

Responsible Contractor Policy

I. PURPOSE

This Responsible Contractor Policy (the “Policy”) of the Energy Capital Partners [III] / [III], LP, the General Partner and relevant operating company managers (collectively, the “Fund”) is designed to guide, in a manner consistent with the Fund’s fiduciary responsibility and prudence in managing its investments, the selection of independent contractors, including their subcontractors (collectively the “contractors”) who provide construction, repairs, maintenance and infrastructure operating services (each individually a “Service”) to assets and companies (collectively “operating companies”) in which the Fund invests. The Policy seeks to ensure that the selection process for independent contractors will include among other things, a demonstrated ability to provide reliable and high quality Services which may be evidenced by their material compliance with applicable statutes and payment of fair compensation and benefits to employees, as well as by their relevant experience, reputation, dependability, and ability to provide cost-efficient services, thereby enhancing the value of the Fund’s investments.

II. INTRODUCTION

The Fund supports a safe and healthy and profitable business environment by encouraging selective negotiation, market competition, small business development, control of operating costs, ethical business practices, compliance with law, and the development of skilled local workforces. The Fund also supports and encourages fair compensation and fair benefits for workers employed by contractors to the extent possible, and in a manner consistent with the duties of the Fund manager to discharge its fiduciary duties with respect to the Fund. The Fund manager will act:

- (a) with the care, skill, prudence, and diligence required by the Fund manager pursuant to the terms of the Amended and Restated Limited Partnership Agreement of the Fund (the “Partnership Agreement”); and
- (b) in accordance with the diversification provisions of the Partnership Agreement.

In keeping with these overriding objectives consistent with the Fund’s duties under the Partnership Agreement, the Fund has adopted the Policy described herein in order to support and promote the engagement of independent contractors who can reasonably be expected to provide both competitive and high quality Services to Fund investments, utilizing appropriately trained and fairly compensated employees, in compliance with law, subject to the above-cited fiduciary principles. The Fund believes that the utilization of such contractors can add value to its investments by ensuring that Services are provided by adequately-trained, experienced and motivated workers who deliver high quality products and services.

Furthermore, in circumstances where the Fund is working with a State, local or municipal agency to establish public/private partnerships and/or to bid on public offers for the sale, lease or management of public assets, the Fund shall endeavor in good faith to recognize the important role and contribution of public employees to the development and operation of such assets. In particular, the Fund shall make good faith efforts to ensure that such transactions minimize potentially material adverse impacts on employees. These efforts may include working directly with public employees, government officials, or collective bargaining groups, as appropriate, in order to take such actions as may reasonably be within the Fund’s control to mitigate such potentially materially adverse effects.

The preceding paragraphs shall not preclude the Fund from (i) making any investment including any follow-on investment that it would otherwise be permitted to make pursuant to the Partnership Agreement, or (ii) entering into negotiated arrangements and joint ventures with contractors on an exclusive or preferred basis (i.e. on a non-competitive bid basis) that have the potential to offer strategic or other value to the Fund’s investments.

III. INITIAL REQUIREMENTS OF THE RESPONSIBLE CONTRACTOR POLICY

The Policy provides that the Fund shall use commercially reasonable efforts to ensure that the following requirements shall be met, subject to the Fund’s fiduciary duty:

