

# **ISBI RESPONSIBLE CONTRACTOR POLICY – REAL ESTATE**

## **I. PURPOSE**

This Responsible Contractor Policy (the “Policy”) of the Illinois State Board of Investment (“ISBI” or “the Plan”) is designed to guide, in a manner consistent with the Plan’s statutory standards of fiduciary responsibility and prudence in managing its investments, the Plan’s selection of independent contractors who provide building operations services, hotel management services, construction services and any other services (collectively, “Services”) to real estate properties in which the Plan invests (“ISBI Properties”). The Policy seeks to ensure that ISBI contractors will be selected based upon demonstrated ability to provide high quality Services, thereby enhancing the value of ISBI 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. INTRODUCTION**

ISBI supports a healthy and profitable business environment through market competition, small business development and control of operating costs. ISBI also supports and encourages fair compensation and fair benefits for workers employed by its contractors, subject to the requirements of 40 ILCS 5/1-109, which requires that a fiduciary shall discharge his or her duties with respect to the retirement system or pension fund solely in the interest of the participants and beneficiaries and:

(a) for the exclusive purpose of:

(1) providing benefits to participants and their beneficiaries; and

(2) defraying reasonable expenses of administering the retirement system or pension fund;

(b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims;

(c) by diversifying the investments of the retirement system or pension fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

In keeping with that concern, ISBI has adopted the Responsible Contractor Policy described herein in order to support and promote the engagement of contractors who can be expected to provide high quality Services to ISBI Properties, utilizing properly-trained and fairly-compensated employees, subject to the above-cited fiduciary principles of loyalty, care, skill, prudence and diligence.

ISBI believes that the utilization of such contractors adds value to its investments by ensuring that Services are provided by adequately-trained, experienced and motivated workers, who deliver a higher quality product and service.

### **III. 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 ISBI. ISBI's and its advisors' duties to the participants and their beneficiaries shall take precedence over any other duty.

B. Prudence: ISBI, its staff and advisors are charged with the fiduciary duty to exercise 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 Services shall be selected through a competitive bidding and selection process. The purpose of this provision is to encourage fair competition and to actively seek bids from all qualified sources within an area, particularly those identified as Responsible Contractors (as defined below). Advisors 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, but are not limited to, experience, reputation for honesty, integrity, timeliness, dependability, fees, safety record and the adherence to the Responsible Contracting Policy.)

E. Local, State and National Laws: All advisors, property managers, contractors, and their subcontractors shall observe all local, state and national laws (including, but not limited to, those pertaining to insurance, withholding taxes, minimum wage, labor relations, health and occupational safety).

### **IV. SELECTION OF RESPONSIBLE CONTRACTOR**

If Initial Requirements A through E (see Section III above) are satisfied, it is an ISBI mandate that a Responsible Contractor be hired.

## **V. DEFINITION OF A RESPONSIBLE CONTRACTOR**

A Responsible Contractor, as used in this Policy, is a contractor or subcontractor who provides high quality Services and pays workers a fair wage and fair benefits as evidenced by payroll and employee records. “Fair benefits” are defined as including, but are not limited to, employer-paid family health care coverage, pension benefits and training and/or apprenticeship programs. What constitutes a “fair wage” and “fair benefits” depends on the wages and benefits paid on comparable real estate projects, based upon local market factors, that include the nature of the project (*e.g.*, residential or commercial; public or private), comparable job or trade classifications and the scope and complexity of Services provided. Responsible Contractors will adhere to the following guidelines based on the type of Services provided and the market(s) in which they operate:

1. all on-site construction work in markets subject to a master collective bargaining agreement shall be performed by contractors who pay prevailing wages and benefits in those markets as measured by the applicable master collective bargaining agreement;
2. in markets where a majority (as measured by the square footage in large buildings) of the market in a given building service sector (*i.e.*, commercial cleaning, maintenance, security or residential) is subject to a master collective bargaining agreement, the Plan’s managers will seek to hire and retain contractors and subcontractors to ISBI Properties who pay prevailing wages and benefits in those markets as measured by the applicable master collective bargaining agreement; and
3. in markets where a majority (as measured by the square footage in large buildings) of the market in a given building service sector (*i.e.*, commercial cleaning, maintenance, security or residential) is not subject to a master collective bargaining agreement, the Plan’s managers will seek to hire and retain contractors and subcontractors to ISBI Properties who agree to abide by the provisions of Section VI.I below.

