

POLICY AND PROCEDURES FOR PROFESSIONAL SERVICES CONTRACTS: STANDARDS, DISQUALIFICATION AND DISCLOSURES

§1.0 Statement of Policy

It is the policy of the Retirement Board of Allegheny County to incorporate and adhere to the standards established through Act 44 of 2009, 53 P.S. §§ 895.701-A through 895.707-A. These statutory provisions apply to municipal pension systems, which do not include the Allegheny County Employees' Retirement System (ACERS). However, the Retirement Board chooses to adopt those standards with appropriate revisions as policies and procedures applicable to the ACERS.

§1.1 Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Affiliated entity.” Any of the following:

- (1) A subsidiary or holding company of a lobbying firm or other business entity owned in whole or in part by a lobbying firm.
- (2) An organization recognized by the Internal Revenue Service as a tax-exempt organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)) established by a lobbyist or lobbying firm or an affiliated entity.

“Contributions.” As defined in section 1621 of the act of June 3, 1937 (P.L. 1333, No. 320), 25 P.S. § 3241, known as the Pennsylvania Election Code.

“Executive level employee.” An employee of a person or the person's affiliated entity who:

- (1) can affect or influence the outcome of the person's or affiliated entity's actions, policies or decisions relating to pensions and the conduct of business with the County of Allegheny or the county pension system; or
- (2) is directly involved in the implementation or development of policies relating to pensions, investments, contracts or procurement or to the conduct of business with the County of Allegheny or the county pension system.

“County pension system.” The Allegheny County Employees' Retirement System (ACERS), which operates pursuant to the Second-Class County Code at 16 P.S. §§ 4701-4716.

“Political committee.” As defined in section 1621 of the act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code.

“Professional services contract.” A contract to which the county pension system is a party that is:

(1) for the purchase or provision of professional services, including investment services, legal services, real estate services and other consulting services; and

(2) not subject to a requirement that the lowest bid be accepted.

§1.2 Procurement for Professional Services Contract

(a) Procedures.--The county pension system shall develop procedures to select the most qualified person to enter into a professional services contract. The procedures shall ensure that the availability of a professional services contract is advertised to potential participants in a timely and efficient manner. Procedures shall include applications and disclosure forms to be used to submit a proposal for review and to receive the award of a professional services contract.

(b) Advertisement.--An advertisement of the availability of a proposal for a professional services contract shall set forth:

(1) The services that are the subject of the proposed contract.

(2) Specifications relating to the services.

(3) Procedures to compete for the contracts.

(4) Required disclosures.

(c) Review.--Procedures to select the most qualified person shall include a review of the person's qualifications, experience and expertise and the compensation to be charged.

(d) Personnel.--

(1) Prior to entering into a professional services contract with the county pension system, the contractor shall disclose the names and titles of each individual who will be providing professional services to the county pension system, including advisors or subcontractors of the contractor.

(2) Disclosure under this subsection shall include all of the following:

(i) Whether the individual is a current or former official or employee of the County of Allegheny.

(ii) Whether the individual has been a registered Federal or State lobbyist.

(iii) A description of the responsibilities of each individual with regard to the contract.

(3) The resume of an individual included in the disclosure shall be provided to the county pension system upon request.

(4) The information under this subsection shall be updated as changes occur.

(e) Conflict of interest.--The county pension system shall adopt policies relating to potential conflicts of interest in the review of a proposal or the negotiation of a contract. The policies shall include a minimum one-year restriction on:

(1) Participation by a former employee of a contractor or potential contractor in the review of a proposal or negotiation of a contract with that contractor.

(2) Participation by a former employee of the county pension system in the submission of a proposal or the performance of a contract.

(f) Public information.--Following the award of a professional services contract, all applications and disclosure forms shall be public except for proprietary information or other information protected by law.

(g) Increase.--A professional services contract shall not be amended to increase the cost of the contract by more than 10% or \$10,000, whichever is greater, unless the increase and a written justification for the increase are public and posted on the county pension system's Internet website, if an Internet website is maintained, at least seven days prior to the effective date of the amendment.

(h) Notice and summary.--The relevant factors that resulted in the award of the professional services contract must be summarized in a written statement to be included in or attached to the documents awarding the contract. Within ten days of the award of the professional services contract, the original application, a summary of the basis for the award and all required disclosure forms must be transmitted to all unsuccessful applicants and posted on the county pension system's Internet website, if an Internet website is maintained, at least seven days prior to the execution of the professional services contract.