- A. Best Practices: On applicable contracts, contractors for Services shall be selected through a process that includes consideration of cost, competitive risk-adjusted returns and factors such as, but not limited to, demonstrated skill, experience, dependability, fees, safety and environmental record, and adherence to the Policy and applicable contractual requirements. Subject to the Fund's fiduciary duty, the Fund shall use commercially reasonable efforts to ensure that all contractors shall meet the following minimum Best Practice standards prior to being selected and for the duration of their contracts to the greatest degree possible:
1. Contractor qualifications: Contractor has a record of successfully completing projects of similar size and scope, on time, and on budget
 2. Workforce qualifications: Contractor employs a workforce with the skills needed to perform all relevant scopes of work, including supervision
 3. Employer-paid training: Contractor provides employer-paid training as necessary to ensure that all employees have the skills and certifications necessary to perform assigned work
 4. Safety program: Contractor maintains and consistently implements a written workplace health and safety program that complies with applicable law, regulation, and contract terms as well as industry best practices federal and state requirements and industry best practices. The program must provide, at a minimum, for:
 - a. Consistent use of Job Safety Analyses (JSAs) and "tool-box talks"
 - b. OSHA 40 or equivalent safety training for all construction workers
 - c. Access for all workers to tools and equipment needed to safely perform assigned tasks
 - d. Maintenance of tools and equipment in good, safe, working order
 - e. Education of all workers on the requirements of the safety program
 5. Drug-free workplace program: Contractor maintains and consistently implements a drug-free workplace program that provides for random drug testing and ensures that the entire workforce (including supervisors) is drug-free on the job
 6. Environmental program – Contractor maintains and consistently implements a comprehensive environmental program that ensures compliance with applicable law, regulation, and contract terms as well as industry best practices, and ensures that all subcontractors do the same.
 7. Labor and employment law compliance – Contractor notifies employees of, and consistently complies with, applicable labor and employment law, regulation, and terms of applicable Collective Bargaining Agreements, including but not limited to timely payment of all wages and benefits owed and proper classification of employees
 8. Worker protections – Contractor maintains, consistently enforces, and communicates to employees a policy that protects employees from retaliation for exercise of concerted activity and related rights, including but not limited to public disclosure of actual or potential violations of law, regulation, contract terms, or threats to public wellbeing ("whistleblowing") and union activity
 9. Ethics/transparency: Contractor and contractor's owners and management personnel consistently demonstrates commitment to ethical conduct, including timely and transparent reporting of incidents and issues with the potential to meaningfully impact the project, construction owner, and/or workforce to the project owner and to any other parties that should be informed under law, regulation, or contract term (e.g. OSHA, insurance carriers). Examples include injuries, near misses, failed drug tests, and other incidents that could compromise safety; line strikes or other accidental damage to owner's or third party facilities; and discovery of substandard work
- B. Local, State and National Laws: All operating company managers, contractors, and their subcontractors shall observe in all material respects all local, state and national laws including, but not limited to, those pertaining to insurance, withholding taxes, minimum and

prevailing wage requirements, overtime, wage and hour, non-discrimination, labor relations, health and occupational safety, as well as all laws and regulations that govern building and infrastructure construction.

IV. SELECTION OF RESPONSIBLE CONTRACTOR

If the requirements of Section III above are satisfied, it is a strong Fund preference that a “Responsible Contractor” (as defined in Section V) be hired consistent with performance of the Fund’s fiduciary duties. Where no contractor is available that meets the requirements of Section III, the operating company manager will endeavor to select the contractor that, in their good-faith judgment, best demonstrates an ability and commitment to meet the requirements. Where such a contractor is selected, the operating company must closely monitor the contractor’s work to ensure compliance for the duration of the contract.

On an annual basis, the Fund shall review summary compliance data provided by relevant operating company managers for good faith evidence of monitoring and enforcement.

V. DEFINITION OF A RESPONSIBLE CONTRACTOR

A “Responsible Contractor”, as used in this Policy, is an independent contractor who provides high quality Services to Fund operating companies on a comparable and relevant basis in the applicable local market consistent with the desired contracting criteria, meets all of the requirements of Section III, and pays workers a fair wage and fair benefits as reasonably evidenced by payroll and employee records. “Fair benefits” are defined as: employer-paid family health care coverage (subject to reasonable and affordable employee contributions and co-pays), pension or retirement plan benefits, and high-quality, employer-paid apprenticeship or equivalent training programs. What constitutes a “fair wage” and a “fair benefit” will depend on the wages and benefits paid on comparable infrastructure projects, based upon local market factors that include the nature of the project (*e.g.*, municipal or commercial; public or private), comparable job or trade classifications and the scope and complexity of Services provided. In determining “fair wages” and “fair benefits” concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions and other items.

