

**CHUGACH ELECTRIC ASSOCIATION, INC.**  
**Anchorage, Alaska**

**OPERATIONS COMMITTEE MEETING**  
**AGENDA ITEM SUMMARY**

**November 11, 2009**

**ACTION REQUIRED**

**AGENDA ITEM NO. XI.**

       **Information Only**  
  **X**   **Motion**  
       **Resolution**  
       **Executive Session**  
       **Other**

---

**TOPIC**

Board Policy 124 – Conflict of Interest

**DISCUSSION**

The Association’s Standard Operating Procedure 63 calls for periodic review of Board policies to determine if any revisions are necessary. Board Counsel and staff have undertaken the review, and they recommend the changes to Board Policy 124 shown in the attached document.

The proposed changes would clarify Director and employee obligations regarding dissemination and use of Association information. Further, the proposal would remove inconsistencies between BP 124 and the provisions in the Association’s Bylaws (Article IV, Section 3) regarding conflicts of interest that make a Director ineligible to continue service on the Board. Third, the proposal includes a procedure for disclosure of a financial interest the Director, or any member of his or her immediate family, has in a matter before the Board. After disclosing such an interest, the Director would request that he or she be excused from participation in discussion and voting on the matter. Finally, the proposal would remove “catch all” language in the current Policy that is so broad that it fails to provide adequate guidance regarding what other kinds of behavior might constitute conflicts of interest.

If the Board eventually enacts changes to BP 124, Board Counsel and staff will return to the Operations Committee with suggested changes (or suggested repeal) of a separately enacted Code of Ethics For Directors And Employees.

**MOTION**

Move that the Operations Committee recommend the Board of Directors to approve the revisions to Board Policy 124 – Conflict of Interest as shown in the attached draft policy.

**CHUGACH ELECTRIC ASSOCIATION, INC.**

**BOARD POLICY: 124**

**DATE: \_\_\_\_\_**

**CONFLICT OF INTEREST**

**I. OBJECTIVE**

To provide guidance to Association Board Directors (“Directors”) and employees for avoiding conflicts of interest, or the appearance of conflicts of interest, so that the affairs of the Association may be carried out in a businesslike and ethical manner.

**II. CONTENT**

The following guidelines shall apply to Directors and employees of the Association.

- A. Directors and employees are prohibited from receiving gifts, fees, loans or favors from suppliers, contractors, consultants or financial houses, which obligate or induce them to compromise their duties and responsibilities to the Association such as negotiating, obligating, inspecting or auditing, purchasing or awarding contracts with the best interest of the Association uppermost in mind. A meal for the purpose of discussing business matters is acceptable if the cost or value of the meal to the employee or Director is \$50.00 or less per person.
- B. Directors and employees are prohibited from: 1) in any way using Association information for personal gain or advancement, or to the detriment of the Association; 2) individually conducting negotiations or making contacts or inquiries on behalf of the Association unless officially designated to do so; and 3) disclosing confidential Association information in violation of BP 120, “Requests for Association Information” and BP 128, “Confidentiality.” An employee or Director having access to Association information on procurement including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information or any other Association matter, is prohibited from using that information for personal benefit or to adversely affect the best interests of the Association.
- C. Directors and employees are prohibited from 1) acquiring or having a financial interest in any Association property, or 2) having a financial interest in a competing enterprise or a supplier, contractor, consultant or other entity with which the Association does business, except as provided in Article IV, Section 3(a)(4) of the Bylaws. Directors and employees may own securities in a publicly-owned company unless ownership of such securities provides the Director or

employee with the ability to materially influence or affect the business relationship between the Association and such publicly-owned company.

- D. Directors are prohibited from being:
  - 1. An employee of the Association;
  - 2. An employee of a competing enterprise except as provided in Article IV, Section 3(a)(2) of the Bylaws;
  - 3. A member, officer, director or employee of any union local currently acting as a bargaining agent for Association employees;
  - 4. A person living in the same household with and financially interdependent upon any person included in subparagraphs 1, 2, and 3 above; or
  - 5. A member of a standing or ad hoc Member committee as described in Article XV, Section 1 of the Association's Bylaws.
  
- E. Employees are prohibited from serving as:
  - 1. Association directors; or
  - 2. A member of a standing or ad hoc Member committee as described in Article XV, Section 1 of the Association's Bylaws.
  
