

MARIETTA HOUSING AUTHORITY

ETHICS POLICY

JULY 2007

PREFACE

The Marietta Housing Authority has established standards of conduct for its employees and members of its Board of Commissioners. These standards are designed to assure the utmost in public trust and confidence in the policies and practices of the Authority. Because of its status as an independent public corporation, the Authority recognizes its responsibility to conduct all business in a manner above reproach or censure. This Code of Ethics will describe in detail the standards by which members of the Board of Commissioners and staff are to be held accountable.

This code recognizes and incorporates those sections of federal, state, and local law which govern the conduct of public employees, and in no way supplants those provisions of law. In cases where no statutory precedent exists, the policy of the Marietta Housing Authority shall be applied, except that this policy shall in no way be taken to supersede the provisions of any contracts, labor agreements, or other external agreements affecting the rights and privileges of employees.

The Standards of Conduct contained within the Code of Ethics shall be generally applied so as to avoid the appearance, or actual occurrence of, any favoritism or special treatment towards any applicant, resident, vendor, or agent having business, or dealings of any kind, with the Authority. No Commissioner or employee shall use or cause or allow to be used his or her position to secure any personal privileges for himself, herself, or others, or to influence the activities, actions, or proceeds of the Authority.

The Marietta Housing Authority, in establishing standards of conduct for its employees and commissioners, recognizes the importance of establishing standards of conduct for external vendors and suppliers of products and/or services to the Authority. While the Authority cannot mandate the internal conduct or policies of vendors, it nevertheless requires that vendors and suppliers adhere to certain basic principles in conducting business with the Authority. Specifically, these principles include:

- A. No direct or indirect personal inducement of Authority employees. This includes the giving of gifts, money, tickets or any item or service having value.*
- B. No direct or indirect inducement of members of the Board of Commissioners. This shall include the same provisions covering employees, except that it is recognized that in the course of business dealings, there may be times when meals and/or visits may be arranged. In such cases, such events should be reported to the Chairman of the Board, with the nature of the visit explained.*

It is expected that vendors or suppliers of professional services to the Authority will be governed by the Code of Ethics to which their particular profession prescribes.

Any vendor or supplier found in violation of Authority policy shall be barred from future business dealings with the Authority. The Authority reserves the right to have vendors and suppliers sign a statement of compliance with the standards of conduct of the Authority.

1.0 TITLE

This shall be called the "Marietta Housing Authority Code of Ethics and Standards of Conduct."

2.0 APPLICABILITY

The provisions contained herein shall apply to all employees and the Board of Commissioners of the Marietta Housing Authority. With respect to contracted professional services of the Authority (legal, accounting, or otherwise), it is assumed that these professionals will abide by the professional ethics of their particular profession.

3.0 PURPOSE

This Code of Ethics establishes standards for employee and Commissioner conduct that will assure the highest level of public service. Recognizing that compliance with any ethical standards rests primarily on personal integrity, and also recognizing in general the integrity of Commissioners and employees, it nevertheless sets forth those acts or omissions of acts that could be deemed injurious to the general mission of the Authority.

This Code is also intended to serve as a Code of Conduct for purposes of satisfying certain Code of Conduct requirements for various grant programs.

It is not intended, nor should it be construed as, an attempt to unreasonably intrude upon the individual employee's or Commissioner's right to privacy and the right to participate freely in a democratic society and economy.

4.0 DEFINITIONS

"Agent" shall mean any employee of the Authority (whether full or part time) acting in his or her official capacity is an agent of the Authority.

"Claim" shall mean any demand, written or oral, made upon the Authority to fulfill an obligation arising from law or equity.

"Commissioner" shall mean one of the persons serving on the Board of Commissioners of the Authority.

"Contract" shall mean any obligation to do something arising from an exchange of promises or consideration between persons, regardless of the particular form in which it is stated.

"Conventional" shall mean those housing programs operated by the Authority, which are broadly considered part of the "conventional public housing program." This shall include but not be limited to, such programs as public housing, the Capital Fund, and HOPE VI.

"Employee" shall mean any person appointed or hired, whether full or part time, seasonal, temporary, paid or unpaid, on a fixed or unfixed term, provisional or permanent.

"Enrollee" shall broadly mean any applicant, resident, or program participant in any program operated by the Authority. Specifically, an "enrollee" shall be a person who expects to receive, or is receiving, some form of assistance from the Authority.

"Family" shall mean the spouse, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, or a person living in a stable family relationship.

"Immediate Family" shall mean spouse, children, and those living in the same household.

"Interest" shall mean a benefit or advantage of an economic or tangible nature that a person or a member of his or her family would gain or lose as a result of any decision, or action or omission to decide or act, on the part of the Authority, its Board, or employees.

