

**NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY**  
**CONFLICT OF INTEREST POLICY**  
Approved by RETA on August 7, 2018

Article I  
Purpose

The purpose of this conflict of interest policy is to protect the interest of the New Mexico Renewable Energy Transmission Authority (“RETA”) when it is contemplating entering into an agreement or transaction that might benefit the private interest of an officer or director of RETA or might result in a possible excess benefit transaction. It is designed to help directors, officers, and employees of RETA identify situations that present potential conflicts of interest and to provide RETA with a procedure that, if observed, will allow a transaction to be treated as valid and binding even though a director, officer, or employee has or may have a conflict of interest with respect to the transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in federal or state law, the applicable law shall control.

Article II  
Definitions

1. An “Agreement or Transaction” is any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind, the providing or receipt of a loan or grant, or the establishment of any other type of pecuniary relationship by RETA. The making of a gift to RETA is not an Agreement or Transaction within the meaning of this document.

2. For purposes of this policy, the following circumstances shall be deemed to create a “Conflict of Interest”:

- a. Outside Interests.
  - i. An Agreement or Transaction between RETA and an Interested Person or Family Member.
  - ii. An Agreement or Transaction between RETA and an entity in which an Interested Person or Family Member has a Financial Interest or of which such person is a director, officer, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative.
- b. Outside Activities.
  - i. An Interested Person competing with RETA in the rendering of services or in any other Agreement or Transaction with a third party.

- ii. An Interested Person's having a Financial Interest in, or serving as a director, officer, employee, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative of, or consultant to, an entity or individual that competes with RETA in the provision of services or in any other Agreement or Transaction with a third party.
- c. Gifts, Gratuities and Entertainment. An Interested Person accepting gifts, entertainment, or other favors from any individual or entity that:
- i. does or is seeking to do business with, or is a competitor of RETA;
  - ii. has received, is receiving, or is seeking to receive a loan or grant, or to secure other financial commitments from RETA;
  - iii. is a charitable organization; or
  - iv. under circumstances where it might be inferred that such action was intended to influence or possibly would influence the Interested Person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value that are not related to any particular transaction or activity of RETA.

3. A "Family Member" is a spouse, domestic partner, parent, child, or spouse of a child, brother, sister, or spouse of a brother or sister, of an Interested Person.

4. A person has a "Financial Interest" if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which RETA has a transaction or arrangement,
- b. A compensation arrangement with RETA or with any entity or individual with which RETA has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which RETA is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that aren't insubstantial.

A Financial Interest is not necessarily a Conflict of Interest. Under Article III, Section 2, a person who has a Financial Interest may have a Conflict of Interest only if the Board of Directors decides that a Conflict of Interest exists.

5. An “Interested Person” is any director, officer, employee, or member of a committee with powers delegated by the Board of Directors, who has a direct or indirect Financial Interest.

### Article III Procedures

#### 1. Duty to Disclose

In connection with any actual or possible Conflict of Interest, an Interested Person must disclose the existence of a Financial Interest or a possible Conflict of Interest and be given the opportunity to disclose all material facts to the Board of Directors considering the proposed Agreement or Transaction. Such disclosure shall be reflected in the minutes of the meeting.

#### 2. Determining Whether a Conflict of Interest Exists

After disclosure of the Financial Interest or possible Conflict of Interest and all material facts, and after any discussion with the Interested Person, the person who has the Financial Interest or Conflict of Interest shall leave the Board of Directors meeting while the determination of a Conflict of Interest is discussed and voted upon. The remaining members of the Board of Directors shall decide if a Conflict of Interest exists.

#### 3. Procedures for Addressing the Conflict of Interest

- a. An Interested Person may make a presentation at the Board of Directors meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible Conflict of Interest.
- b. The chairperson of the Board of Directors shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed Agreement or Transaction.
- c. After exercising due diligence, the Board of Directors shall determine whether RETA can, with reasonable efforts, obtain a more advantageous Agreement or Transaction from a person or entity that would not give rise to a Conflict of Interest.
- d. If a more advantageous Agreement or Transaction is not reasonably possible under circumstances not producing a Conflict of Interest, the Board of Directors shall determine by a majority vote of the disinterested directors whether the Agreement or Transaction is in RETA’s best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the Agreement or Transaction.

e. A person who has a Financial Interest or a Conflict of Interest shall not participate in or be permitted to hear the Board of Directors' discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.

f. A person who has a Conflict of Interest shall not be counted in determining the presence of a quorum for purposes of the vote. The person having Conflict of Interest may not vote on the Agreement or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting.

g. Interested Persons who have a Conflict of Interest with respect to an Agreement or Transaction that is not the subject of Board of Directors action, shall disclose to the Chairman of the Board of Directors any Conflict of Interest that such Interested Person has with respect to an Agreement or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Interested Person. The Interested Person shall refrain from any action that may affect RETA's participation in such Agreement or Transaction.

#### 4. Violations of the Conflicts of Interest Policy

a. If the Board of Directors has reasonable cause to believe a person has failed to disclose an actual or possible Conflict of Interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board of Directors determines the person has failed to disclose an actual or possible Conflict of Interest, it shall take appropriate disciplinary and corrective action.

#### Article IV Records of Proceedings

The minutes of the Board of Directors shall contain:

a. The names of the persons who disclosed or otherwise were found to have an actual or possible Conflict of Interest, the nature of the Conflict of Interest, any action taken to determine whether a Conflict of Interest was present, and the decision of the Board of Directors as to whether a Conflict of Interest in fact existed.

b. The names of the persons who were present for discussions and votes relating to the Agreement or Transaction, the content of the discussion, including any alternatives to the proposed Agreement or Transaction, and a record of any votes taken in connection with the proceedings.

## Article V Compensation

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

## Article VI Annual Statements

Each director, officer, employee, and member of a committee with powers delegated by the Board of Directors shall annually sign a statement which affirms that such person:

- a. Has received a copy of this Conflict of Interest policy,
- b. Has read and understands the policy, and
- c. Has agreed to comply with the policy.

## Article VII Periodic Reviews

To ensure that RETA operates in a manner consistent with its purposes, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization'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, RETA may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.