## **VI. TRANSITION, ENFORCEMENT, MONITORING AND ADMINISTRATION**

A. Applicable Investments and Phasing: The Policy shall apply to all applicable real estate advisors, their contractors and subcontractors who provide Services to ISBI Properties. The Policy shall apply to all Services, including, but not limited to, tenant improvements, capital expenditures and operational service contracts (such as cleaning, security, hotel management and/or food service). The Policy shall not apply to existing investments such as hybrid debt, joint ventures, opportunity funds and other real estate investments where ISBI does not have 100% ownership and/or full control of the investment. However, it shall apply to all prospective real estate investments, and ISBI staff will ensure that real estate advisors agree to comply with the Policy regardless of the percentage of ownership and/or degree of control ISBI has in the investment. In addition, reasonable efforts will be made to include fund managers that have adopted responsible contractor policies for all of their real estate holdings and to seek out investment

opportunities that have responsible contractor policies in place for investment consideration.

B. Notification: ISBI shall provide all applicable current and prospective real estate advisors 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. Responses by bidders shall include information to assist ISBI staff in evaluating a bid.

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.

E. Responsibilities: The responsibilities of ISBI's staff, advisors, property managers, contractors and unions are defined as follows:

1. Staff: ISBI staff shall have the following responsibilities:

- a. review the advisors' annual certification statement regarding compliance with the Policy;
- b. provide a copy to inquiring parties of the lists of all ISBI Properties developed by each advisor;
- c. furnish annual reports to the Board on each advisor's compliance with this Policy, and make recommendations as needed for action to correct any pattern of non-compliance; and
- d. secure agreements to comply with the Policy from prospective real estate advisors.

2. Advisors: Advisors' responsibilities shall include:

- a. communicate the Policy to all property managers;
- b. review a contract listing for each property prepared by each property manager;
- c. develop and maintain contact lists for all ISBI Properties (owned either directly or through an investment vehicle) and provide a copy to ISBI staff;

- d. maintain a simplified bid summary for each applicable contract, which should include identifying the contract, successful bidder and bidder's status as Responsible Contractor;
- e. maintain an annual report in their home office, describing their own efforts, as well as those by property managers and their contractors and subcontractors, in furtherance of the Policy;
- f. monitor and enforce the Policy, including investigation of potential violations; and
- g. annually, the signatory to the ISBI contract will file a certification statement that their firm complied with the Policy for the preceding year, including, upon request, written substantiation of such compliance, which will be subject to periodic audits.

3. Property Managers: Property managers will have responsibility for the following:

- a. communicate in bid documents the Policy to contractors seeking to secure Service contracts;
- b. communicate the Policy to any interested party;
- c. ensure there is a competitive bidding process that is inclusive of potentially eligible Responsible Contractors;
- d. require bidders to provide to property manager a Responsible Contractor self-certification on a form approved by ISBI;
- e. prepare and send to advisors a listing of applicable Service contracts for each property under management; to which the building trades, service trades and other potential bidders will have access;
- f. provide advisors with a simplified bid summary for each contract;
- g. provide property level annual report information to advisor;
- h. maintain documentation for successful bidders;
- i. seek from trade unions/service unions input in the development of Responsible Contractor lists; and
- j. maintain a list of any interested Responsible Contractors (names, addresses and telephone numbers).

