

Eno Transportation Foundation, Inc. (Eno)
Conflict of Interest Policy

Article I – Purpose

1. This Conflict of Interest Policy has been developed to A) protect Eno’s independence and to B) ensure that any real, potential, or apparent conflicts of interest are identified and resolved. Conflicts of interest can arise naturally from an individual’s engagement with the world outside Eno, and the mere existence of a conflict of interest does not necessarily imply wrongdoing.
2. Disclosure and consultation continue to be the best means for avoiding conflicts of interest among Eno employees, officers, and members of the Board of Directors (individually, an “Eno agent”). Conflict of interest situations are often complex and judgments may differ on whether or not a conflict, in fact, exists.
3. This policy is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

Article II - Definitions

1. A person has a **“material financial interest”** if, through business, investment, or family the person, or a related person, has a financial interest in a transaction or an arrangement that would reasonably be expected to impair the objectivity of the Eno agent when participating in action on the authorization or implementation of the transaction or arrangement. Such material financial interest may arise from:
 - a. an ownership, investment interest, or compensation package in any entity with which Eno has or proposes to have a transaction or arrangement,
 - b. a potential ownership, investment interest, or compensation package in any entity with which Eno has or proposes to have a transaction or arrangement, or
 - c. an interest as a lobbyist in promoting missions, policies, programs, or partnerships that overlap with missions, policies, programs, or partnerships that Eno adopts or promotes or proposes to adopt or promote.

A material financial interest is not necessarily a conflicting interest but should be disclosed. A person who has a material financial interest may have a conflicting interest but it is for the Board of Directors to decide whether a conflicting interest transaction exists.

2. **“An entity with which Eno has or proposes to have a transaction or arrangement”** may include donors, members, or other partners as well as vendors with whom Eno contract services or purchases products. A transaction or an arrangement may not “reasonably be expected to impair the objectivity of the Eno agent” unless the transaction or arrangement has a value to Eno of at least \$5,000 annually.

3. A **“compensation package”** includes salary, royalties, consulting fees, honoraria, paid authorship, travel reimbursement, or other payments. A compensation package may not **“reasonably be expected to impair the objectivity of the Eno agent”** unless the transaction or arrangement has a value to the Eno agent or a related party of at least \$15,000 annually.
4. **“Conflicting interest transaction”** means a transaction or arrangement effected or proposed to be effected by Eno, or by an entity controlled by Eno, (A) to which, at the relevant time, an Eno agent is a party, (B) respecting which, at the relevant time, the Eno agent had knowledge and a material financial interest known to the Eno agent, or (C) respecting which, at the relevant time, the Eno agent knew that a related person was a party or had a material financial interest.
5. **“Conflicting interest”** means an interest that may give rise to a conflicting interest transaction.
6. **“Control”**, including the term **“controlled by”**, means (A) having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through membership or the ownership of voting shares or interests, by contract, or otherwise, or (B) being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.
7. **“Relevant time”** means (A) the time at which directors' action respecting the transaction is taken in compliance with Article III. Section 3, Paragraph (c) below, or (B) if the transaction is not brought before the board of directors of Eno for action under Article III. Section 3, Paragraph (c) below, at the time Eno, or an entity controlled by Eno, becomes legally obligated to consummate the transaction.
8. **“Related person”** means (A) the Eno agent's spouse, or a parent or sibling thereof; (B) a child, grandchild, parent or sibling of the Eno agent, or the spouse of any thereof; (C) (i) an individual living in the same home as the Eno agent, or (ii) a trust or estate of which a person specified in subparagraph (A) or (B) of this subdivision or clause (i) of this subparagraph is a substantial beneficiary; (D) an entity, other than Eno or an entity controlled by Eno, controlled by the Eno agent or any person specified in subparagraphs (A) to (C), inclusive, of this subdivision; (E) a domestic or foreign (i) business or nonprofit corporation, other than Eno or an entity controlled by Eno, of which the Eno agent is a director, (ii) unincorporated entity of which the Eno agent is a general partner or a member of the governing body, or (iii) individual, trust or estate for whom or of which the Eno agent is a trustee, guardian, personal representative or like fiduciary; or (F) a person that is, or an entity that is controlled by, an employer of the Eno agent.
9. **“Fair to Eno”** means that the transaction as a whole is beneficial to Eno, taking into appropriate account whether it was (A) fair in terms of the Eno agent's dealings with Eno,

and (B) comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by Eno.

10. **“Required disclosure”** means disclosure regarding a conflicting interest transaction of (A) the existence and nature of the Eno agent's conflicting interest, and (B) all facts known to the Eno agent respecting the subject matter of the transaction that an Eno agent free of such conflicting interest would reasonably believe to be material in Eno’s deciding whether to proceed with the transaction.

Article III - Procedures

1. **Duty to disclose** - In connection with any conflicting interest, every Eno agent must make the required disclosure, except to the extent that the Eno agent reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted Eno agent discloses: (1) All information required to be disclosed that is not so violative, (2) the existence and nature of the Eno agent's conflicting interest, and (3) the nature of the conflicted Eno agent's duty not to disclose the confidential information. The required disclosure shall be made by completing a Certification and Disclosure Form.
2. **Determining whether a conflicting interest transaction exists** – The Board Chair and President/CEO will review the disclosure forms. The Board Vice Chair and President/CEO shall review the Board Chair’s disclosure form. The Board Chair and Vice Chair shall review the President/CEO’s disclosure form. If those individuals determine that a conflicting interest transaction exists, the transaction will be discussed at a meeting with the full Board of Directors.
3. **Procedures for addressing a conflicting interest transaction–**
 - a. The affected Eno agent may make a presentation at the Board meeting, but after the presentation, s/he shall leave the meeting during the discussion of, and the vote on, the conflicting interest transaction.
 - b. The Board Chair shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
 - c. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflicting interest transaction, the Board shall determine by a majority vote whether the transaction or arrangement is fair to Eno. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement by the affirmative vote of a majority, but no fewer than two, of the directors without a conflicting interest.
4. **Violations of the conflicts of interest policy -**
 - a. If the Board has reasonable cause to believe an Eno agent has failed to disclose an actual or possible conflicting interest, it shall inform the affected person of the basis for

such belief and afford the affected person an opportunity to explain the alleged failure to disclose.

