

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATEMENT OF INVESTMENT POLICY**

**FOR RESPONSIBLE CONTRACTOR PROGRAM**

*August 15, 2005*

*This Policy is effective immediately upon adoption and supersedes all previous Responsible Contractor policies.*

**I. PURPOSE**

This document sets forth the investment policy ("the Policy") for the Responsible Contractor Program ("the Program"). The design of this Policy ensures that contractors, investors, managers, consultants, or other participants selected by the California Public Employees' Retirement System ("the System") take prudent and careful action while managing the Program. Additionally, use of this Policy provides assurance that there is sufficient flexibility in controlling investment risks and returns while using contractors.

**II. INTRODUCTION**

The California Public Employees' Retirement System ("the System") has a deep interest in the condition of workers employed by the System and its advisors or partners. The System, through the Responsible Contractor Program Policy (Policy) described below, supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on the System's real estate investments.

The System endorses small business development, market competition, and control of operating costs. The System supports many of the ideals espoused by labor unions and encourages participation by labor unions and their signatory contractors in the development and management of the System's real estate investments. The System believes that an adequately compensated and trained worker delivers a higher quality product and service. This Policy shall complement and in no manner detract from the System's existing Policy regarding service-disabled California veteran owned business enterprises. The Policy is consistent with the recommendations of fiduciary counsel in a letter to the System's General Counsel dated December 7, 1992 and includes provisions for transition, monitoring, and enforcement.

**III. DEFINITION OF A RESPONSIBLE CONTRACTOR**

A responsible contractor, as used in this Policy, is a contractor or subcontractor who pays workers a fair wage and a fair benefit as evidenced by payroll and employee records and who complies with service-disabled veteran business (SDV/BE) policy. The definition of fair benefits includes, but is not limited to, "employer-paid family health care coverage, pension benefits, and apprenticeship programs." What constitutes a "fair wage" and a "fair benefit" depends on the wages and benefits paid on comparable real estate projects. Fair wages and fair benefits are based upon local market factors, that include the nature of the project (e.g., residential or commercial and public or private), comparable job or trade classifications, and the scope and complexity of services provided.

**IV. INITIAL REQUIREMENTS OF THE RESPONSIBLE CONTRACTING POLICY**

- A. Duty of Loyalty - Notwithstanding any other considerations, assets shall be managed for the exclusive benefit of the participants and the beneficiaries of the System. The System's, as well as its advisors' or partners', duty to the participants and their beneficiaries shall take precedence over any other duty.
- B. Prudence - The System's Board, staff, and advisors or partners are charged with the fiduciary duty of exercising the care, skill, prudence, and diligence appropriate to the task.

- C. Competitive Return - To comply with duties of loyalty and prudence, all investments and services must be made and managed in a manner that produces a competitive risk-adjusted return.
- D. Competitive Bidding - Contractors and their subcontractors for construction, maintenance, and services shall be selected through a competitive bidding and selection process. The purpose of this provision is to encourage fair competition and to seek bids actively from all qualified sources within an area, particularly those identified as Responsible Contractors. Advisors or Partners and their subcontractors shall create a bidding process that includes notification and invitations to bid, distributed to a broad spectrum of potential bidders, particularly those identified as Responsible Contractors. The review of the bids shall include consideration of loyalty, prudence, and competitive risk-adjusted returns (factors to be considered include experience, reputation for honesty, integrity, timeliness, dependability, fees, SDV/BE policy, and the adherence to the Responsible Contracting Policy.)
- E. Local, State, and National Laws - All advisors or partners and their subcontractors shall observe all local, state, and national laws (including, by way of illustration, those pertaining to insurance, withholding taxes, minimum wage, and health and occupational safety).
- F. CalPERS Service Disabled California Veteran Business Enterprise Policies - Will adhere to CalPERS disabled veteran business enterprise policies.

V. SELECTION PREFERENCE OF A RESPONSIBLE CONTRACTOR

If Initial Requirements A through F (see Section IV above) are satisfied, the System expresses a strong preference that Responsible Contractors be hired.

VI. TRANSITION, ENFORCEMENT, MONITORING, AND ADMINISTRATION

- A. Applicable Investments and Phasing - This Policy shall apply to all domestic real estate advisors or partners single family real estate investments, and joint ventures and partnerships where CalPERS owns a greater than 50% ownership interest (and associated advisor or partner and subcontractor contracts and bids arising out of those investments). This Policy specifically excludes all other types of investments, including commingled funds, opportunity funds, mezzanine debt, hybrid debt, international investments, and indirect, specialty, and mortgage investments lacking equity features and their respective advisors. When the Policy is not applicable by its terms, partners or advisors shall be encouraged to make a good faith effort to comply with the spirit of the policy, consistent with their fiduciary duty.

Housing Development Partnership existing on the effective date of this Policy shall not be amended to incorporate this Policy, but voluntary compliance is strongly recommended. The practicality, schedule, and method of extending this Policy in the future, beyond those investments and contracts described herein shall depend on factors that include the structure of the investment and the degree of control the System can exercise.

