

# The Education Trust Board of New Mexico



THE HONORABLE SUSANA MARTINEZ  
GOVERNOR OF NEW MEXICO

DR. BARBARA DAMRON, CABINET SECRETARY  
NEW MEXICO HIGHER EDUCATION DEPARTMENT

BOARD MEMBERS  
DR. BARBARA DAMRON, CHAIRMAN  
ROBERT J. DESIDERIO, VICE-CHAIR  
MARK JARMIE  
TREVOR SERRAO

## Meeting Minutes of December 31, 2014

New Mexico Higher Education Dept., 2048 Galisteo St. Santa Fe NM 87505

### Board Members in Attendance

Dr. José Garcia - Chairman  
Mark Jarmie – Member (By Phone)  
Trevor Serrao – Member (By Phone)  
Robert Desiderio - Vice Chairman (By Phone)

APPROVED

### Other Individuals in Attendance

Kevin Deiters - Executive Director (By Phone)  
Angela Gallegos - Board Secretary  
David Mathews - HED Attorney  
Helen Atkeson - Partner, Hogan Lovells US LLP (By Phone)  
Bill Raynor – OppenheimerFunds (By Phone)

Angela M. Gallegos 2-20-15  
Board Secretary

APPROVED

### AGENDA

#### 1) CALL TO ORDER

Chairman Garcia called the meeting to order at 10:03 a.m. Board Secretary Angela Gallegos called the roll and announced that four Board members were present and that a quorum existed.

#### 2) PUBLIC COMMENT

Chairman Garcia called for public comment. There was no public comment.

#### 3) APPROVAL OF AGENDA

Chairman Garcia called for a motion to approve the agenda.

The motion was made by Mr. Jarmie and seconded by Mr. Serrao. The motion was approved by unanimous consent.

#### 4) CLOSED SESSION PURSUANT TO NMSA 10-15-1(H) TO DISCUSS THE COMPETITIVE SEALED PROPOSALS FOR THE FUND PROGRAM MANAGER AND THE NEGOTIATION PROCESS FOR THE COLLEGE SAVINGS PLAN PROGRAM MANAGEMENT AGREEMENT

Chairman Garcia called for a motion to move into closed session.

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Mr. Jarmie made a motion to allow the Board to move into close session pursuant to NMSA 10-15-1(H)6 to discuss the competitive sealed proposals for the program manager and the negotiation process for the College Savings Plan Program Management Agreement.

The motion was seconded by Vice Chairman Desiderio. A roll call vote was taken and all four Board members voted to move into closed session.

Chairman Garcia announced that the Board was moving into closed session at 10:05 a.m.

*[The Board met in closed session between 10:05 a.m. and 10:10 a.m.]*

Chairman Garcia called for a motion to end the closed session and to return to open session.

The motion was made by Mr. Jarmie and seconded by Mr. Serrao. The motion was approved by unanimous consent and the Board move back into open session at 10:10 a.m.

Mr. Mathews noted for the record that the only matters discussed by the Board during the closed session were solely pursuant to the agenda item and consistent with NMSA 10-15-1(H)(6) and that the matters discussed in closed session would be discussed during the open session.

Mr. Jarmie advised the Board that when he was notified that Dr. Garcia was leaving the Board, he called the Governor's office and spoke with Mr. Trevor Crombie, Deputy Director of Boards and Commissions, to advise him that the Board had scheduled a vote on the Agreement, and he felt it was important that the Board precede with the award of the contract following the work conducted by the Board and its advisors it over the past few months and a delay would be deleterious to the state.

Mr. Jarmie said that he did not speak with Mr. Crombie about who the contract would be awarded to and that the intent of the call was to make sure that the Governor's office was in support of the Board's action even though Dr. Garcia would be leaving the Board on January 1, 2015.

After conferring within the administration, Mr. Crombie called Mr. Jarmie and advised him that the administration was in support of the Board's decision to precede as it saw fit in the award of the contract.

**5) College Savings Plan Program Management Agreement – discussion and possible action, Helen Atkeson, Hogan Lovells US LLP**

Chairman Garcia called upon David Mathews, Kevin Deiters, and Helen Atkeson to give their recommendations regarding the award of the College Savings Plan Program Manager Agreement.

Mr. Mathews advised the Board that it was exempt from the Procurement Code with respect to the number of years for a professional contract and that he and Mr. Deiters had reviewed the procurement with Mr. Kippert with the General Services Division and with the staff of the Contracts Review Bureau. He advised that the applicable portions of the Procurement Code had been followed and the staff had not deviated from the boilerplate language in the state contract form.

Mr. Deiters provided an overview of the procurement process that began with the March 12, 2014, vote by the Board to issue the Request for Proposal. He said that four firms submitted qualified bids and these proposals were evaluated by an evaluation team composed of the Board's Executive Director; Higher Education Department General Counsel; the Board's Investment Consultant; the Board's College Savings Plan Consultant and the Board's Outside Counsel.

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Ms. Atkeson explained that the Program Manager Agreement is between the Board and two wholly-owned subsidiaries of OppenheimerFunds, Inc. – OFI Private Investments Inc. and OFI Distributor Inc. - as the Program Manager. The Agreement has a five-year term commencing on July 1, 2015 and it provides for two optional two-year renewal terms upon the approval of all the parties.

Ms. Atkeson explained that subcontracting is permitted subject to the consent of the Board and the indemnification of the Board by the subcontractors; however, the contracting parties will remain responsible to the Board for the services provided by the subcontractors.

The Agreement also identifies the management, administrative, and custodial fees charged to account owners and it requires the Program Manager to establish a separate share class for New Mexico residents to enable the Board to set a distinct rate for in-state residents.

Ms. Atkeson said that the Board would need to review and approve the investment lineup and the Program Manager's marketing plan before the Agreement's effective date of July 1, 2015. The parent company, OppenheimerFunds, Inc., is required to provide a performance guarantee to the Board before the effective date of the Agreement.

Mr. Jarmie asked the staff if the Agreement was in the best interest of the State of New Mexico.

Ms. Atkeson replied that the Agreement was in the best interest of the Board and she did not see any reason why it was not in the interest of the State of New Mexico.

Mr. Deiters said it was a good Agreement and in the best interest of the Board and the State of New Mexico and he recommended to the Board that it award the contract to OFI Private Investments Inc. and OFI Distributor Inc. for a five year term beginning July 1, 2015.

Mr. Mathews agreed with the comments made by Ms. Atkeson and Mr. Deiters that the Agreement was in the best interest of both the Board and the State of New Mexico.

Chairman Garcia called for a motion to authorize the execution of the College Savings Plan Program Manager Agreement presented to the Board for approval under which OFI Private Investments Inc. and OFI Distributor Inc. will serve as the Program Manager for a five year term beginning July 1, 2015.

The motion was made by Mr. Desiderio and seconded by Mr. Serrao. Chairman Garcia called for a record vote and the motion was approved by all four members.

Chairman Garcia expressed his appreciation to the Board and the staff for all of the work involved in awarding the contract.

Mr. Desiderio expressed his thanks to Dr. Garcia for his leadership of the Board over the past four years and he said that this was the most productive period in the history of the Board.

## **6) ADJOURNMENT**

Chairman Garcia called for a motion to adjourn the meeting.

The motion was made by Mr. Serrao and seconded by Mr. Desiderio. The motion was approved by unanimous consent.

Chairman Garcia adjourned the meeting at 10:30 a.m.

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