

## Section 2.0 CONTRACT ADMINISTRATION

### **2.1 ETHICAL CONTRACT COMPLIANCE POLICY**

*Adopted: April 24, 2007; Revised June 10, 2014; September 28, 2021*

#### **Purpose**

The purpose of this policy is to support a transparent and fair contracting process which provides equal information and opportunity to all parties interested in contracting with LACERS. The policy primarily concerns the conduct of those seeking a new contract or contract extension/renewal. It aims to prevent, and avoid the appearance of, undue influence on the Board, individual Board Members, LACERS Staff, and City Consultants in the award of investment-related and other service contracts, by placing restrictions on communications between parties seeking contracts and those involved in awarding contracts and the contracting process.

This policy is intended to align with the city's Governmental Ethics Ordinance, Section 49.5.11(A) which states "Except at a public meeting, a member of a City board or commission shall not participate in the development, review, evaluation, or negotiation of or the recommendation process for bids, proposals, or any other requests for the award or termination of a contract, amendment, or change order involving that board, commission, or agency. This does not preclude individual [Board] members from reviewing documents and other information provided by agency staff [or consultants] when preparing for a public meeting at which the matter will be considered."

#### **Parties Affected**

Any firm or representative seeking a contract or contract extension/renewal with LACERS is a "Restricted Source" as defined by the City's Governmental Ethics Ordinance, and is subject to this policy.

Any Board Member, Staff member, City Attorney, LACERS consultant, or anyone working on LACERS' behalf which has any privileged information about the potential contract is subject to this policy and to the City's Governmental Ethics Ordinance. The marketing cessation period applies to all aforementioned entities in all communications with potential or current contractors who participate in either traditional Request for Proposals or private market opportunities, except when Staff, City Attorneys, or LACERS consultants are engaged in necessary communications as allowed under *Communication Restrictions: Exceptions – Permitted Communications*.

#### **Notification**

All firms responding to a Request for Proposal are notified of the Department's Ethical Contract Compliance Policy through the Request for Proposal solicitation. All firms whose contracts are approaching expiration are additionally notified of the Ethical Contract Compliance Policy through their contract provisions.

#### **Restricted Period**

Restrictions apply from the time the Request for Proposal is released until a contract is executed. All Restricted Sources will be listed on the Ethical Contract Compliance Policy Report, which is to be updated and presented to the Board on a monthly basis.

#### **Restrictions:**

##### **Communication Restrictions**

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During the Restricted Period, all firms that are potential candidates for the award of a contract or extension of an existing contract are prohibited from engaging in any direct or indirect marketing of their services except through the process set forth in the Request for Proposal. This prohibition includes all conversations about the contract or the process to award it, unless exception is permitted herein.

**Exceptions – Permitted Communications:**

- Board of staff conversations with restricted sources about generic topics at group social events, educational seminars, conferences, or charitable events.
- Communications between staff with firms who currently have contracts with LACERS are acceptable when they are related to the performance of the existing contract.
- Communications initiated by staff with firms when related to the due diligence process or research.
- Communications initiated by staff with firms that were not subject to a competitive proposal process where contract negotiations are necessary prior to execution of a final agreement.
- Communications initiated by staff with a firm that is actively negotiating a contract with LACERS for the purpose of collecting documentation necessary for the execution of the final agreement.

**Gift Restrictions**

In addition to all other applicable gift restrictions, Board Members, Staff, and LACERS consultants will not accept entertainment or gifts of any kind from any Restricted Source, nor any intermediary or affiliate, during the restricted period. An incumbent firm is also restricted from providing any type of gift or entertainment to Board Members, Staff, or other LACERS consultants during the three months prior to renewal of the existing contract or during the restricted period, whichever is longer. Courtesies offered to staff during due diligence office visits, such as working meals and beverages, may be accepted by staff if consistent with all applicable ethics laws, including but not limited to the City Ethics Ordinance and Political Reform Act.

**Proposer Disclosure**

All Proposers shall provide the following disclosures with their RFP response. All recommendations to the Board to award a contract shall include a copy of such disclosures:

1. All respondents are required to submit a statement listing all contacts with Board Members, Staff, and Consultants during the restricted period.
2. All respondents shall provide information regarding any personal or business relationship between their personnel and any Member of the Board, Staff of LACERS, or Consultants who are designated as Form 700 filers in the Department's Conflict of Interest Code.
3. All respondents shall disclose any payments for marketing or placement services to any person, firm, or entity to assist in seeking the LACERS contracting opportunity.

**Penalties**

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Any failures to disclose, or false disclosures, are a violation of this policy shall result in automatic disqualification of the firm involved.

This policy shall be reviewed by the Board every three years or earlier if necessitated by a change in local, State, or Federal statutes.