GENERAL ADMINISTRATION MANUAL

VOLUME 3: HUMAN RESOURCE POLICIES

TITLE: CONFLICT OF INTEREST

EFFECTIVE: October 27, 1994 (AMENDED: June 17, 2008)

1 SCOPE

1.1 Authority

1.1.1. This policy is issued under the authority of Cabinet Minute No. 94-40 (October 27, 1994) and amended under the authority of Deputy Ministers Review Committee (DMRC) minute #08-11 (June 17, 2008).

1.2 Application

1.2.1 This policy applies to all persons hired under the *Public Service Act* and the *Education Act*.

1.3 Purpose

- 1.3.1 The purpose of this policy is to enhance public confidence in the integrity of public servants and the Yukon government decision-making process by:
 - a) establishing clear parameters to minimize the possibility of conflicts arising between public servants' official duties and responsibilities and their personal and private interests, and
 - b) providing the means to resolve such conflicts in the public interest.
- 1.3.2 The range and complexity of Government of Yukon activities are such that it is not possible to produce a detailed list of every conflict of interest situation. The purpose is to clarify those types of activities that may constitute a conflict of interest.

1.4 Principles

- 1.4.1 The highest standards of conduct among Yukon public servants are essential to maintain and enhance the public's trust and confidence in the public service.
- 1.4.2 The Government of Yukon supports the rights of public service employees to be involved in activities as citizens of the community; however, conflict must not

exist or be perceived to exist between employees' private interests and the discharge of their public service duties.

1.5 Definitions

Conflict of interest: where there is an actual or perceived incompatibility between a public servant's duties and his/her private or personal interests.

Deputy Minister: includes all deputy ministers of departments and presidents of corporations.

Direct supervision: the assignment of duties, the completion of employee performance evaluations, or the selection of certifiable candidates on recruitment competitions or related responsibilities.

Employee: "employee" and "public servant" are use interchangeably and apply to all persons hired under the *Public Service Act* and *Education Act*.

Family member: a mother, father, sister, brother (or alternately step parent or foster parent), spouse, son, daughter, stepchild or ward of the employee, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, grandparent, grandchild, and any relative who permanently resides in the employee's household or with whom the employee permanently resides.

Public servant: "public servant" and "employee" are used interchangeably and apply to all persons hired under the *Public Service Act* and *Education Act*.

Spouse: a person who is married to the employee or who lives with the employee in a common-law relationship.

2 ROLES AND RESPONSIBILITIES

2.1 Departments

- 2.1.1 Deputy ministers are responsible for administering the policy in their department, for issuing instructions as necessary for implementation and for regularly promoting the policy to ensure employees are aware of their obligations.
- 2.1.2 Deputy ministers may issue supplementary instructions pertaining to departmentspecific situations as long as they are consistent with this policy. A copy of any supplementary instructions shall be forwarded to the Staff Relations Branch in the Public Service Commission.

- 2.1.3 Deputy ministers are responsible for receiving disclosure statements and for issuing decisions.
- 2.1.4 Human resource advisors are responsible for promoting the policy, for providing guidance to employees and supervisors on its application and for retaining disclosure information.
- 2.1.5 Supervisors are responsible for promoting the policy within their work units and for providing guidance to employees on its application. Supervisors who become aware of a potential conflict of interest situation have a responsibility to refer employees to their duty to disclose under the policy.

2.2 Public Service Commission

- 2.2.1 The Staff Relations Branch in the Public Service Commission is responsible for assisting departments in interpreting and applying the policy.
- 2.2.2 Requests for exemptions to the policy and challenges to a decision made by a deputy minister regarding conflict of interest will be referred to the Public Service Commissioner.
- 2.2.3 The Public Service Commission is responsible for retaining records pertaining to conflict of interest disclosures in employees' official personnel files.

