportation Policy Board (TPB) members, employees, volunteers, and interns.
- The Ethics Policy covers issues such as accepting gifts and favors, handling confidential information, contracting, and transparency in decision-making.
- The Non-discrimination Policy states that TRPC will not discriminate based on a variety of factors.
- Some changes to the policies are recommended to make them gender-neutral and to better align with federal laws and TRPC's personnel policies.

REQUESTED ACTION

Provide feedback to staff. Council will be asked to take action in June.

vt:bl

Attachments



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Executive Director

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MEMORANDUM

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EQUITY CONSIDERATIONS

1. What are the equity impacts of this particular decision?

Reviewing these policies will raise awareness that TRPC conducts business in a non-discriminatory, ethical, and open manner.

2. Who will benefit from or be burdened by the particular decision?

The public will benefit from the raised awareness.

3. Are there strategies to mitigate the unintended consequences?

N/A

BACKGROUND

The first version of the Ethics Policy was entitled "Code of Ethics" and was adopted in 2006 in response to a field audit by Washington State Department of Transportation's Public Transportation Division. The language for the original policy was taken from the terms and conditions of TRPC's contract to provide transit services to the rural and tribal areas of the county (r/T Program).

In 2017 the Ethics Policy was updated based on guidance from the Association of Metropolitan Planning Organizations (AMPO).

The 2021 updates are to make the policy gender neutral and update the non-discrimination section to align with proposed updates to the Non-discrimination Policy.

The Non-discrimination Policy is a long-standing policy and was last updated in 2003 and reviewed in 2017. The proposed changes reflect a more comprehensive list of protections under Federal law and align with updates to the Non-discrimination Policy in TRPC's personnel policies.

Thurston Regional Planning Council

ETHICS POLICY

May 2021

1. DECLARATION OF POLICY

Thurston Regional Planning Council (TRPC) commits to conducting business in an ethical and open manner. This Ethics Policy supplements state law, chapter 42.23 RCW, as now or hereafter amended, and any other state or federal law governing TRPC on ethics issues.

To ensure the proper administration and operation of TRPC to serve the public interest, Representatives (Council members, Transportation Policy Board members, employees, and interns) will avoid any action, whether or not specifically prohibited in this Policy, which might result in, or create the appearance of:

- Using public office for personal or private gain.
- Giving preferential treatment to any organization or person.
- Making decisions outside official channels.
- Denying any person or group access to the decision-making process of TRPC.
- Losing independence or impartiality of action.
- Adversely affecting the public's confidence in the integrity of TRPC.

2. DEFINITIONS

Contract: Any arrangement or agreement between two or more parties, whether expressed or implied, executed or executory, verbal or in writing, that results in, or may result in, a direct or indirect financial benefit to one or more of the parties.

Council: The membership of the governing body of TRPC consisting of elected and appointed officials from jurisdictions and organizations in the Thurston Region.

Council members: Voting and non-voting Council members and alternates.

Employee: Regular, regular-with-an-end-date, temporary employees, and interns, as defined in TRPC's Personnel Policies.

Immediate family: A relative including spouse, partner, daughter, son, brother, sister, parent, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and any relative living in the employee's household.

Interest: Any direct or indirect material financial benefit, which will or may accrue to a person resulting from a contract or transaction. For the purposes of this policy, a Representative may be deemed to have an interest in a contract or transaction in which any of the following have an interest:

- The Representative
- Any member of ~~his or her~~ ~~their~~ immediate family
- ~~His or her~~ ~~Their~~ partner
- An organization that employs, or is about to employ, any of the above

Intern: A current or recently graduated student performing work for TRPC on a temporary basis that relates to the student's major field of study.

Official Act or Action:

- With respect to Council or Transportation Policy Board: An action taken by the members of such body at an official meeting of same to adopt, reject, or refuse to consider a resolution, recommendation, request, or statement of policy or position brought before such a body.
- With respect to a Council or Transportation Policy Board member, employee or intern: An action taken in the exercise of their authority, or in performance of their duties, on behalf of TRPC.

Representatives: Council members, Council subcommittee members, Transportation Policy Board members, employees, and interns.

Transportation Policy Board: The principal advisory body to the Council on all matters of regional transportation planning.

3. GIFTS AND FAVORS

Representatives shall not receive, accept, take, seek, or solicit, directly or indirectly, anything of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the Representative, or be considered as part of a reward for action or inaction. No Representative may accept gifts, other than those specified under *exceptions* (below).