4. Contractors: Contractors will have the responsibility for the following:
  - a. submit to property manager a Responsible Contractor self-certification on a form approved by ISBI;
  - b. communicate to subcontractors the Policy; and
  - c. provide to property manager Responsible Contractor documentation.
5. Unions: Trade unions/service unions shall be asked to perform the following tasks:
  - a. deliver to the property manager or advisor lists of names and phone numbers of Responsible Contractors;
  - b. refer interested and qualified Responsible Contractors to the property manager;
  - c. continually monitor the local labor markets to update the lists; and
  - d. provide technical input as appropriate.

F. Outreach: ISBI's advisors will develop, maintain and provide to ISBI staff a list of all ISBI Properties covered by this Policy. The list will include the property name, address, property manager, and the phone numbers of the property manager and real estate advisor. ISBI staff will provide this list to anyone who requests a copy. Actual contract expiration inquiries will be referred to the property manager. Property managers shall provide solicitation documents to any potential contractor who has, in writing, expressed an interest in bidding for an applicable Service contract.

G. Minimum Contract Size: The Policy shall apply to all Service contracts of a minimum size of \$25,000, individually or annually as applicable. Minimum contract size refers to the total project value of the Services being contracted for and not to any disaggregation by trade or task. For example, a \$25,000 contract to paint two buildings in a single office complex would not be treated as two \$12,500 contracts, each less than the minimum contract size. Disaggregation designed to evade the requirements of the Policy is not permitted.

H. Competitive Bidding: Property managers and contractors should give notice for applicable bids in local trade publications, bulletin boards and union building trades councils. Property managers should seek input from building trades councils to develop lists of Responsible Contractors for inclusion in the bidding process.

Property managers may choose from the list of Responsible Contractors a reasonable number of contractors to be invited to bid. Given the time and expense required to solicit

and evaluate bids, it is not essential that advisors, 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. Inclusion is not necessarily assured by large numbers of bidders. Care must be taken that bidders include potentially eligible Responsible Contractors.

Although the Policy does not require hiring union workers, trade unions and service unions will be invited to (1) deliver to the property manager or advisor lists of names and phone numbers of Responsible Contractors including those Responsible Contractors who have expressed any interest in bidding, and (2) continually monitor the local markets to update the lists, which the property manager shall maintain.

I. Neutrality: ISBI recognizes the rights of employees to representation. All parties associated with any ISBI Property shall adopt a position of neutrality in the event there is a legitimate attempt by a labor organization to organize workers performing Services at any ISBI Property. Accordingly, in furtherance of this legal right, a contractor shall provide union representatives with employee information and access to the ISBI Property for the purpose of communicating with employees, shall recognize the union as the collective bargaining representative of its employees upon a showing [on cards] that a majority of the contractor's employees favor unionization, and, upon recognition, shall bargain in good faith with the union to reach a fair and reasonable contract. Furthermore, if there is reasonable evidence that a party has broken the law (for example a complaint issued by the National Labor Relations Board against a contractor for violating workers' rights under the National Labor Relations Act) that party may be precluded from qualifying as a Responsible Contractor.

Resolution of any inter-jurisdictional trade disputes will 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, property managers, or contractors in inter-jurisdictional trade disputes.

J. Enforcement: If an advisor becomes aware of non-compliance with this Policy by a property manager, contractor or sub-contractor at an ISBI Property, and the non-complying party does not modify its conduct after discussions with the advisor or contractor, then the advisor or contractor shall avail itself of any cancellation provision in the applicable contract, and put the contract out to bid according to the provisions of Section VI.H above, subject always to the fiduciary principles of loyalty and prudence embodied in Section III of this Policy. If ISBI staff becomes aware of non-compliance by an advisor, the Plan will place the non-complying advisor on a probation watch list. If the advisor does not modify its pattern of conduct even after discussions with ISBI Staff, the Plan will consider this pattern of conduct along with other information when it reviews the advisor contract for possible renewal.