

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed amendments relating to a proposed new process for the procurement of investment management services for New York City's pension systems and related funds.

Date/Time: September 10, 2013
11:00am-1:00pm

Location: Mayor's Office of Contract Services
253 Broadway, 14th Floor Conference Room
New York, NY 10007

Contact: Andrea Glick
Director
Mayor's Office of Contract Services
New York, New York 10007

Proposed Rule Amendment

Pursuant to the authority vested in the Procurement Policy Board ("PPB") by sections 311 and 1043 of the New York City Charter and in accordance with section 1043 of the New York City Charter the PPB hereby proposes to amend Chapter 1 and Chapter 3 of Title 9 of the Rules of the City of New York.

The proposed amendments were not included in the board's most recent regulatory agenda because the amendments were not anticipated at the time the agenda was published.

Instructions

Written comments regarding the proposed amendments must be received by close of business on September 10, 2013. Written comments should be sent to:

Jennifer Jones Austin
Chair
Procurement Policy Board
253 Broadway, 9th floor
New York, NY 10007

Or electronically through NYC RULES at www.nyc.gov/nycrules by September 10, 2013.

If you need a sign language interpreter or other form of reasonable accommodation for disability at the hearing, please notify Andrea Glick by close of business on September 3, 2013.

Written comments and a summary of the oral comments will be available for public inspection within a reasonable time after receipt between 9:00 a.m. and 4:30 p.m. at the Mayor’s Office of Contract Services.

Statement of Basis and Purpose

This rule is proposed pursuant to the authority of the Procurement Policy Board under sections 311 and 1043 of the New York City Charter.

The proposed amendments to the Procurement Policy Board Rules (“Rules”) seek to establish an alternative method of procuring investment management services for the assets of the New York City Retirement Systems and related funds (collectively the “Systems”). The proposed process was tested and arises from a pilot program, established under Section 3-12 of the Rules for Innovative Procurement Methods.

The goals of the proposed amendments to the Rules are to:

- 1) leverage existing financial databases and the analytical resources of the Systems investment consultants to increase competition and expand the universe of managers that may be considered for retention by the Systems;
- 2) increase the pool of top tier investment management firms to invest the System’s assets by establishing a process whereby all qualified investment managers are considered for possible contract award;
- 3) reduce the time it takes to complete the procurement process by eliminating the need to review and evaluate large numbers of proposals regardless of performance ranking and instead allow the investment staff working on behalf of the Systems to concentrate its evaluation on the highest performers, as determined through industry wide assessments and sophisticated analytics performed by the Systems’ consultants; and
- 4) allow the Systems to react more quickly to market opportunities, which should improve performance and reduce market impact on the Systems’ portfolios.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this board, unless otherwise specified or unless the context clearly indicates otherwise.

The Proposed Rules Amendments

New material is underlined.

Section 1. Subdivision (e) of section 1-01 of Chapter 1 of Title 9 of the Rules of the City of New York is amended by adding the following new definitions of “city retirement system,” “investment consultant,” “investment manager,” “investment manager search,” “notice of search” and “shortlist of investment managers” in alphabetical order to read as follows:

City Retirement System or Retirement System. One of the defined benefit retirement plans that offers benefits defined by law for participating City employees. City Retirement System shall include pension related funds, such as the variable supplements funds, that provide non-pension benefits to City employees.

Investment Consultant. The investment consultant(s) engaged for the purpose of providing general investment consulting services to a City Retirement System.

Investment Manager. A firm that makes investments in portfolios of publicly held securities on behalf of one or more City Retirement Systems.

Investment Manager Search. A method of source selection for investment management services for the City Retirement Systems under which candidates for consideration of potential award of a contract are identified through the review and screening of industry databases, in accordance with procedures specified in this chapter.

Notice of Search. All documents, whether attached or incorporated by reference, used for notifying Investment Managers of the opportunity to participate in the Investment Manager Search method of procurement.

Shortlist of Investment Managers. The list of recommended Investment Managers that received multiple recommendations from the Investment Consultants.