- B. Notification - The System shall provide all applicable current and prospective real estate advisors or partners with a copy of this Policy.
- C. Solicitation Documents - All requests for proposal and invitations to bid covered by this Policy shall include the terms of this Policy inclusive of the Responsible Contractor Self-Certification Form (Appendix 1). Responses by bidders shall include information to assist the Partner/Advisor in evaluating a bid. CalPERS reserves the right to disclose the contents of the Self-Certification Form at its or its Advisors or Partners discretion.
- D. Contracts and Renewals - All contracts entered into after the effective date of this Policy and pertaining to applicable real estate investments, including renewals of such contracts, shall include the terms of this Policy. Responsible Contractor compliance will be part of the advisors or partners contract renewal consideration. Non-compliance will be reported to the System's Board on a timely basis or at a minimum annually.
- E. Responsibilities - The responsibilities of the System's staff ("the Staff"), advisors or partners, property managers, contractors, and unions are defined as follows:
  - 1. The System's staff shall have the following responsibilities:

1. Reviewing the advisors' or partners' annual reports regarding compliance with the Policy.
  2. Developing and maintaining contact lists for all the System' properties and providing a copy to inquiring parties.
  3. Reporting periodically to the Investments Committee on these findings and making recommendations for corrective action as necessary. The first report shall be six months after adoption of the Policy.
2. Advisors' or Partners' responsibilities shall include the following duties:
1. Communicating the Policy to all property managers.
  2. Reviewing a contract listing for each property prepared by each property manager.
  3. Maintaining a simplified bid summary for each applicable contract. The summary shall include identifying contract, successful bidder, and bidder's status as Responsible Contractor.
  4. Providing an annual report to the System' Staff, describing their own efforts as well as those by property managers and their subcontractors.
  5. Monitoring and enforcing the Policy, including the investigation of potential violations.
  6. The Partner or Advisor shall sign and deliver, on their companies letterhead, a Partner or Advisor annual Certification stating the following:  
  
 "I certify that for the fiscal year ending June 30, 20XX (Partner Name) and any agents and/or subcontractors hired by us, have complied, to the best of my knowledge, with the Responsible Contractor Policy and more specifically with the roles and responsibilities stated within the policy."
  7. The partner or advisor shall notify a national contact at trade/service unions as pursuant to Section VI E.5.a. if the partner or advisor is expanding into new areas so that trade/service unions can provide the partner or advisor contact information of local trade councils and union halls in the market where expansion is occurring.
3. Property managers shall have responsibility for the following duties:
1. Communicating in bid documents the Responsible Contractor Program Policy to contractors seeking to secure construction or building service contracts.
  2. Communicating about the Policy to any interested party.
  3. Ensuring there is a competitive bidding process, inclusive of potentially eligible Responsible Contractors.
  4. Requiring that bidders provide to the property manager a Responsible Contractor self-certification on a form approved by the System.
  5. Preparing and sending to advisors or partners a contract listing for applicable service contracts for each property under management. The building trades and service trades and other potential bidders will have access to this list.
  6. Providing advisors or partners with a simplified bid summary for each contract.
  7. Providing property level annual report information to advisors or partners.
  8. Maintaining documentation for successful bidders.
  9. Seeking from trade unions/service unions input in the development of Responsible Contractor lists.
  10. Maintaining a list of any interested Responsible Contractors and local trade councils and union halls in all markets in which the Responsible Contractor Policy is applicable. (Names, addresses and telephone numbers).
4. Contractors shall have the responsibility for the following duties:
1. Submitting a Responsible Contractor self-certification on a form approved by the System to the property manager. Communicating to subcontractors the Responsible Contractor Program Policy.
  2. Providing the property manager with Responsible Contractor documentation.
5. Trade unions/service unions shall perform the following tasks:

1. Delivering to the property manager or advisor or partner, lists of names and telephone numbers of Responsible Contractors. Provide a national contact person/address where current information can be sent as well as notifications of expansions into new areas. In addition, provide contact information (address, phone number and contact person) of local trade councils and union halls in all markets in which the responsible contractor policy is applicable to the property manager or advisor or partner.
  2. Referring interested and qualified Responsible Contractors to the property manager.
  3. Monitoring the local labor markets continually to update the lists.
  4. Providing technical input as appropriate.
- F. Outreach - The System' staff shall develop and maintain a list of all the System' properties. The list shall include the property name, address, advisor or partner and property manager, and telephone number of the property manager and real estate advisors or partners. The System' staff shall provide this list to anyone who requests a copy. Actual contract expiration inquiries shall be referred to the property level. Property managers shall provide solicitation documents to any potential contractor who, has in writing, expressed an interest in bidding for the relevant contract.
- G. Minimum Contract Size - The Policy shall absolutely apply to all contracts of a minimum size of \$50,000. Minimum contract size refers to the total project value of the work contracted for and not to any desegregation by trade or task. For example, a \$50,000 contract to paint two buildings in a single office complex would not be treated as two \$25,000 contracts, each less than the minimum contract size. Desegregation designed to evade the requirements of the Policy is not permitted.
- H. Applicable Expenditures Categories - The Policy shall apply to tenant improvements, capital expenditures, and operational service contracts (such as cleaning).
- I. SDV/BE Policy - Satisfaction of the System' SDV/BE Policy is a necessary condition before the System, acting through its contractors, hires a Responsible Contractor. Advisors or Partners and Contractors shall provide a certification statement of SDV/BE compliance or documentation of good faith efforts. Advisors or Partners shall collect and retain adequate data documenting their compliance with this Policy and shall be prepared to produce this data for review by the Staff when requested.
- J. Fair Wage, Fair Benefits, and Training - The Policy avoids a narrow definition of "fair wage", "fair benefits", and "training" that might not be practical in all markets. Furthermore, the Policy does not require a "prevailing wage", as defined by government surveys. Instead, the Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in its implementation is very important.