VI. TRANSITION, ENFORCEMENT, MONITORING, AND ADMINISTRATION

A. Applicable Investments and Phasing: The Policy shall apply to all U.S. infrastructure equity investments in operating companies where the Fund owns a 50% or greater ownership interest and exercises a controlling interest. The Policy shall not apply to hybrid debt, commingled funds, opportunity funds, private equity, mezzanine debt, and indirect, specialty investments lacking equity features. However, when the Policy is not applicable by its terms as set out in the previous sentence, to the extent practicable, the Fund shall use good faith efforts to encourage operating company to make a good faith effort to comply with the spirit of the Policy, consistent with their fiduciary duty. Good faith efforts may include, but are not limited to, encouraging, the use of and advocating for Responsible Contractors, supplying the Fund with timely information on all applicable bidding opportunities for interested Responsible Contractors, and the facilitation of meetings with interested stakeholders, when possible.

Contracts existing at the time of the Fund’s investment in an operating company shall not be subject to this Policy until they are evaluated for renewal; voluntary compliance is encouraged.

B. Notification: The Fund shall provide all Fund investment professionals and operating company managers with a copy of this Policy.

C. Solicitation Documents: The Fund shall use good faith efforts to cause operating companies covered by this Policy to include the terms of this Policy in all requests for proposals and invitations to bid covered by this Policy. Bidders shall be encouraged to include information to assist Fund investment professionals in evaluating a bid.

D. Contracts and Renewals: All contracts entered into after the effective date of this Policy that pertain to applicable infrastructure investments and are covered by the Policy, including renewals of such contracts, shall, where reasonably possible, include the terms of this Policy. Responsible Contractor compliance will be part of the contract renewal consideration.

E. Responsibilities: The responsibilities of Fund investment professionals, operating company managers and contractors are defined as follows:

1. **Investment Professionals:** Fund investment professionals shall have the following responsibilities:

- a. communicate the Policy to all operating company managers to which the Policy applies;
- b. Seek compliance with the Policy from operating company managers; and
- c. review the relevant operating company managers' compliance with the Policy and make recommendations as needed for action to correct any pattern of non-compliance.

2. **Operating Company Managers:** Operating company managers to which this Policy applies will have responsibility for the following:

- a. communicate the Policy to independent contractors seeking to secure applicable Service contracts;
- b. use commercially reasonable efforts to communicate the Policy to any interested party;
- c. ensure there is a selection process that attempts to provide for contractor compliance with all of the requirements set out in Section III where such contractors are available, and includes potentially eligible Responsible Contractors, where applicable and commercially reasonable;
- d. require independent contractors seeking to secure applicable Service contracts to provide a Responsible Contractor Self-Certification Form to the operating company manager, an example of which can be found as Appendix [X] to this Policy. The Fund reserves the right to disclose the contents of the Responsible Contractor Self-Certification Form at its discretion;
- e. monitor the performance of independent contractors to ensure that the minimum requirements are met;
- f. provide operating company level information to the Fund;
- g. maintain documentation regarding contractors that have secured applicable Service contracts;
- h. incorporate any trade union/service union input received, where applicable and commercially reasonable, in the development of Responsible Contractor lists and the evaluation of contractor compliance with minimum requirements; and
- i. maintain a list of any interested Responsible Contractors (names, addresses and telephone numbers) to which the Responsible Contractor Policy may be applicable.

3. **Contractors:** Contractors to which this Policy applies will have the responsibility for the following:

- a. submit to the operating company manager a Responsible Contractor Self-Certification on a form approved by the relevant operating company;
- b. communicate the Policy to and to endeavor to ensure compliance by subcontractors; and
- c. provide Responsible Contractor documentation to operating company managers.

F. Outreach: The Fund will maintain a list of all Fund investments it reasonably believes are covered by this Policy. The list will include the operating company name, address, and operating company management team. The Fund will provide any Fund investor listed in Annex A with a copy of this list upon reasonable request.