§ 2. Chapter 3 of title 9 of the Rules of the City of New York is amended by adding a new section 3-15 to read as follows:

Section 3-15 INVESTMENT MANAGER SEARCH

(a) Policy. Notwithstanding any other provision of this title, the preferred method of procuring investment management services for the assets of the City’s Retirement Systems shall be the Investment Manager Search as described in this section. Upon the demonstration of compelling circumstances and in accordance with this section, an alternative procurement method to procure investment manager services may be utilized with the approval of the CCPO.

Content of Notice of Search. Notices of Search shall include the following:

- (1) the Retirement Systems participating in the search;
- (2) the asset class or classes for which Investment Managers are being sought;
- (3) the minimum requirements for eligibility;

- (4) the factors upon which Investment Consultant recommendations will be made after application of minimum requirements;
- (5) the database(s) to be reviewed for purposes of identifying candidates for further consideration and the date on which review of the database(s) may commence;
- (6) information regarding how to participate in the database(s);
- (7) a statement that the contract award will be made to the responsible Investment Manager(s) whose product is determined to be the most advantageous to the Retirement System, taking into consideration the price and such other factors or criteria that are set forth in the Notice of Search;
- (8) the specific criteria and relative weight of each criterion or category of criteria that will be used by the Evaluation Committee to evaluate Investment Managers; and
- (9) a statement of how price will be evaluated.

(b) Evaluation Process.

(1) Consultant Review. The respective Investment Consultant for each participating Retirement System shall independently review information posted in the database and/or widely-used industry databases, as identified in the Notice of Search, and provide a written report that identifies the Investment Managers that meet the minimum requirements set forth in the Notice of Search. The Investment Consultants shall provide to the Evaluation Committee a report confirming databases searched and a list of Investment Managers that meet the minimum requirements.

(i) Investment Managers meeting the minimum requirements shall be further analyzed by each participating Investment Consultant based on quantitative and qualitative factors used for institutional investment management services searches. Such factors shall include, but are not limited to, investment practices and analytics, organizational strength, regulatory history, and performance relative to appropriate indices and peer group, and such other factors consistent with industry standards for institutional investment management services and the Retirement System's investment policies and guidelines.

(ii) Following the analysis in subparagraph (i) of this paragraph, each Investment Consultant shall provide a written report describing the basis for its recommendations of qualified Investment Managers for further consideration by the evaluation committee.

(2) Evaluation Committee. An evaluation committee consisting of no fewer than three persons with knowledge, expertise, and experience sufficient to make a fair and reasonable evaluation shall be established. The ACCO shall require each member of the evaluation committee to submit a signed statement, in a format approved by the CCPO, agreeing to prohibitions on any conflicts of interest. The evaluation committee may include outside evaluators pursuant to section 3-03(g)(1)(b) of this chapter.

(3) Evaluation Committee Review. The evaluation committee shall establish a list of qualified Investment Managers recommended by the Investment Consultants for further review. A Shortlist of Investment Managers shall be established that is comprised of the Investment Managers that received multiple recommendations from the Investment Consultants. The evaluation committee shall then evaluate the Shortlist of Investment Managers in accordance with the evaluation criteria set forth in the Notice of Search. The evaluation committee may require Investment Managers on the Shortlist of Investment Managers to submit information and documentation consistent with the evaluation criteria in the Notice of Search.

(i) Rating Sheets. Ratings sheets or other written evaluation forms shall be used to evaluate proposals and each evaluator shall sign and date his or her rating sheet. Initial ratings may be amended and the amended ratings recorded on amended rating sheets. Copies of all initial and amended rating sheets or evaluation forms shall be maintained.

(ii) Discussions with Investment Managers. The evaluation committee shall evaluate all Investment Managers on the Shortlist of Investment Managers and may elect to enter into discussions with those Investment Managers whose products are acceptable or are reasonably likely to be made acceptable for the purpose of arriving at a contract that will be most advantageous to the Retirement System(s), taking into consideration price and the other evaluation factors set forth in the Notice of Search.

(iii) Conduct of Discussions.

(A) Investment Managers shall be accorded fair treatment with respect to any opportunity for discussions and clarifications of information.

(B) The ACCO shall establish an agenda and schedule for conducting discussions.

(C) Auction techniques (revealing one Investment Manager's price to another) and disclosure of any information derived from competing products are prohibited.