2.3 Employees

General

- 2.3.1 All public servants are responsible for conducting themselves in a manner that maintains and fosters public trust.
- 2.3.2 No conflict should exist or appear to exist between the private or personal interests of public servants and their official duties.
- 2.3.3 Public servants have a duty to disclose to their deputy minister any situation in which they are involved which may pose a conflict of interest and to provide information as required.
- 2.3.4 In order that honesty and impartiality may be beyond doubt, public servants should not place themselves in a position where they are under obligation to any person who might benefit from special consideration or favour on their part or seek in any way to gain special treatment from them.

- 2.3.5 Public servants should not have financial interests that could conflict in any manner with the discharge of their official duties.
- 2.3.6 Public servants should exercise care in the management of their private affairs so as not to benefit, or appear to benefit, from the use of information acquired during the course of their official duties, when such information is not generally available to the public.

Dealing and Working with Others

- 2.3.7 Public servants may not improperly receive a benefit or confer a benefit on others. In particular, public servants may not:
 - a) participate in decisions where it may reasonably be perceived that there is opportunity to improperly benefit the interests, financial or otherwise, of themselves or others;
 - b) use their position to improperly influence a decision made by another person to benefit a financial interest of themselves or others;
 - c) share information gained in their employment capacity that is not available to the general public to improperly benefit an interest of themselves or others.
- 2.3.8 Public servants must disqualify themselves from exercising regulatory, inspectional or other discretionary authority over others where the nature of the relationship may bring the employee's impartiality into question. Where this situation arises, employees must advise their supervisor who will ensure that the matter is handled by another employee or in some other acceptable manner.
- 2.3.9 In situations where this may impair service delivery, such as an emergency, the public servant is expected to act impartially and to notify their supervisor immediately after exercising their authority.
- 2.3.10 Spouses and family members may be hired and permitted to work in the same department or branch, provided there is no opportunity to exercise favouritism and no conflict of interest exists for the persons involved.
- 2.3.11 Public servants are not permitted to directly supervise a spouse or family member unless there are extenuating circumstances for which the Public Service Commissioner, in consultation with the deputy minister, approves an exemption.
- 2.3.12 Public servants have a duty to disclose conflicts of interest involving a family member. The disclosure requirement does not apply where the employer hires an employee couple to the same school.

Use of government equipment, facilities or property

- 2.3.13 Public servants are prohibited from using government equipment, facilities or property to further their own interests.
- 2.3.14 Public servants must adhere to their obligations under the Government of Yukon Guidelines for Using Computers.

Other employment

- 2.3.15 Public servants are permitted to engage in any activity, including other employment, unless doing so:
 - a) causes an actual or apparent conflict of interest; or
 - b) is performed in such a way as to appear to be an official act, or to represent a Yukon Government opinion or policy; or
 - c) interferes with regular duties; or
 - d) involves the improper use of Government premises, equipment or supplies.
- 2.3.16 Where it appears a conflict of interest may arise, public servants are required to disclose to their deputy minister the nature of the potential conflict.
- 2.3.17 Public servants may not accept additional compensation for duties which they perform in the course of their public service employment.
- 2.3.18 Public servants shall not allow the performance of their official duties to be influenced by offers or the anticipation of offers of outside gain.

Volunteer activities - including boards and committees

- 2.3.19 Public servants are encouraged to participate in volunteer activities; however the same principles pertaining to other employment also apply.
- 2.3.20 Public servants whose association with an organization may give rise to a conflict of interest shall disclose their interest to the deputy minister and must disqualify themselves from participating in any Yukon Government decision which could impact that organization.

Government contracts

- 2.3.21 Public servants should not place themselves in a position where they could derive any direct or indirect benefit or interest from any government contracts over which they can influence decisions.
- 2.3.22 Public servants may bid upon, tender or enter into any contract with the Yukon government with the prior written approval of their deputy minister and where applicable, in accordance with the Directive on Post-Employment Restrictions.
- 2.3.23 The deputy minister will authorize the request only if satisfied that there is no conflict of interest between the government and the employee, and that the employee's status does not give or appear to give the employee an advantage over other competitors in the community.
- 2.3.24 Where a request has been approved, the deputy minister shall state explicitly the contract or type of work for which approval is given, and such terms and conditions as considered appropriate to avoid actual or apparent conflicts of interest.
- 2.3.25 A copy of the approval shall be sent to the Staff Relations Branch in the Public Service Commission for review prior to retention in the employee's official personnel file.