- F. If a member of an employee's immediate family (as defined in Section II.B of Operating Policy 012, "Nepotism") has a financial interest described in Section II.C above, such interest shall be fully disclosed to the Chief Executive Officer ("CEO"), who shall determine whether it is necessary to inform the Board of Directors. The CEO shall also determine whether the financial interest should prevent the Association from entering into a particular transaction, purchase or employment of services.
  
- G. Other interests in or relationships with an outside organization or individual having business dealings with the Association are prohibited if the interest or relationship would impair the ability of the employee or Director to serve the best interests of the Association.
  
- H. In accordance with Article V, Section 3 of the Bylaws, a Director shall disclose a financial interest the Director, or any member of his or her immediate family, has in a matter before the Board and request that he or she be excused from participation in discussion and voting on the matter. The Board Chair shall rule on the request, except that if the Board Chair discloses such a financial interest, the Board Vice Chair shall rule on the Chair's request. A majority of Directors

present at the meeting (not including the Director who requested the ruling) may overrule the Board Chair’s (or Vice Chair’s) ruling. For purposes of this section, a “financial interest in a matter before the Board” means a financial interest that could be affected by official Board action and which might reasonably result in a pecuniary gain or loss exceeding \$1,000. When the pecuniary value of a financial interest is not apparent on its face or is otherwise at issue, the Chair or Vice Chair will make the determination of whether or not it constitutes a financial interest. A person's financial interest includes: 1) involvement or ownership of an interest in a business including a property ownership, or a professional or private relationship, that is a source of income, or from which the person has received, or expects to receive, a financial benefit; or 2) any affiliation with an organization in which the person has an ownership interest, holds a position of management, or is an officer, director, trustee, employee, or the like.

**III. RESPONSIBILITIES**

- A. Each Director and employee shall comply with this Policy.
- B. The CEO shall inform all employees about the content of this Policy and use his or her best efforts to insure compliance with it.
- C. Any Director or employee whose conduct violates this policy may be subject to: (1) if CEO, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the CEO; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association’s Bylaws.

Date Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Alex Gimarc  
Secretary of the Board

CHUGACH ELECTRIC ASSOCIATION, INC.

BOARD POLICY: 124

DATE:

CONFLICT OF INTEREST

I. OBJECTIVE

To ~~provide guidance to clearly define those areas where the Association Board~~ Directors (“Directors”) ~~and~~ employees ~~of the Association shall for~~ avoiding conflicts of interest, or ~~the any~~ appearance of conflicts of interest, so that the affairs of the Association ~~will always~~ may be carried out in a businesslike and ethical manner.

II. CONTENT

The following guidelines shall apply to Directors and employees of the Association.

- A. Directors and employees are prohibited from receiving gifts, fees, loans or favors from suppliers, contractors, consultants or financial houses, which obligate or induce them to compromise their duties and responsibilities to the Association ~~including such as~~ negotiating, obligating, inspecting or auditing, purchasing or awarding contracts with the best interest of the Association uppermost in mind. A meal for the purpose of discussing business matters is acceptable if the cost or value of the meal to the employee or ~~d~~Director is \$50.00 or less per person.
- B. ~~The complete confidentiality of Association information must be respected at all times.—~~Directors and employees are prohibited from: 1) ~~knowingly disclosing information to individuals or entities, both inside and outside the Association, who do not have the need to know or whose interests may be adverse to the Association;~~ 2) in any way using ~~such~~ Association information for personal gain or advancement, or to the detriment of the Association; ~~or~~ 3) ~~individually conducting negotiations or making contacts or inquiries on behalf of the Association unless officially designated to do so; and 3) disclosing —confidential Association~~ information ~~obtained in the course of the performance of one’s duties is to be kept confidential unless and until the information is or becomes available publicly.—~~ in violation of BP 120, “Requests for Association Information” and BP 128, “Confidentiality.” An employee or Director having access to Association information on procurement including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information or any other Association matter, is prohibited from using that information for personal benefit or to adversely affect the best interests of the Association.