Exceptions:

- Unsolicited flowers, plants, and floral arrangements or holiday food.
- Unsolicited advertising or promotional items of nominal value, such as pens and note pads.
- Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item.
- Unsolicited items received for evaluation or review, if the Representative has no personal beneficial interest in the eventual use or acquisition of the item by TRPC.
- Informational material, publications, or subscriptions related to the recipient's performance of official duties.
- Food and beverages consumed at hosted receptions where attendance is related to the Representative's official duties.
- Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization.
- Unsolicited gifts from dignitaries from another state, tribe, or a foreign country that are intended to be personal in nature.
- Unsolicited gifts from a source other than those listed in exception "h" with an aggregate value of less than fifty dollars (\$50.00) from a single source in a calendar year or a single gift from multiple sources with a value of less than fifty dollars (\$50.00).

4. INCOMPATIBLE EMPLOYMENT

TRPC's Personnel Policies include policies for TRPC employees regarding outside employment and potential conflicts of interest.

5. ACQUIRING AN INTEREST

No Representative shall acquire an interest in any contract or transaction at a time when they believe, or have reason to believe, that such an interest will be affected directly or indirectly by their official act or actions or by the official acts or action of TRPC.

Conflicts of interest do not arise from the interests of a Council or Transportation Policy Board member that stem from another public position that member holds. As a regional organization, TRPC is designed to balance local interests against each other.

6. CONFIDENTIAL INFORMATION

For furthering a private interest, a Representative may not directly or indirectly make use of, or permit others to make use of confidential information acquired because of their position or employment with TRPC.

Representatives are prohibited from discussing publicly what took place in an executive session, without prior approval of the Council.

7. DISQUALIFICATION

A Representative shall disqualify themselves from participating in any official act or action directly affecting a matter in which they have an interest.

8. CONTRACTS WITH COUNCIL MEMBERS, TRANSPORTATION POLICY BOARD MEMBERS, AND EMPLOYEES

TRPC shall not enter into any contract involving services and property with a Representative or with a business in which a Representative has an interest. This section shall not apply in the case of the following:

- Designation of a bank or trust company as a depository of TRPC funds.
- Borrowing of funds from any lending institution offering the lowest available rate of interest for such a loan.
- Contracts for goods and services entered into with a business, which is the only available source for such goods or services.
- An employee's employment contract with TRPC.

9. CONTRACTS INVOLVING FORMER REPRESENTATIVES

TRPC shall not enter into any contract with, or take any official act or action favorably affecting any person, or business represented by or employing any person, who has been within the preceding twelve (12) months, a Council or Transportation Policy Board member or alternate, or employee in the grade of Division Director or higher, who by virtue of their knowledge of TRPC affairs and operations, would give the person or business unfair advantage over its competitors.

10. TRANSPARENCY IN DECISION-MAKING

TRPC shall appropriately notice and make all regular and special meetings of the Council and Transportation Policy Board open to the public, except as allowed under the Open Public Meetings Act. TRPC's Public Participation Plan outlines TRPC's approach to Public Access, Public Outreach, and Public Input.

11. NON-DISCRIMINATION

No officer, official, employee, agent, or contractor of TRPC shall in rendering or delivery of services or resources, discriminate against any person(s), firm or organization because of race, color, religion, national origin, age (over 40), sex/gender, sexual orientation, gender identity, pregnancy, disability, genetic information (including family medical history), military or veteran status, age, sexual orientation, gender identity, disability or other basis prohibited by state or federal law; provided, that this policy shall not affect any other provision in law, resolution, or rule which grants special consideration, benefits or rights to any person(s), firm or organization based on the above classifications (*TRPC Non-Discrimination Policy*).

12. BONUS OR COMMISSION

TRPC affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its application for federal financial assistance.

13. RESTRICTIONS ON LOBBYING

TRPC agrees to comply with the provisions of *31 USC 1352*, which prohibits the use of federal funds for lobbying any official or employee of any federal agency or member or employee of Congress on behalf of TRPC. In addition, even though no federal funds are used, TRPC agrees to disclose any lobbying of any official or employee of any federal agency, or member or employee of Congress, in connection with federal assistance and to comply with Washington State Department of Transportation regulations - *New Restriction on Lobbying, 49 CFR Part 20*.

14. EMPLOYEE POLITICAL ACTIVITY

The terms of the *Hatch Act, 5 USC Section 1501 through 1508*, and Office of Personnel Management (OPM) regulations, *Political Activity of State or Local Officers or Employees, 5 CFR Part 151*, apply to supervisory employees of TRPC. The "Hatch Act" limits political activities of employees.