"Leasing program" shall mean those programs operated by the Marietta Housing Authority that are broadly included within the Section 8 Program or the tenant-based program, whether it be for certificates or vouchers. Unless otherwise noted, the provisions contained herein shall apply equally to both the "Leasing" and the "Conventional" programs of the Authority.

"Person" shall mean any individual, corporation, partnership, business entity, association, organization, and may include an Authority employee.

"Public Information" shall mean information obtainable pursuant to the Freedom of Information Act and Authority guidelines adopted pursuant thereto.

5.0 ETHICAL STANDARDS FOR EMPLOYEES

5.1 General.

No employee of the Marietta Housing Authority shall have any employment, or engage in any business or commercial transaction, or engage in any professional activity, or incur any obligation in which directly or indirectly he or she would have an interest that would impair his or her independence of judgment or action in the performance of his or her official duties or that would be in conflict with the performance of his or her official duties.

5.2 Contracts and Procurement.

No employee shall have or enter into any contract with any person who has or enters into a contract with the Authority unless:

- A. The contract between the person and the Authority is awarded pursuant to competitive bidding procedures and/or purchasing policies as outlined in regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), state law, and the Marietta Housing Authority Procurement Policy; or
- B. The contract between the person and the Authority is one in which the Authority employee has no interest, has no duties or responsibilities, or if the contract with the person is one which the Authority employee entered into prior to becoming an employee.

As provided at 24 C.F.R. § 85.36(b)(3), no employee, officer or agent of Marietta Housing Authority shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- The employee, officer or agent,
- Any member of his immediate family,
- His or her partner, or
- An organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award.

5.3 Avoidance of Preferential Treatment.

There shall be no preferential treatment given by an employee of the Authority acting in the performance of his or her official duties to any person, agency or organization.

5.4 Use of Marietta Housing Authority Property.

No Authority employee shall use or permit the use of Authority-owned vehicles, equipment, materials or property for the convenience or profit of himself, herself, or any other person. However this provision shall not apply in the case of usage for "diminutive" purposes, i.e., purposes which in and of themselves should not be construed as abuse of Authority property.

5.5 Gratuities.

No Authority employee shall solicit any gift or consideration of any kind, nor shall any Authority employee accept or receive a gift having value in excess of \$25.00 regardless of the form of the gift, from any person who has an interest in any matter proposed or pending before the Authority, including, but not limited to, contractors, potential contractors, or parties to sub-agreements.

5.6 Misuse of Authority.

No authority employee acting individually shall bind or attempt to bind the Housing Authority by action or verbal representation without proper authority.

5.7 Disclosure of Information.

No Authority employee shall disclose without proper authorization non-public information or records concerning any aspects of the operation of the Authority, nor shall he or she use such information to the advantage or benefit of himself, herself, or any other person. This shall include records maintained on enrollees of the Authority, for whom a properly executed release of information form shall be obtained and kept in the client file. The release of any information relative to enrollees of the Authority shall be done pursuant to government regulations allowing the release of information among government agencies or agencies receiving government subsidy, shall be done following prescribed methods of requesting and transmitting such information, and shall be done with full knowledge of the enrollee except in those cases where through action of law the enrollee's knowledge is not required.

5.8 Interests in Marietta Housing Authority Matters.

No Authority employee shall have an interest in a contract between any person and the Authority, except that this provision shall not apply if the contract was entered into prior to the employee's hire by the Authority; the employee discloses his or her interest in the contract prior to employment; and after employment, the employee has no power to authorize or approve payment under the contract, monitor performance or compliance under the contract, or audit bills or claims under the contract and the compensation of the employee will not be affected by the contract.

No employee of the Authority shall discuss, vote upon, decide or take part in (formally or informally) any matter before the Authority in which he or she has an interest. Exception shall be made in the case of an employee whose interest in the matter is minimal (e.g. an employee helping decide on a new telephone system owns 100 shares of AT&T stock), provided the employee shall fully and specifically describe his or her interest, in writing, and the underlying basis of it, whether it be ownership, investment, contract, claim, employment or family relationship, to his or her immediate supervisor prior to the employee's participation. If, in the opinion of the supervisor, there is any question as to whether the interest is minimal, the matter shall be referred to the Ethics Review Committee for a binding decision on the question.

Any matter decided on, contracted, adjudicated, or in any way acted upon by an employee who does not disclose a personal interest either in the matter, or in any person or organization having an interest in the matter, may be considered null and void by the Authority. Such a matter may be referred to the Ethics Review Committee to render judgment and assess any penalties if necessary.

If the Ethics Review Committee renders judgment that a matter was performed; a contract entered into; or any matter was conducted, decided or acted upon in a manner prohibited by the Code of Ethics; it may then propose, among other things, that the Board of Commissioners seek an injunction against the proscribed action.