- b. If, after hearing the affected person's response and after making further investigation as warranted by the circumstances, the Board determines the affected person has failed to disclose an actual or possible conflicting interest, it shall take appropriate corrective action.

Article IV - Records of Proceedings

The minutes of the Board shall contain:

- a. The names of the persons who disclosed or otherwise were found to have a material financial interest in connection with an actual or possible conflicting interest transaction, the nature of the financial interest, any action taken to determine whether a conflicting interest transaction was present, and the Board's decision as to whether a conflicting interest transaction in fact existed.
- b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion and a record of any votes taken in connection with the proceedings.

Article V – Compensation

- a. A voting member of the Board who receives compensation from Eno for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Eno for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the Board or committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Eno, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI - Annual Statements

Each Eno agent shall annually sign a statement which affirms such person:

- a. Has received a copy of the Conflict of Interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands Eno is charitable and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more tax-exempt purposes.

Article VII - Periodic Reviews

To ensure Eno operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, an annual review of this policy shall be conducted. The review shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information (if reasonably available) and the result of arm's length bargaining,
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to Eno's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII - Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, Eno may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

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Examples of Potential Conflicting Interests and Disclosure Guidelines

1. An Eno agent (member of the Board of Directors, officer, or person employed by Eno) owns (individually or through family, a partnership, or a limited liability company) an office building. Eno seeks to lease space in the building. If the Eno agent were involved in the transaction or became aware of it, s/he would be obligated to disclose the conflicting interest. Also, s/he might be asked to abstain from any discussions or decisions about whether or not Eno enters into a lease for the premises.
2. A person employed by Eno arranges to receive 20 percent of any amount Eno spends with a caterer for an off-site event. The money is personal monetary gain to the employee in exchange for arranging for Eno to use the caterer. This is clearly forbidden under all circumstances (no “kick-backs”).
3. A member of the Board of Directors is employed by Acme Construction Company, which is a \$25,000 contributor to Eno. Even though this relationship is common knowledge, the Director should disclose it on the Certification and Disclosure Form. The Director should recuse themselves of decisions that would directly enrich themselves or the Acme Construction Company.
4. A member of the Board of Directors has a domestic partner who is a majority shareholder in Acme Trucking. Acme Trucking joins Eno as a \$25,000 member in order to participate in the Freight Working Group. This is not likely a conflicting interest transaction but the Director should notify Eno staff about the relationship and the relationship should be noted on the Director’s Disclosure Form. The Director should recuse themselves of decisions that would directly enrich themselves or the Acme Trucking.
5. A member of the Board of Directors is employed by a Washington lobby firm that Acme Construction Company pays for representation. If any part of the Director’s duties at the firm involves lobbying for Acme Construction Company, that relationship should be noted on the Director’s Disclosure Form. The Director should recuse themselves of decisions that would directly enrich themselves or the Acme Construction Company.
6. The Capital City Transit Agency is a member of Eno’s MAX program and a \$30,000 donor. A member of the Board of Directors is paid by Capital City Transit for ongoing consulting work. If the compensation for the work is \$15,000 or more per year, it should be noted on the Director’s Disclosure Form.
7. An Eno employee is invited by Acme Railroad Company to attend a Washington Nationals game in the company’s luxury suite. Eno is actively cultivating the company to join Eno. The employee informs Eno’s Development Director who provides additional information to the employee about the company’s interests and affiliations. Because the Eno employee is engaging in legitimate donor cultivation, s/he does not have a conflicting interest.

**Eno Transportation Foundation, Inc. (Eno)
Certification and Disclosure Form**

To be completed annually by all employees, officers, and Directors of Eno.

Name: _____

Position at Eno: _____

Date: _____

Certification

By signing this form below, I certify that:

1. I have received a copy of Eno’s Conflict of Interest policy;
2. I have read and understand the policy;
3. I agree to comply with the policy; and
4. I understand that the organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more exempt purposes and not engage in activities and transactions that provide impermissible benefits to individuals or entities.

Conflict of Interest Disclosure

Please answer the following questions to the best of your knowledge.

1. In the past year, did you or a related person receive a compensation package expected to equal or exceed \$15,000 from any single entity engaged in any transaction or arrangement with Eno? Are you aware of any such compensation package being considered by Eno? (For the definition of “related person,” please see Article II, Section 8, of the Conflict of Interest Policy.)

Yes [] No []

If yes, please describe _____

2. In the past year, were you a registered lobbyist for an initiative, relationship, or entity that overlaps with Eno's mission, policies, programs or partnership objectives?

Yes [] No []

If yes, please describe _____

Please attach a supplemental statement if you have additional actual or possible conflicting interests to disclose.

I hereby certify that the information set forth above is true and complete to the best of my knowledge.

Signature: _____ Date: _____