(D) Any oral clarification of a product shall be confirmed in writing by the Investment Manager.

(iv) Report to Retirement Systems. The evaluation committee shall provide the participating Retirement System or its delegee with a report summarizing the evaluation of all firms on the Shortlist of Investment Managers prior to the Retirement System making a determination on the award of contract(s).

(4) The Evaluation Process. Contract award(s), if any, must be made to the responsible proposer whose proposal is determined to be the most advantageous to the Retirement System(s), taking into consideration the price and such other factors or criteria that are set forth in the Notice of Search. In evaluating Investment Managers, only price and the criteria set forth in the Notice of Search may be considered. In considering price, methods such as ranking the Investment Managers on the Shortlist of Investment Managers by price, evaluating price per technical point, or evaluating Investment Managers on the Shortlist of Investment Managers in accordance with another combination of price and technical merit may be used. Such methods may result in selection of the highest technically rated Investment Manager over another technically qualified Investment Manager who offered a lower fee as a result of factors including, but not limited to, the selected Investment Managers' superior technical skill and expertise, product performance record, risk/return balance, investment strategy and/or portfolio fit.

(5) Best and Final Offers. Best and final offers are the revised and corrected final offers submitted by Investment Managers after discussions, if any, have been held. The ACCO shall establish a common date and time for the submission of best and final offers. Best and final offers shall be submitted only once unless the ACCO makes a determination that it is in the Retirement System's best interest to conduct additional discussions and/or require another submission of best and final offers. All best and final offers shall be recorded on the Register of Proposals and handled in accordance with the control procedures contained in Section 3-03(f)(9) of this section. Best and final offers shall be evaluated in accordance with this subdivision and the Notice of Search.

(6) Manager Selection and Documentation of Award. The ACCO shall make a determination showing the basis on which the contract award was made to the responsible Investment Manager whose product was determined to be the most advantageous to the Retirement System(s), taking into consideration the price and such other factors or criteria that are set forth in the Notice of Search. This determination shall be included in a Recommendation for Award. Each Recommendation for Award shall include at a minimum the following information:

(i) justification of the award;

- (ii) if the award is for services for which there is price history, a price comparison of the proposed price versus previous price, if applicable, with the rationale for any increases supported by cost/price analysis data;
- (iii) reasons for multiple awards;
- (iv) any special terms and conditions included in the proposed contract via the use of cost/price analysis techniques;
- (v) affirmative finding of responsibility for the selected Investment Manager(s); and
- (vi) efforts to negotiate better value.

Upon determination of the most favorable product(s) and after obtaining all required approvals, the Contracting Officer shall award the contract to that Investment Manager.

(c) Public Notice.

(1) Notices of Search. Notice of Notices of Search above the small purchase limits shall be published once in the City Record not less than twenty days before Investment Manager information is required to be entered into a database. Such notice shall include:

- (i) Retirement System(s) names;
- (ii) PIN;
- (iii) title and/or brief description of the investment services being sought;
- (iv) how interested investment managers may provide data to be included in identified databases, including date and time by which such data shall be submitted; and
- (v) required minimum qualifications or eligibility requirements, if any.

(2) Simultaneous to their publication as required by paragraph one of this subdivision, Notices of Search shall be posted on the City's website in a location that is accessible to the public. Notices of Search shall also be furnished to each participating Investment Consultant. Notices of Search shall be made available electronically.

(3) Notice of Manager Selection.

(i) Frequency. Notice of Investment Manager selection exceeding the small purchase limits shall be published once in the City Record within fifteen days after registration of the contract.

(ii) Content. Such notice shall include:

- (A) Retirement System name;
- (B) PIN;
- (C) title and/or brief description of the services procured;
- (D) name and address of the Investment Manager;
- (E) dollar value of the contract; and
- (F) procurement method by which the contract was let.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Investment Managers

REFERENCE NUMBER: 2013 RG 33

RULEMAKING AGENCY: Procurement Policy Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: June 18, 2013

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Investment Manager

REFERENCE NUMBER: MOCS-11

RULEMAKING AGENCY: Procurement Policy Board

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Hunter Gradie
Mayor's Office of Operations

6/19/2012
Date