5.9 Outside Activities.

No Authority employee currently employed shall represent any person, other than himself, in business negotiations, judicial or administrative actions or procedures, to which the Authority may be a party.

No former employee of the Authority shall personally represent any person in a matter in which the former employee personally participated while employed by the Authority for one year, if such representation would be adverse to the interests of the Authority. This provision shall not, however, bar the timely filing by a current or former employee, of any claim, account, demand, or suit arising out of personal injury, property damage, or any benefit authorized or permitted by law.

No Authority employee shall have any employment, engage in any business or commercial transaction, or engage in any professional activity in which, directly or indirectly, he or she would have an interest that would impair his or her independence of judgement or action in the performance of his or her duties with the Authority or that would be in conflict with his or her duties at the Authority.

5.10 Program Participation.

No person employed by the Authority shall be permitted to participate as a lessor or lessor's agent in the leasing programs. Similarly, no member of the Board of Commissioners in his or her individual capacity shall be a lessor or lessor's agent. These

prohibitions, however, shall not apply where the employee or Commissioner is a principal in a not-for-profit or charitable, educational, or humanitarian agency or organization that may own or manage housing for rental purposes.

5.11 Employment of Family Members.

No member of the family of any Authority employee shall be appointed or hired to serve under the direct supervision or authority of that employee, and in no event shall any Authority employee participate in the decision-making regarding employment or contract for services of any family member.

6.0 ETHICAL STANDARDS FOR COMMISSIONERS

The Board of Commissioners of the Marietta Housing Authority is the architect of policy governing the operations of the Authority and retains legal and fiscal responsibility for the Authority. Recognizing that the commissioners are chosen from a broad range of fields and professions and community interests renders difficult the circumscription of external interests and activities of the Commissioners. It is the intent that, insofar as is possible, the members of the Board of Commissioners are generally enjoined to follow the standards of conduct which are outlined in the Code of Ethics for employees. Further, it is expected that a Commissioner will voluntarily and fully outline his or her personal interests and potential conflicts of interest prior to assuming their seat on the board. Such a statement should be submitted to the Board Chairman within ninety (90) days of the Commissioner's appointment. For Commissioners currently serving, such an updated statement shall be developed within ninety (90) days of their re-appointment for a new term. Such a statement shall disclose the following:

- A. The names of any business, organizational, or professional involvements that might reasonably be inferred as having business with the Authority and for which at some point a Commissioner might be expected to vote, legislate, or rule on a matter involving said party.
- B. Any current or past contact in, or interest in, activities or programs of the Authority.
 - 1. No Commissioner shall vote, decide on, or discuss any matter before the Board if that Commissioner has an interest in the matter, except that:
 - a. A Commissioner having an interest through a voluntary association with the person or organization may be allowed to discuss the matter.
 - b. If the matter concerns a person or organization with which the Commissioner had former contact, and that former contact existed either prior to his or her selection, or occurred at least two years

prior to the current discussion of the matter, the Commissioner may freely act.

2. No Commissioner may use his or her position on the Board to intimidate, coerce, persuade or otherwise influence any of the activities or employees of the Authority.
3. No Commissioner shall act in any manner to obligate or bind the Authority in an individual manner. While the Board of Commissioners is the Authority ultimate decision-maker, it the Board and not individual Commissioners.

7.0 ETHICS REVIEW COMMITTEE

There shall be established an Ethics Review Committee of the Marietta Housing Authority.

The purpose of the Committee shall be to review and render decisions on any matters involving ethical conduct, or breach of ethical conduct, by employees, vendors, or commissioners referred to it by the Executive Director or Commissioners at their discretion. Nothing in this policy shall prevent the Executive Director from taking appropriate and timely action, without referral to the Ethics Review Committee, in matters involving application of this Code of Ethics to employees, provided that the Executive Director shall notify the Board of Commissioners of any action taken because of violation of these standards.

The Committee is empowered by the Board of Commissioners to:

- A. Call witnesses and receive depositions in the performance of its duties.
- B. Call for provision of appropriate records, files or tapes relative to the performance of its duties.
- C. Review any records maintained by the Authority, except those records that are considered confidential or personal. However, confidential records may be examined upon execution of a proper release by the subject person.

In performing its duties, the Committee may:

- A. Issue rules and regulations consistent with and to clarify the Code of Ethics.
- B. Review any questions referred to it concerning alleged or suspected infractions of the Code of Ethics and make recommendations to the Board of Commissioners or Executive Director for further or final actions.

- C. Require financial disclosure or disclosure of any other pertinent information by employees, vendors, or commissioners.
- D. Oversee compliance by the Authority with the Code of Ethics and any other applicable regulations involving ethics.