Investment and management of private assets

2.3.26 If a public servant participates in decisions or actions that may affect his /her business or financial interest or that of a family member, the employee is required to disclose that interest to the deputy minister.

Public statements

- 2.3.27 Public servants are free to comment on public issues; however they may not publicly criticize policies, programs or decisions which they have had the opportunity to influence or formulate.
- 2.3.28 In making public statements, public servants must not release information that is not generally available to the public.
- 2.3.29 Public servants should also be aware of their responsibilities under the Communication Policy and the Policy on Speaking in Public and Writing for Publication.

Accepting gifts

2.3.30 Public servants should not accept fees, gifts or other benefits that are connected with the performance of their public service duties other than those specifically permitted under the Gift Policy.

Political activity

2.3.31 Public servants are free to participate in political activities provided they do so within the parameters established in the *Public Service Act* and the *Education Labour Relations Act*.

Post-employment

2.3.32 Public servants should be aware of their obligations under the Directive on Post-Employment Restrictions.

2.4 Deputy Ministers

- 2.4.1 Deputy ministers must be aware of their responsibilities as outlined in the *Public Service Act* and this policy, and shall disclose in writing to the Premier, or in the event of an investigation, the Conflicts Commissioner, those matters which might conceivably be construed as being in actual or potential conflict with their official duties and responsibilities.
- 2.4.2 Following disclosure, deputy ministers shall abide by the written advice of the Premier and/or the Conflicts Commissioner. Failure to do so could result in release from the public service. A copy of the written advice shall be placed on their personnel file.
- 2.4.3 Indemnification protections extended to deputy ministers are outlined in GAM policy 3.57 Indemnification for Deputies Conflict of Interest Inquiries.

3 DISCLOSURE AND RESOLUTION PROCESS

- 3.1.1 Public servants have a duty to disclose to their deputy minister in writing any situation in which they:
 - a) may be in a position to improperly derive personal benefit or confer preferential benefits on others as a result of their employment; and/or
 - b) may be in a position of conflict or be perceived to be in a position of conflict with the interest of the government arising from any of their outside activities.

- 3.1.2 Public servants who are in doubt about their rights and responsibilities under the policy are encouraged to seek clarification from their supervisor and/or department human resource advisor.
- 3.1.3 Upon receiving a public servant's written disclosure, the deputy minister shall discuss the matter with them to determine whether a conflict exists and if so, to attempt to achieve resolution. Should the matter not be mutually resolved, the deputy minister shall provide the employee with written advice and the employee shall abide by the advice given.
- 3.1.4 A copy of the deputy minister's response, agreed upon resolution or the deputy minister's written advice will be forwarded to the Staff Relations branch of the Public Service Commission for review prior to retention, under confidential cover, in the employee's official personnel file.
- 3.1.5 A public servant may appeal the advice of the deputy minister to the Public Service Commissioner. The Public Service Commissioner shall investigate the matter and provide a written decision to the employee and the deputy minister.
- 3.1.6 Public servants who fail to observe this policy or to follow the agreed upon resolution or advice provided subsequent to disclosure may be subject to discipline, up to and including dismissal.

4 Confidentiality and Records Management

4.1.0 All information pertaining to a conflict of interest disclosure is confidential and must be protected and retained in a manner in keeping with the *Public Service Act* and *Access to Information and Protection of Privacy Act*.

References:

A Companion Guide to Understanding the Conflict of Interest Policy Public Service Act
Education Act & Education Labour Relations Act
Access to Information and Protection of Privacy Act
Guidelines for Using Computers
Communications Policy, GAM 1.3
Speaking in Public and Writing for Publication, GAM 1.4
Gift Policy, GAM 1.6
Directive on Post-Employment Restrictions, GAM 1.14
Indemnification Policy for Deputies (Conflict of Interest), GAM 3.57