



Agenda Item 9c

December 14, 2015

ITEM NAME: Responsible Contractor Policy Program Annual Update

PROGRAM: Targeted Investment Programs

ITEM TYPE: Program Review - Information

EXECUTIVE SUMMARY

This agenda item provides the required annual update on the Real Assets program's compliance with CalPERS' Responsible Contractor Program (RCP). For fiscal year 2014-15, 99.49% of qualifying contract payments were made to certifying responsible contractors. This includes both Core Real Estate managers under the 2010 Neutrality Trial RCP Policy, and non-core and Housing managers under the 2012 RCP Policy.

STRATEGIC PLAN

This agenda item supports the CalPERS Strategic Plan goal to improve long-term pension and health benefit sustainability through actively managing business risks.

BACKGROUND

Responsible Contractor Program Policy

CalPERS has a deep interest in the condition of workers employed by CalPERS and investment managers at its Real Estate and Infrastructure investments. CalPERS, through the RCP Policy, supports and encourages fair wages and benefits for workers employed by its contractors and subcontractors, subject to fiduciary principles. CalPERS believes that an adequately compensated and trained worker delivers a higher quality product and service.

Annual Report

This agenda item is the third report under the RCP Policy as revised and approved in 2012 and the Neutrality Trial RCP Policy as approved in 2010. The RCP Policies seek to secure the condition of workers employed by CalPERS and investment managers without adverse effect on investment returns, access to investment opportunities, or significant cost impacts.

The compliance information presented is limited to contracts of \$100,000 and above, and applies to all domestic Real Estate and Infrastructure investment managers, joint ventures, and partnerships where CalPERS has greater than 50% ownership interest and the standards of the 2012 RCP Policy are met.

This item also reports compliance under the 2010 Neutrality Trial RCP Policy, which applies to investments by Core investment managers where CalPERS' ownership

interest is greater than 50%. Compliance is limited to contracts of \$100,000 or greater.

2015 Responsible Contractor Program Policy Revision

This is the last RCP Annual Report under the 2012 RCP Policy and the 2010 Neutrality Trial RCP Policy. In March 2015, the RCP Policy was amended to incorporate the Neutrality Trial RCP Policy and other enhancements. As of July 1, 2015, Real Estate and Infrastructure managers began operating under the Policy as revised in March 2015. The first report of the 2015 RCP Policy is scheduled for December 2016.

ANALYSIS

Annual Report Fiscal Year 2014-15

For the Fiscal Year 2014-15, Real Estate, Infrastructure, and Housing Program managers paid in excess of \$1.36 billion toward RCP contracts for the reporting period with a combined compliance rate of 99.49%. All Core and non-core investment managers paid 100% of their total qualifying contracts to certifying responsible contractors under the policies (Attachment 1).

Under the RCP Policy, compliance for existing Housing Program managers is not mandatory, though strongly recommended. All Housing Program managers have voluntarily submitted annual compliance reports. For Fiscal Year 2014-15, Housing Program investment managers awarded 98.9% of the qualified capital expenditure contract payments to certifying responsible contractors (Attachment 2).

Responsible Contractor Certifications

For the Fiscal Year 2014-15, all Real Estate and Infrastructure investment managers subject to the RCP and Neutrality Trial RCP Policies, and all Housing Program managers voluntarily complying, have certified in writing that, to the best of their knowledge, they and their delegates and sub-delegates have complied with the RCP and Neutrality Trial RCP Policies and, more specifically, with the roles and responsibilities stated within the Policies.

Manager Responsibilities

The 2012 RCP Policy includes increased manager responsibilities and reporting. Under the Policy, managers provide an Annual Report on these heightened responsibilities. For Fiscal Year 2014-15, all twelve of the managers that have assets subject to the RCP Policy submitted information under the enhanced reporting requirements. Additionally all eight Core managers voluntarily provided a manager responsibilities report.¹ The following is a summary of their responses.

¹ Beginning 2016, all managers are required to provide a manager responsibilities report under the 2015 RCP Policy.

- All nineteen² managers maintained written policies and procedures for implementing and complying with the RCP Policy. All managers provided employee training on administering the Policy.
- All managers with active RCP contracts communicated the RCP Policy, and its own written policies or procedures relating to the RCP Policy, to all of their contractors.
- Eighteen managers reviewed lists of current and pending RCP Contracts provided by each of their contractors.³
- Eighteen managers monitored and enforced their and their contractors' compliance with the Policy, including the investigation of potential violations.
- Eight managers reported expanding into new areas during the reporting period. These eight managers notified trade/service unions of their expansion.
- All managers that bid contracts during Fiscal Year 2014-15 reported using or causing contractors to use a 30-day pre-bid procedure when appropriate under the circumstances.
- Many managers provided comments regarding additional activities undertaken to administer the RCP Policy. Approximately 40 percent of managers reported heightened engagement with labor representatives.
- Most managers reported the actual costs to administer the program are not quantifiable or cannot be tracked, generally because RCP implementation is included in their staff duties or contractor costs. Of managers that provided estimates, most reported costs \$50,000 to \$200,000 to administer the policy. Estimates vary according to the number of qualifying contracts and the unique staffing and implementation practices of each manager.
- All managers reported the RCP Policy has little or no impact on CalPERS investment returns. Two managers reported small incremental costs associated with administering the policy.

Notification

The RCP Bidding Notification Method and Contact Sheet (Attachment 3) includes names of managers, notification methods, and email addresses. In addition to being publicly available on the Targeted Investment Programs website, staff emails this list to all interested parties whenever it is requested.

RCP Policy and Total Fund Labor Formal Complaints and Issues

The Investment Office continues to address labor issues as they occur, in accordance with the RCP Policies and the Investment Beliefs. No formal complaints were filed during the reporting period.

² Bentall Kennedy reports as both a Core and non-core manager, therefore, there are 19 managers total.

³ The remaining manager is a Housing Program manager that complies with the RCP on a voluntary basis.

BUDGET AND FISCAL IMPACTS

Existing budgetary resources fund the ongoing costs for implementation, administration, and management of the RCP and the Neutrality Trial RCP Policies for the CalPERS Investment Office. During Fiscal Year 2014-2015, the approximate cost to support the RCP Policies and engage on labor issues was \$288,000 (which included staff costs of \$160,000 and consultant services of \$128,000). This was an increase from the Fiscal Year 2013-14 costs of \$270,000. Increased costs were a result of the RCP review and revision process.

In addition, there is a minor ancillary fiscal impact to the CalPERS Legal and Executive Offices and the Board of Administration that the Investment Office is not able to quantify. Real Estate and Infrastructure investment managers also incur costs to administer the RCP and Neutrality Trial RCP Policies. Most managers state that the actual cost to administrate the RCP Policies is not quantifiable. Of those that provided estimates, most reported costs range from \$50,000 to \$200,000 annually.

BENEFITS/RISKS

Not Applicable.

ATTACHMENTS

- Attachment 1 – Investment Manager Combined Compliance Report
- Attachment 2 – Voluntary Participation Report: Housing Program
- Attachment 3 – RCP Bidding Notification Method and Contact Sheet

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