The Committee shall be composed of three (3) members and: Board of Commissioners (1), employees (1), and a neutral third party (1). The neutral third party shall be a party versed in legal/ethical issues, e.g., an attorney not currently serving as counsel to the Authority or an academic authority on ethical issues.

The members of the Committee shall be appointed in the following manner:

- A. The representative of the Board of Commissioners and the neutral third party shall be selected by vote of the Board of Commissioners.
- B. The employee representative and alternate shall be selected by the Executive Director.

Each member of the Committee will serve a three (3) year term. Members whose terms expire shall serve until formally re-appointed or a successor is appointed.

There shall be a chair of the Committee, elected by the members of the Committee. The chair shall serve for one (1) year and shall continue in office until a successor is elected. The Executive Director of the Authority shall serve as a non-voting Secretary of the Committee.

Voting by the Committee shall be by simple majority, with the Chair voting as any other member.

In case of a conflict of interest by a committee member, the Board of Commissioners or the Executive Director (in the case of the employee representative) shall appoint a temporary substitute.

The Committee shall, upon receiving a written request from either the Board of Commissioners or any individual associated with the Authority, respond in writing within sixty (60) days after receipt of the request, unless the Committee determines that additional time is required. If additional time is required, it shall inform the requestor of the approximate time it will be able to render a response.

The Committee shall make reports and recommendations for action to the Board of Commissioners. If the Board finds a recommended action is properly within the purview of the Executive Director or his or her designee, it shall delegate the matter without further Board action.

The legal counsel of the Authority may be involved in the deliberations of the Committee, but he/she has no vote and cannot serve as the alternate committee member.

8.0 OTHER STANDARDS

Employees and commissioners shall also comply with other applicable statutory, regulatory, and federal contractual requirements relating to ethical standards of conduct, including, but not limited to, the following:

A. Section 8-3-52 of the Official Code of Georgia Annotated, entitled “Disclosure and abstention requirements for interested commissioners and employees.” The current provisions of that law are set forth at Appendix A.

B. Section 982.161 of Title 24 of the Code of Federal Regulations entitled “Conflict of Interest” in the Housing Choice Voucher program. The current provisions of that regulation are set forth at Appendix B.

C. Section 19 of the Consolidated Annual Contributions Contract, entitled “Conflict of Interest.” The current provisions of that section are set forth at Appendix C.

To the extent that the requirements listed above conflict with other provisions of this Code of Ethics, the stricter shall govern.

APPENDIX A

O.C.G.A. § Section 8-3-52 - Disclosure and abstention requirements for interested commissioners and employees.

§ 8-3-52. Disclosure and abstention requirements for interested commissioners and employees.

(a) No commissioner or employee of the authority shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract in connection with any project. Where the acquisition is not voluntary, such commissioner or employee shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure, such commissioner or employee shall not participate in any action by the authority involving such project, property, or contract, respectively.

(b) If any commissioner or employee of the authority previously owned or controlled an interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract in connection with any project, he shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure, such commissioner or employee shall not participate in any action by the authority involving such project, property, or contract, respectively.

(c) A commissioner shall not participate in any action concerning the employment to a remunerative position of the person who appointed said commissioner to office.

(d) In the selection of a depository for funds of the authority, any commissioner who has a financial interest in the depository under consideration shall disclose his interest and abstain from taking any part in the consideration of or voting on the selection of the depository.

(e) Any violation of this Code section shall constitute misconduct in office.

(f) This Code section shall not be applicable to the acquisition of any interest in notes or bonds of the authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project, or to agreements by such institutions to act as trustee under any trust indenture.

APPENDIX B

24 C.F.R. § 982.161 - Conflict of Interest – Housing Choice Voucher Program

§ 982.161 *Conflict of interest.*

(a) Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(1) Any present or former member or officer of the PHA (except a participant commissioner);

(2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;

(3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

(4) Any member of the Congress of the United States.

(b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

(c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

APPENDIX C

Section 19 of the Consolidated Annual Contributions Contract - Conflict of Interest

Section 19 – Conflict of Interest.

(A) (1) In addition to any other applicable conflict of interest requirements, neither the HA nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

(i) Any present or former member or officer of the governing body of the HA, or any member of the officer's immediate family. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the HA or a business entity.

(ii) Any employee of the HA who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

(iii) Any public official, member of the local governing body, or State or local legislator, or any member of such individuals' immediate family, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) Any member of these classes of persons must disclose the member's interest or prospective interest to the HA and HUD.

(3) The requirements of the subsection (A)(1) may be waived by HUD for good cause, if permitted under State and local law. No person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains.

(4) The provisions of this subsection (A) shall not apply to the General Depository Agreement entered into with an institution regulated by a Federal agency, or to utility service for which the rates are fixed or controlled by a State or local agency.

(5) Nothing in this section shall prohibit a tenant of the HA from serving on the governing body of the HA.