

Policy Title: JICS Conflict of Interest

Policy Designation: A-4B

Office/Responsible Position BOE/ CEO

Attachments: A-4B-F

Purpose of the Policy: The purpose of this policy is to protect the Corporation's (JICS) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director, or an administrative employee of the Corporation or might result in a possible excess benefit transaction. The policy is intended to supplement but not replace any applicable state and federal laws, including section 7-128-105, Colorado Revised Statutes, governing conflicts of interest applicable to non-profit and charitable corporations.

Policy Details:

1) **Definitions:**

a) **Interested Person:** Any director, principal officer, administrative staff, or member of a committee with board delegated powers, who have a direct or indirect financial interest, as defined below, is an interested person. If a person is an interested person with respect to any entity in any family or entities of which the Corporation is a part, he or she is an interested person with respect to all entities in the family.

b) **Financial Interest:**

1) 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 the Corporation has a transaction or arrangement, or

b) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

c) a potential ownership or investment interest in, or compensation arrangement with any entity or individual with which the Corporation is negotiating a transaction or arrangement.

2) Compensation includes direct or indirect remuneration as well as gifts or favors that are not insubstantial.

3) An interested person also has a financial interest whenever such an interested person, or a family member of such interested person, has a fiduciary duty to another entity that may prevent the interested person from acting in the best interests of the Corporation. For purposes of this policy, family members defined as spouse, children, parents, siblings and in-laws.

4) A financial interest is not necessarily a conflict of interest. Under Paragraph 2 (b), of this Policy, a person who has a financial interest will have a conflict of interest only if the appropriate board or committee decides that a conflict of interest exists.

2) **Procedures:**

a) **Duty to disclose:** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of his or her financial interest and all material facts to the directors and members of committees with board delegated powers considering the proposed transaction or arrangement.

b) **Determining whether a conflict of interest exists:** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the board or committee meeting while the determination of a conflict of interest is discussed and or voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

c) **Procedures for addressing the conflict of interest:**

1) An interested person may make a presentation at the board or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and on the vote on, the transaction or arrangement involving the possible conflict of interest.

2) The chairman of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

3) After exercising due diligence, the board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

4) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interested, the board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such a determination.

d) **Violations of the Policy:**

1) If the board or committee has reasonable cause to believe that an interested person has failed to disclose an actual or possible conflict of interest, it shall inform the interested person of the basis for such a belief and afford the interested person an opportunity to explain the alleged failure to disclose.

2) If after hearing the response of the interested person and after making such further investigation as may be warranted by the circumstances, the board or committee

determines that the interested person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

e) **Appropriating corporate opportunities:**

1) An interested person appropriates a corporate opportunity when he or she is aware of an opportunity for the Corporation to engage in an activity from that is related to the Corporation's present or planned activities, and such interested person takes advantage of the corporate opportunity personally or for the benefit of one or more third parties.

2) Before appropriating a corporate opportunity, an interested person must inform the Corporation of the opportunity and obtain approval from the Corporation. The Corporation may provide such approval only after an informed evaluation of the corporate opportunity and a determination by the disinterested officers or directors (depending upon whether the opportunity would normally acquire approval by the board of directors of the Corporation) that the corporation should not pursue such corporate opportunity. In all such cases the board will be informed of these actions.

3) Any interested person who shall appropriate a corporate opportunity without approval from the Corporation shall be deemed to have violated this policy.

3) **Records of proceedings:** The minutes of board and all committees with board delegated powers shall contain:

a) the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether such a conflict of interest was present, and the board's or committee's decision as to whether a conflict of interest in fact existed.

b) the names of the persons who were present for the discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

4) **Compensation:**

a) **Voting members of the board:** A voting member of the board who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

b) **Voting members of the compensation committee:** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for such services is precluded from voting on matters pertaining to that member's compensation.

c) **Authority to provide information:** No voting member of the board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

5) **Annual statements:** Each director, principal officer, administrative staff members as selected by the CEO, and member of a committee with board delegated powers, shall annually sign a statement (A-4B-F) which affirms that 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 that the Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

6) **Periodic Reviews:** To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that would jeopardize its status as an organization exempt from federal income tax, 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 are the result of the arm's-length bargaining.
- b) Whether acquisitions of goods and services since the date of the previous review result in inurement, impermissible private benefit, or in an excess benefit transaction.
- c) Whether partnerships, joint ventures, and arrangements with management organizations conform the Corporation's written policies, are properly recorded, reflect reasonable payments for goods and services, further the Corporation's charitable purposes, and do not result in inurement, impermissible private benefit, or in excess benefit transaction.
- d) Whether all other agreements entered into the Corporation further the Corporation's charitable purposes and do not result in the inurement, impermissible private benefit, or in excess benefit transaction.

7) **Use of outside experts:** In conducting the periodic reviews provided for in paragraph 6 of this policy, the Corporation may, but not need, use outside advisors. If outside experts are used, their use shall not relieve the board of its responsibility for ensuring that periodic review are conducted.

Relevant Statutes:

CRS 7-128-105

Policy History: Initiated October 23, 2018

When Approved: October 23, 2018

When Revised:

Next Review: October 23, 2020