G. Minimum Contract Value: The Policy shall apply to all applicable Service contracts to independent contractors involving new construction capital works with an aggregate minimum value of \$35 million, ongoing capital works with an aggregate minimum value of \$20 million and operating or other maintenance contracts not involving capital works with an annual minimum value of \$2.5 million. Minimum contract value refers to the aggregate value of a project contract including all of the discrete Services required to complete the project, as reasonably determined by senior operating company management, and does not allow for any disaggregation by trade or task. Disaggregation designed to evade the requirements of the

Policy is not permitted. The Fund may, at its sole discretion, lower the minimum contract value for specific investments as it sees appropriate. When the Policy is not applicable by its terms, to the extent practicable, the Fund manager shall encourage operating company managers to make a good faith effort to comply with the spirit of the policy in a manner consistent with their fiduciary duty.

H. Fair Wages and Fair Benefits: The Policy avoids a narrow definition of “fair wage” and “fair benefits” that might not be practical in all markets. The Policy looks to local practices concerning type of trade and type of project. The Policy recognizes that practices and labor market conditions vary across the country and that flexibility in implementation is important.

In determining “fair wages” and “fair benefits” concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions and other items.

I. Selection Process: Given the time and expense required to solicit and evaluate potential contractors, it is not essential that operating company managers solicit all potential contractors.

The operating company manager must use good faith efforts to ensure, to the extent commercially reasonable, that there is a selection process that is inclusive of potentially eligible Responsible Contractors. Competitive bidding does not necessarily assure inclusion of Responsible Contractors. Reasonable care should be taken that if applicable Service contracts covered by this Policy are competitively bid, that bidders include potentially eligible Responsible Contractors. However, for the avoidance of any doubt, operating company managers will retain full commercial discretion to conduct the bidding process in a manner that is consistent with their overriding fiduciary responsibilities to enhance investment value for investors, co-investors and joint venture partners and to seek to minimize or control costs while ensuring the provision of relevant and high quality services.

The Fund recognizes that selection of Responsible Contractors that employ skilled local workers may play a role in maximizing risk-adjusted returns by minimizing costs associated with poor contractor performance, including change orders, defects, delays, legal proceedings, and impairment of the reputation of the Funds and their operating companies. In recognition of these potential benefits, Responsible Contractors may receive special consideration in the form of a bid credit worth between 10 and 25 percent of bid value (to be determined in the Fund’s sole discretion) during the bid scoring process.

J. Neutrality: The Fund supports a position of neutrality in the event there is a legitimate attempt by a labor organization to organize workers at a contractor performing Services at a Fund-owned operating company. Accordingly, contractors shall be encouraged to recognize a union as the collective bargaining representative of its employees upon showing (on cards) that a majority of the contractor’s employees favor unionization. Contractors shall be encouraged not to take any action nor make any statement that will directly or indirectly state or imply any opposition to unionization.

Resolution of any interjurisdictional trade disputes shall 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 Fund or an operating company manager in interjurisdictional trade disputes.

K. Enforcement:

1. Operating Company Managers: The Fund shall place a non-complying operating company manager on a watch list. If the operating company manager does not modify this pattern of conduct after discussions with the Fund, the Fund shall consider this pattern of conduct along with other information when it reviews the operating company manager’s performance.
2. Responsible Contractors: Where a violation of this Policy is discovered while a Service contract is in effect, the operating company manager will insist the violation is promptly cured, and that evidence of such a cure (the “Cure Evidence”) is provided to the operating company manager. The sufficiency of such Cure Evidence is, in the sole discretion, and subject to the written approval, of the operating company manager. If a cure is not implemented in a commercially reasonable period of time, or the Cure Evidence is not sufficient to bring the Responsible Contractor back into good standing under this Policy, the violation will be brought to the attention of the Fund which will determine the appropriate course of action [which may include, but is not limited to, termination of the Service contract. The requirements of this Policy under Section III shall be incorporated

into all covered Service Contracts and subcontracts. Serious or repeat violations of this Policy may be grounds for termination of the Service Contract.