- C. Directors and employees are prohibited from 1) acquiring or having a significant financial interest in any Association property, which the Association acquires or 2) having a direct or indirect financial interest in a competing enterprise or, including being employed by, a supplier, contractor, consultant or other entity with which the Association does business, ~~or a competing enterprise~~, except as provided in Article IV, Section 3(a)(4) of the Bylaws. ~~This does not prohibit the Directors and employees may own ownership of securities in a publicly-owned company except if owned in a significant amount by unless ownership of such securities provides the those Director or employee in a position with the ability to materially influence or affect the business relationship between the Association and such publicly-owned company. Any other interest in or relationship with an outside organization or individual having business dealings with the Association is prohibited if this interest or relationship might tend to impair the ability of the employee or Director to serve the best interests of the Association. If members of the immediate family of an employee or Director, as defined in Operating Policy 012, have a financial interest or other relationship as specified above, such interest shall be fully disclosed to the Board of Directors which shall decide if such interest should prevent the Association from entering into a particular transaction, purchase or employment of services.~~
- D. Directors are prohibited from being:
1. An employee of the Association;
  - ~~1.~~ 2. An employee of a competing enterprise except as provided in Article IV, Section 3(a)(2) of the Bylaws;
  3. A member, officer, director or employee of any union local currently acting as a bargaining agent for Association employees;
  4. A person living in the same household with and financially interdependent upon any person included in subparagraphs 1, 2, and 3 above; or
  5. A member of a standing or ad hoc Member committee as described in Article XV, Section 1 of the Association's Bylaws.
- E. Employees are prohibited from serving as:
1. Association directors; or
  2. A member of a standing or ad hoc Member committee as described in Article XV, Section 1 of the Association's Bylaws.
- F. If a member of an employee's immediate family (as defined in Section II.B of Operating Policy 012, "Nepotism") has a financial interest described in Section

II.C above, such interest shall be fully disclosed to the Chief Executive Officer (“CEO”), who shall determine whether it is necessary to inform the Board of Directors. The CEO shall also determine whether the financial interest should prevent the Association from entering into a particular transaction, purchase or employment of services.

~~FG. Every Director and employee of the Association is expected to avoid situations which might be construed as conflicts of interest since it is not feasible in a policy statement such as this to describe all the circumstances and conditions that might be, or have the potential of being, a conflict of interest. Other interests in or relationships with an outside organization or individual having business dealings with the Association are prohibited if the interest or relationship would impair the ability of the employee or Director to serve the best interests of the Association.~~

H. In accordance with Article V, Section 3 of the Bylaws, a Director shall disclose a financial interest the Director, or any member of his or her immediate family, has in a matter before the Board and request that he or she be excused from participation in discussion and voting on the matter. The Board Chair shall rule on the request, except that if the Board Chair discloses such a financial interest, the Board Vice Chair shall rule on the Chair’s request. A majority of Directors present at the meeting (not including the Director who requested the ruling) may overrule the Board Chair’s (or Vice Chair’s) ruling. For purposes of this section, a “financial interest in a matter before the Board” means a financial interest that could be affected by official Board action and which might reasonably result in a pecuniary gain or loss exceeding \$1,000. When the pecuniary value of a financial interest is not apparent on its face or is otherwise at issue, the Chair or Vice Chair will make the determination of whether or not it constitutes a financial interest. A person's financial interest includes: 1) involvement or ownership of an interest in a business including a property ownership, or a professional or private relationship, that is a source of income, or from which the person has received, or expects to receive, a financial benefit; or 2) any affiliation with an organization in which the person has an ownership interest, holds a position of management, or is an officer, director, trustee, employee, or the like.

### **III. RESPONSIBILITIES**

~~A. Each Director and employee shall comply with the letter and the spirit of this Policy.~~

~~B. The Chief Executive Officer shall inform all employees about the content of this Policy and insure that it is complied with.~~

~~C. Each Director and employee must disclose any situation that violates, may violate, or could appear to violate the intent of this Policy.~~

~~D. Any Director or employee whose conduct infringes upon either the letter or spirit of this Policy shall be subject to: (1) if Chief Executive Officer, termination by appropriate action of the Board of Directors; (2) if an employee, termination by appropriate action of the Chief Executive Officer; or (3) if a Director, charges by the Board leading to removal in accordance with Article IV, Section 3(e) or Section 7 of the Association's Bylaws or automatic ineligibility as applicable under the circumstances.~~

A. Each Director and employee shall comply with this Policy.

B. The CEO shall inform all employees about the content of this Policy and use his or her best efforts to insure compliance with it.

C. Any Director or employee whose conduct violates this policy may be subject to: (1) if CEO, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the CEO; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association's Bylaws.

Date Approved: \_\_\_\_\_

Attested: \_\_\_\_\_  
Secretary of the Board