In determining "fair wages" and "fair benefits" concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions, and other items.

In place of a prevailing wage standard, the Policy requires a broad outreach and competitive bidding program, as described in Section IV. D, and VI. F. and L. This program is premised upon the availability of a list of Responsible Contractors in every market in which the System directly owns a property. While advisors or partners, their property managers and contractors are responsible for gathering and analyzing information relevant in identifying and hiring a Responsible Contractor, compilation of this list does not depend solely on the advisors or partners, property managers, or contractors. Instead, this Policy invites the various local trades to suggest contractors, which in their view, qualify as Responsible Contractors. Sources of information include local building and service trade councils, builders associations, and governments.

- K. Annual Review and Data Forms - A proposed Responsible Contracting annual report is required with this Policy. The annual review of Advisors' or Partners' compliance with the Policy shall coincide with the SDV/BE review. Advisors or Partners shall present summary data in a format

described and approved by the System. The annual review of advisor or partners compliance shall provide the System' Staff with good faith evidence of monitoring and enforcement.

The annual review shall determine whether each advisor or partner, property manager, and contractor conducted a good faith outreach program and a competitive bidding process that includes responsible contractors. If a potential, responsible contractor does not respond to the invitation to bid, then the advisor or partner, property manager, or contractor has acted properly. For each bidder, the advisor or partner, property manger, or contractor is obliged to gather appropriate responsible contracting information and make a judgment concerning the five initial requirements described in Section IV. If there are instances in which an advisor or partner, property manager, or contractor failed to comply with this Policy, the System' review of the advisors or partners, property managers, or contractors shall focus on the overall pattern of conduct and not any one specific incident.

- L. Competitive Bidding - Property managers and contractors shall give notice for applicable bids in local trade publications, bulletin boards, and union building trades councils. Property managers shall seek input from building trades councils for developing lists of responsible contractors for inclusion in the bidding process.

Property managers may choose a reasonable number of contractors to invite to bid from the list of responsible contractors. Given the time and expense required to solicit and evaluate bids, it is not essential that advisors or partners, property managers, and contractors invite all potential bidders.

The property manager must ensure that there is a competitive bidding process, which is inclusive of potentially eligible responsible contractors. Large numbers of bidders does not necessarily assure inclusion. Property managers must take care in ensuring those bidders include potentially eligible responsible contractors.

Although the Policy does not require hiring union workers, the trade unions will be invited to participate in the following:

1. Deliver to the property manager or advisor or partner lists of names and telephone numbers of responsible contractors and local trade councils and union halls in all markets in which the responsible contractor policy is applicable, including those responsible contractors who expressed any interest in bidding.
  2. Continually monitor the local markets, updating the lists. Property managers shall maintain these lists supplied by the trade unions.
- M. Neutrality - The System supports a position of neutrality in the event there is a legitimate attempt by a labor organization to organize workers employed in the construction, maintenance, operation, and services at a System owned property.

Resolution of any interjurisdictional trade disputes shall be the responsibility of the trades and the various state and national building trades councils. This Policy does not call for any involvement by the advisors or partners, property managers, or contractors in interjurisdictional trade disputes.

- N. Enforcement - The System shall place a non-complying advisor or partner or property manager on a probation watch list. If the advisor or partner or property manager does not modify this pattern of conduct, even after discussions with the System' staff, the System shall consider this pattern of conduct along with other information when it reviews the advisor or partner or property manager contract for possible renewal. The key indicator is a pattern of conduct that is inconsistent with the provisions of the Policy.

Advisors or Partners, property managers, and contractors that have not hired responsible contractors in the past may still bid for contracts. However, after the award of such contracts the System shall review its compliance with the Policy.

The System does not require that advisors or partners, property managers, or contractors use any particular system for compliance.

However, from time to time, the System's staff may disseminate information and suggestions regarding efficient ways for complying with this Policy.

- O. Complaints - Formal complaint(s) may be submitted to the System per the attached Complaint, Investigation and Resolution Process Regarding Potential Violations of the CaIPERS' Responsible Contractor Policy (Appendix 2).

*Copyright © 2005 by CaIPERS. Reproduction of any part of this manual is permissible if reproduction contains notice of CaIPERS' copyright as follows: "Copyright © 2005 by CaIPERS"*

---

***END OF RESPONSIBLE CONTRACTOR PROGRAM POLICY***