EXHIBIT A
to
Responsible Contractor Policy
RESPONSIBLE CONTRACTOR SELF-CERTIFICATION

Instructions

[Insert Company Name Here] (the “Company”) has adopted a Responsible Contractor Policy (the “Policy”) that supports and encourages fair wages and fair benefits for workers employed by contractors and subcontractors engaged by the Company, subject to fiduciary principles concerning duties of loyalty and prudence, both of which require competitive returns. Please complete return this Responsible Contractor Self- Certification (the “Certification”) about your firm and the marketplace in which you operate along with your bid. Definitions can be found on page 3 of this Exhibit.

A. GENERAL INFORMATION

Firm Name: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Email: _____
Contractor’s License #: _____ Expiration Date: _____

B. WAGES

1. Considering the wages paid by your competitors in this market, the nature of this project, and the size and scope of this contract, do you believe your firm will pay local market wages to workers on this job? (Additional information may be provided on the lines below)

YES NO

C. BENEFITS

1. For the workers on the job, will your firm provide access to health insurance? (Additional information such as percent of employees covered, employer contribution, individual or family coverage may be provided on the lines below)

YES NO

2. For the workers on the job, considering the benefits your competitors in this market provide to their employees (such as, but not limited to, pension or 401(k), apprenticeship programs and/or earned vacation time), the size and scope of this contract, and the nature of this project, do you believe your firm will provide benefits consistent with local market practices? (Additional information may be provided on the lines below)

YES NO

EXHIBIT A
to
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D. REGULATORY STATUS (attach additional pages if necessary)

1. In the last 24 months, has your firm been fined, suffered an adverse judgment, incurred a penalty, been found in violation of, or had to change its employment policies because of violations of State or Federal Labor laws, including but not limited to the National Labor Relations Act, Occupational Safety and Health Administration, the Civil Rights Act of 1964 (e.g. sexual harassment or discrimination violations), EPA or Water or Air Quality Boards? If yes, please explain.

YES NO

2. Are you aware of any pending complaints that have been filed with your firm or any agency enforcing labor or employment laws? If yes, please explain (an affirmative answer does not necessarily disqualify your firm from being the successful bidder, however, it will be taken into account in determining Responsible Contractor status)

YES NO

E. RESPONSIBLE CONTRACTOR STATUS

Please check **one** of the following Boxes

1. Meets all Responsible Contractor requirements.
2. Meets none of the Responsible Contract requirements
3. Meets some of the Responsible Contractor requirements

If you have checked the third box above, please provide an explanation below.

F. Certification of Responsible Contractor Status

On behalf of the above named firm, the undersigned certifies that the information and responses provided within pages 1 through 3 of this Certification are complete and accurate as of this date, and that he/she is aware that any intentional misrepresentations or falsified information may result in disqualification from this and future contracting opportunities.

Signature

Date

Name (please print)

Title

The Company reserves the right to disclose the contents of this Certification at its discretion. Disclosure also may be required by applicable law.

EXHIBIT A
to
Responsible Contractor Policy

DEFINITIONS

Responsible Contractor: A business that pays workers a fair wage and fair benefits and complies with all of the requirements set out in Section III of the Responsible Contractor Policy.

Fair Wage, Fair Benefits, and Training: What constitutes a “fair wage” and a “fair benefit” will depend on the wages and benefits paid on comparable infrastructure projects, based upon local market factors that include the nature of the project (*e.g.*, municipal or commercial; public or private), comparable job or trade classifications and the scope and complexity of Services provided. In determining “fair wages” and “fair benefits” concerning a specific contract in a specific market, items that may be considered include local wage practices, state laws, prevailing wages, labor market conditions and other items. “Fair benefits” are defined as: employer-paid family health care coverage (subject to reasonable and affordable employee contributions and co-pays), pension or retirement plan benefits, and high-quality, employer-paid apprenticeship or equivalent training programs.

See Policy for complete requirements of the Responsible Contractor Policy.