Examples of prohibited activities include:

- May not use their official authority or influence to interfere with an election
- May not solicit, accept or receive political contributions unless both individuals are members of the same employee organization and the one solicited is not a subordinate employee
- May not knowingly solicit or discourage the political activity of any person who has business before the agency
- May not engage in political activity while on duty
- May not engage in political activity in any government office
- May not engage in political activity while wearing an official uniform
- May not engage in political activity while using a government vehicle
- May not be candidates for public office in partisan elections
- May not wear political buttons on duty

Examples of permitted activities include:

- May be candidates for public office in nonpartisan elections
- May register and vote as they choose
- May assist in voter registration drives
- May express opinions about candidates and issues
- May contribute money to political organizations
- May attend political fundraising functions
- May attend and be active at political rallies and meetings
- May join and be an active member of a political party or club
- May sign nominating petitions
- May campaign for or against referendum questions, constitutional amendments, municipal ordinances
- May campaign for or against candidates in partisan elections
- May make campaign speeches for candidates in partisan elections
- May distribute campaign literature in partisan elections
- May hold office in political clubs or parties including serving as a delegate to a convention

15. FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

TRPC acknowledges that it will not make a false, fictitious, or fraudulent claim, statement, submission or certification in conjunction with any program supported by federal assistance. The Thurston Regional Planning Council is aware that federal penalties could be imposed for making a false, fictitious, or fraudulent claim, statement, submission, or certification in conjunction with any program supported by federal assistance.

16. DE MINIMUS USE OF AGENCY EQUIPMENT AND/OR SYSTEMS

Employees are allowed limited, de minimis use of agency equipment and/or systems as deemed appropriate by the Executive Director. The system is to be used in a professional manner and is subject to accountability and public disclosure in accordance with the laws of the State of Washington. Use of the system to engage in any communications that are in violation of Agency policies, accessing, downloading, or transmitting defamatory, sexually explicit, obscene, offensive, political, unethical, or harassing messages or messages that disclose personal information without authorization is strictly prohibited (*TRPC Personnel policies*).

17. VIOLATION OF ETHICS POLICIES

- Any employee in violation of these policies is subject to disciplinary action as outlined in the Personnel Policies.
- Any Council member, subcommittee member, or Transportation Policy Board member who violates these policies is subject to disciplinary action as determined by a majority vote of the Council.

18. RELATED TRPC POLICIES AND PLANS

- **Personnel Policies:** Outlines outside employment policies for Employees and de minimus use of agency equipment and/or systems
- **Public Participation Plan:** Methods TRPC uses to ensure transparency and inclusion in decision-making.
- **Non-Discrimination Policy:** Outlines how TRPC fosters and mains a harmonious and non-discriminatory environment.
- **Title VI Plan:** Outlines how TRPC assures that no person shall on the grounds of race, color, national origin, or sex, as provided by the Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any TRPC-sponsored program or activity.
- **Procurement Guidelines:** Guidelines pertaining to procuring goods and services for TRPC, including large capital items and contracts for professional services.
- **Protest and Appeal Procedures Related to Requests for Proposal (RFPs) or Requests for Qualifications (RFQs):** Outlines the process to protest and appeal a solicitation or award of a bid or contractual products or services.
- **Complaints of Unfair Competition Procedure:** Procedures for handling complaints by a private sector transportation provider that alleges unfair competition due to TRPC's contracted, expanded, or current service structure for TRPC's local, state, and federal-funded Rural & Tribal Transportation (RT) Program.

Thurston Regional Planning Council

NON-DISCRIMINATION POLICY

May 2021

It is the policy of the Thurston Regional Planning Council to foster and maintain a harmonious and non-discriminatory environment for employees as well as officials and members of the public who do business with the Council. This policy extends to all programs and activities provided by the Thurston Regional Planning Council.

No officer, official, employee, agent, or contractor of the Thurston Regional Planning Council shall in rendering or delivery of services or resources, discriminate against any person(s), firm or organization because of race, color, religion, national origin, age, sex/[gender](#), sexual orientation, gender identity, [pregnancy](#), disability, [genetic information \(including family medical history\)](#), [military or veteran status](#), or other basis prohibited by state or federal law; provided, that this policy shall not affect any other provision in law, resolution, or rule which grants special consideration, benefits or rights to any person(s), firm or organization based on the above classifications.

Any person(s), firm or organization who believes [he/she/they](#) have been or are subject to discrimination by an officer, official, employee, agent or contractor of the Thurston Regional Planning Council is encouraged to immediately bring the matter to the attention of the Council's Affirmative Action Officer for investigation and appropriate action. The complainant may also contact the Executive Director or Chair of the Thurston Regional Planning Council. [Employees should follow the complaint procedures outlined in Chapter 5 of the Agency's Personnel Policies.](#)

Relevant Federal Laws

[Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 require that no person shall, on the grounds of race, color, sex, or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Federal Highway Aid \(FHWA\) program or other activity for which TRPC receives federal financial assistance.](#)

[Title II of the Genetic Information Nondiscrimination Act of 2008 \(GINA\), which prohibits genetic information discrimination in employment, took effect on November 21, 2009.](#)

[The Americans with Disabilities Act \(ADA\) of 1990 is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.](#)

[The Pregnancy Discrimination Act \(PDA\) of 1978 forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.](#)

[The Age Discrimination in Employment Act \(ADEA\) of 1967 forbids age discrimination against people who are age 40 or older.](#)