§1.3 Agents; Solicitation

(a) Disclosure.--A person or an affiliated entity that intends to enter or that enters into a professional services contract shall disclose the employment or compensation of a third party intermediary, agent or lobbyist to directly or indirectly communicate with a county pension system official or employee or a county official or employee in connection with any transaction or investment involving the contractor and the county pension system. The disclosure shall not apply to an officer or employee of the investment firm who is acting within the scope of the firm's standard professional duties on behalf of the firm, including the actual provision of legal, accounting, engineering, real estate or other professional advice, services or assistance pursuant to a professional services contract with the county pension system.

(b) Limitation on communication.--Upon the advertisement for a professional services contract by the county pension system, the contractor may not cause or agree to allow a third party to communicate with officials or employees of the county pension system except for requests for technical clarification. Requests for technical clarification shall be made by a designated employee of the county pension system. Nothing in this subsection shall preclude a potential contractor from responding to requests for clarification or additional information from the county pension system.

§1.4 Disqualification

(a) Contributors.--A person or an affiliated entity that, within the past two years, has made a contribution to a county official or candidate for county office in Allegheny County may not enter into a professional services contract with the county pension system, except that the two-year restriction shall not apply to any contribution made prior to the effective date of this subsection.

(b) Relationships.--A person or an affiliated entity that enters into a professional services contract with the county pension system may not have a direct financial, commercial or business relationship with any official of the county pension system or the County of Allegheny unless the county pension system consents in writing to the relationship following full disclosure.

(c) Gifts.--A person with a professional services contract may not offer or confer a gift having more than a nominal value, including money, services, loans, travel, lodging, entertainment, discount or other thing of value, to any official, employee or fiduciary of the county pension system.

§ 1.5 Disclosure

(a) Contractors.--

(1) A person or an affiliated entity that has a professional services contract with the county pension system shall disclose all contributions to which all of the following apply:

(i) The contribution was made within the two years preceding the submission of a required disclosure form.

(ii) The contribution was made by an officer, director, executive-level employee or owner of at least 5% of the person or affiliated entity.

(iii) The amount of the contribution was at least \$250 in the form of:

(A) A single contribution by a person included in subparagraph (ii).

(B) The aggregate of all contributions by all persons listed in subparagraph (ii).

(iv) The contribution was made to:

(A) A candidate for any public office in Allegheny County or to an individual who holds that office.

(B) A political committee of a candidate for public office in Allegheny County or of an individual who holds that office.

(2) The information provided under this subsection shall be updated every two years.

(b) Additional disclosure.--A person or an affiliated entity that has a professional services contract with the county pension system shall disclose all of the following:

(1) Information relating to individuals making contributions. This paragraph includes:

(i) The name and address of the contributor.

(ii) The contributor's relationship to the contractor.

(iii) The name and office or position of each person receiving a contribution.

(iv) The amount of the contribution.

(v) The date of the contribution.

(2) Gifts to an official or employee of the county pension system or the County of Allegheny.

(3) The employment or retention of any third-party intermediary, agent or lobbyist and the duties of that person.

(4) The existence of any financial relationship under section 1.4(b).

(c) Applicability.--The provisions of subsection (a) shall apply to a person and an affiliated entity that has applied for, submitted an offer or bid for, responded to a request for proposal or otherwise solicited a professional services contract with the county pension system.

(d) Forms.--Required disclosure shall be made on a form prepared by the county pension system. The form shall be attached to the contract and immediately available to any person upon request. During the term of the contract, an updated form shall be filed every two years in accordance with procedures adopted by the plan.

(e) Penalties.--The following shall apply:

(1) The county pension system shall void the professional services contract of a person that knowingly makes a material misstatement or omission in a disclosure form under this chapter and shall prohibit the person from entering into a contract for a period of up to three years.

(2) If a contractor or person that has submitted a proposal or bid in violation of paragraph (1) more than two times in a 36-month period, all contracts between that contractor and the county pension plan shall be void and the person shall be debarred for a period of at least three years from the date of the last violation.

(f) Effective date.—This section shall be effective January 1, 2024.

§1.6 Duty to act

If a person that enters into or has applied for, submitted an offer or bid for, responded to a request for proposal on or otherwise solicited a contract with the county pension system or an officer, director or employee of the county pension system is aware or reasonably should be aware of an apparent, potential or actual conflict of interest, the person shall disclose the conflict and promptly eliminate the conflict.

§1.7 No preemption

The policies and procedures set forth above shall not preempt any applicable regulation, statute,

or code of ethics which is stricter than this policy.

§1.8 Administrative procedures authorization

The Manager is hereby authorized to establish administrative procedures to implement the requirements of this policy, which include data collection, storage and record requests. Such administrative procedures are to be completed within six months of the date on which the Retirement Board formally adopts this policy.