



**Ohio Public Employees Retirement System**

**Responsible Contractor Policy  
March 2022**



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### Revision History

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## **I. SCOPE**

This Responsible Contractor Policy ("Policy") of the Ohio Public Employees Retirement System ("OPERS") is designed to guide, in a manner consistent with OPERS statutory standards of fiduciary responsibility and prudence in managing its investments, the OPERS selection of independent contractors who provide building operations services and construction services to real estate properties owned by OPERS separate account external managers through the Defined Benefit Fund ("OPERS' Properties"). The Policy seeks to ensure that OPERS contractors will be selected based upon demonstrated ability to provide high quality services, and thereby enhance the value of OPERS' Properties, as evidenced by their record of compliance with applicable statutes and payment of fair compensation and benefits to employees, as well as by their experience, reputation, responsiveness, fees, and dependability.

## **II. PURPOSE**

OPERS supports and encourages fair compensation and fair benefits for workers employed by its contractors, subject to the requirements of Section 145.11(A) of the Ohio Revised Code ("ORC"), which states, in part:

The members of the public employees retirement board shall be the trustees of the funds created by section 145.23 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the public employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

OPERS Investment Staff ("Staff") and others, who are involved in the management of the DB Fund's assets, are subject to the same fiduciary standards as the Board.

In addition, Section 145.11(B) of the ORC requires that

In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state [of Ohio] and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board.

In keeping with that concern, the OPERS Retirement Board (“Board”) hereby adopts this Policy in order to support and encourage the engagement of contractors who can be expected to provide high quality services to OPERS’ Properties, utilizing properly-trained and fairly-compensated employees, subject to OPERS’ fiduciary principles of loyalty, care, skill, prudence, and diligence.

OPERS believes that the utilization of such contractors adds value to the investments by ensuring that essential building operations services and construction services are provided by adequately-trained, experienced, and motivated workers.

OPERS supports a healthy and profitable business environment through market competition, small business development, and control of operating costs. OPERS believes that an adequately compensated and trained workforce delivers a higher quality product and service.

### **III. DEFINITION OF RESPONSIBLE CONTRACTOR**

A Responsible Contractor is a contractor who: (1) has the appropriate experience, reputation, employee relations, responsiveness, fees, and dependability to perform the required work; and (2) provides workers a fair compensation and fair benefits, as evidenced by payroll and employee records, for the required work, based on market conditions.

### **IV. LEGAL AUTHORITY**

#### **A. Fiduciary Responsibility**

Notwithstanding any other considerations, the assets of OPERS shall be diligently and prudently invested and managed, in accordance with the fiduciary standards specified in Section 145.11 of the ORC, in the sole interest of plan participants and their beneficiaries, and for the exclusive purpose of providing benefits to its participants and their beneficiaries.

### **V. COMPETITIVE RATE OF RETURN**

OPERS seeks to have its real estate investments managed and operated in a manner that is expected to produce a competitive rate of return for its participants and beneficiaries.

#### **A. Legal Compliance**

OPERS seeks to have all OPERS contractors comply with all applicable federal, state, and local laws, regulations, and ordinances, including (but not limited to) those related to insurance, withholding taxes, minimum wage, health and safety, and environmental matters.

## **B. Non-Discrimination**

OPERS shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving those same firms that otherwise would meet the selection criteria for contractors and service providers.

## **VI. PREFERENCE FOR A RESPONSIBLE CONTRACTOR**

Provided the basic requirements in the foregoing section have been satisfied, OPERS expresses a strong preference that Responsible Contractors be hired, in accordance with this Policy.

## **VII. ROLES AND RESPONSIBILITIES**

### **A. OPERS Retirement Board**

The Board is responsible for reviewing and approving this Policy and any changes to it.

In addition, the Board is responsible for reviewing reports related to this Policy.

### **B. Investment Staff**

The Board delegates authority to the Chief Investment Officer ("CIO") to implement this Policy.

Staff shall review real estate separate account external managers' annual reports regarding compliance with the Policy and make recommendations as needed for action to correct any pattern of non-compliance.

