

## **NECA-IBEW PENSION TRUST FUND**

### **Administrative Rules Governing Employer Participation**

**(Revised June 2020)**

The following terms and conditions apply to all participation agreements between any employer and the NECA-IBEW Pension Trust Fund covering Employer Participation.

1. By law, sole proprietors and partners are not employees. Therefore, sole proprietors and partners are not eligible to participate in the Fund.
2. Owners who perform bargaining unit work (“Working Owners”) may participate in the Pension Fund subject to the following rules:
  - a. As described in the applicable participation agreement, a “Working Owner” is any Employee who (i) is an officer of the Employer or a shareholder who has an ownership interest in the Employer or whose spouse has an ownership interest in the Employer, and (ii) who is currently performing services for the Employer for compensation and he is performing work of the type regularly performed by employees covered by the Employer's collective bargaining agreement with the applicable Local Union affiliated with the International Brotherhood of Electrical Workers. Notwithstanding the foregoing definition of a Working Owner, an employee who (i) owns less than 5% of the Employer, or (ii) owns an interest in an Employer through an Employee Stock Ownership Plan (“ESOP”), and whose spouse does not have an ownership interest in the Employer shall not be considered a Working Owner as long as the employee is represented by the applicable Local Union for collective bargaining purposes and the employee performs work of the type regularly performed by employees covered by the Employer’s collective bargaining agreement with the applicable Local Union affiliated with the International Brotherhood of Electrical Workers.
  - b. Working Owners may participate as long as a written agreement specifies the terms of their participation. As described below, the written agreement may either be a collective bargaining agreement or a participation agreement.
  - c. A collective bargaining agreement may serve as the requisite written agreement as long as the agreement contains a specific provision permitting the owner to perform bargaining unit work. The provision permitting the Working Owner to perform bargaining unit work must be contained in the body of the agreement or may be set forth in an addendum to the agreement. Upon request by the Pension Fund, the Employer must provide a copy of the collective bargaining agreement or, if applicable, an addendum thereto.
  - d. If the collective bargaining agreement (or addendum thereto) does not explicitly permit the Working Owner to performing bargaining unit work, then the Employer must enter into a participation agreement with the Pension Fund.

The Pension Fund has several participation agreements available to Employers: a Bargaining Unit Alumni and Working Owner Participation Agreement and a Non-Bargaining Unit Participation Agreement.

**Note:** The Pension Fund's rules allow an Employers to remit contributions on Working Owners, but it is the Employer's responsibility to ensure that the applicable collective bargaining agreement or bargaining relationship with the respective IBEW Local Union permits the owner to perform bargaining unit work.

3. Employers must have at least one bargaining unit employee to be eligible to participate under the Non-Bargaining Unit Participation Agreement.
4. The Employer hereby acknowledges and understands that employee contributions are not permissible under the Fund's Trust Agreement. The Employer represents and warrants that the contributions made pursuant to the terms of the Fund's Participation Agreement(s) are Employer contributions.
5. The Employer shall timely submit completed remittance reports to the Fund Office. Under no circumstances shall the Employer submit a remittance report for an individual who is not a bona fide employee of the Employer and not covered by a Participation Agreement.
6. All employer contributions shall be due and payable at the Fund Office on or before the date specified in the Participation Agreement.
7. Upon determination by the Board of Trustees that any contributions submitted by any employer are erroneous or not submitted in accordance with the applicable participation agreement, the Fund's Trust Agreement or these Administrative Rules, then the Trustees may, to the extent permitted by law, refund the contributions to the employer; cancel the applicable hours otherwise credited to the employee; reduce or eliminate the employee's pension benefits or seek recovery for any damages, losses and claims caused by the Employer's failure to adhere to the Fund's terms of participation. In addition, the Trustees may seek any other remedy permitted by law.
8. In the event the Board of Trustees of the Fund believe that an employer's participation in the Fund threatens the tax qualified status or funding status of the Fund, the Trustees reserve the right to demand that the employer take such action the Trustees deem necessary to preserve the tax qualified status or funding status of the Fund. Should the employer fail to cooperate with the Trustees, the Trustees further reserve the right to take any action they deem necessary to preserve the tax qualified status or funding status of the Fund, including the immediate termination of any participation agreement.
9. The Board of Trustees of the Fund has full discretion and authority to adopt rules and regulations governing the participation of Bargaining Unit Alumni Employees and Owner Employees who may be included in the Plan, the Trust Agreement, or other Plan documents, and the Trustees have the exclusive authority to amend and interpret these rules and regulations. Such rules and documents may be amended by the Trustees of the Fund without the consent of the Employer or notice to the Employer.