Staff shall develop probation list procedures that require the approval of the CIO and General Counsel.

### **C. Investment Compliance**

The Investment Compliance area of Investment Accounting, Operations and Compliance ("IC") is responsible for monitoring compliance with this Policy, including guidelines established pursuant to it. If IC determines that an exception to this Policy has occurred, IC shall notify Staff, the CIO, the Executive Director and the Board. In addition, IC shall furnish annual reports to the Board on each external separate account manager's compliance with this Policy.

#### **D. Separate Account External Managers**

Separate account external managers shall communicate this Policy to property managers of OPERS' Properties and to managers of OPERS real estate investment vehicles.

Separate account external managers shall maintain a simplified bid summary for each applicable contract. The summary should include identifying contract successful bidder, and bidder's status as a Responsible Contractor.

Separate account external managers shall provide an annual report to OPERS Staff describing actions taken by such external manager to comply with this Policy, including those taken by property managers and their subcontractors.

Separate account external managers shall monitor and enforce compliance with this Policy including reasonable investigation of potential violations.

#### **E. Property Manager**

Property managers shall communicate this Policy in all bid documents seeking to secure construction or building service contracts subject to this Policy.

Property managers shall provide to separate account external managers property level annual reports regarding compliance with this Policy.

Property managers shall provide to separate account external managers, for each OPERS Property under management, a list of contracts subject to this Policy.

Property managers shall maintain a list of Responsible Contractors utilized at each OPERS Property.

#### **F. Contractor**

Contractors shall provide the property manager with Responsible Contractor documentation.

Contractors shall file with the property manager reports, certifications, and other forms as required by OPERS or the manager relating to this Policy.

### **VIII. MONITORING AND REPORTING**

#### **A. Applicable Contracts**

This Policy applies to all contractors and subcontractors who provide building operations services and construction services to real estate properties owned by OPERS or through subsidiary entities. The contractors and subcontractors shall use their best efforts to comply with this Policy.



## **B. Notification**

All current and prospective real estate separate account external managers shall be provided with a copy of this Policy.

## **C. Contract Solicitation**

All requests for proposals and invitations to bid applicable contracts covered by this Policy shall be made in accordance with the terms of this Policy.

## **D. Contracts and Contract Renewals**

All contracts and contract renewals entered into after the effective date of this Policy shall include the applicable provisions of this Policy. OPERS shall maintain a publicly available list of all of its properties, with relevant data that would allow any potential contractor to pursue a bid upon contract renewal.

## **E. Minimum Contract Size**

This Policy shall apply to all contracts valued at \$25,000 or more. Contract value refers to the total project work to be contracted for without disaggregation by trade or task. Disaggregation designed to evade the requirements of this Policy shall not be permitted.

## **F. Reporting**

All real estate separate account external managers and contractors shall collect and retain adequate data documenting their compliance with this Policy and shall be prepared to produce this data for review upon request. The Assistant Director of Investment Accounting (“AD”) or the AD’s delegee shall provide annual reports to the Board, in an acceptable format, demonstrating best efforts at compliance by external managers and contractors with this Policy.

## **G. Definition of Fair Wages and Benefits**

This Policy does not mandate any strict definition of fair wages and benefits. This Policy recognizes and considers in the determination of fair wages and benefits indicators such as local wage practices, state law, labor market conditions, as well as prevailing wages.

## **H. Neutrality**

When there is a legitimate attempt under the National Labor Relations Act by a labor organization to organize workers employed in construction, maintenance, operation, or services at an OPERS’ property, OPERS encourages a position of neutrality.

With respect to other matters arising under the National Labor Relations Act at OPERS' property, including but not limited to bargaining, negotiations, and resolution of other matters, and subject to its fiduciary obligations, the Board shall remain neutral and delegate such matters to staff and its external managers to resolve in a manner that is consistent with this policy and in the best interest of OPERS.

#### **I. Enforcement**

OPERS shall place any external manager or property manager who fails to comply with this Policy on a probation list. OPERS shall review and monitor its relationship with any such external manager or property manager upon placement on the probation list according to the probation list procedures.