



Agenda Item 6a

March 18, 2013

ITEM NAME: Investment Proprietary Software and Subscription Procurement

PROGRAM: Total Fund

ITEM TYPE: Organizational Systems & Controls – Action

RECOMMENDATION

Approve staff's recommendation to adopt the proposed definition of Investment Proprietary Software and Subscription Agreements for inclusion in the CalPERS Contracting and Procurement Policy Manual (CPPM) and exempt these contracts from the Board's approved standard terms and conditions for CalPERS contracts.

EXECUTIVE SUMMARY

The existing definitions of proprietary software and proprietary subscription agreements contained in CPPM are outdated and do not accurately reflect the types of tools and data that are available to any mid-size investment management firm and that are critical to the Investment Office in order to meet CalPERS investment objectives. In addition, providers of these products and services are unwilling to agree to execute agreements containing the Board's approved standard terms and conditions for CalPERS contracts. In order to meet the critical needs of the Investment Office, Staff therefore recommends updating the definitions contained in the CPPM and exempting these contracts from the CalPERS standard contract terms and conditions.

STRATEGIC PLAN

This agenda item supports the CalPERS Strategic Plan goal to cultivate a high-performing, risk-intelligent, and innovative organization. Maintaining current and clear contracting policies that accurately address the business needs of CalPERS Investment Office will support staff in accessing required resources to pursue the System's investment objectives.

BACKGROUND

The processes for obtaining investment related goods and services follow CalPERS contracting policies and procedures, which reflect California law and contracting processes. Additionally, in certain instances the Investment Office has utilized the proprietary software and proprietary subscription contract definitions contained in the CPPM as the basis for procurement of certain analytical tools and data. However, as the size of the investment strategies being managed internally has grown, and the tools and data have evolved, the existing definitions have become outdated and no longer reflect the realities of the current market for these products.

ANALYSIS

The Investment Office has a critical need to contract for data and research, analytical and operational support tools. This need has grown as more investment management has been brought in house. Examples of the types of tools and information required by the Investment Office include the following contracts:

- Bloomberg, which provides business and financial market information
- Factset, which provides analytical and research data and tools for tracking and modeling companies
- Glass Lewis, which provides analytical and research data and tools for proxy voting
- FTSE, which provides benchmarking data.

These services are typically available from only one provider, and the contractors provide the services to hundreds or thousands of customers pursuant to standardized contractual agreements with provisions the providers are unwilling to negotiate.

Historically, the Investment Office has contracted for these types of services using the Board's exemption from competitive bidding for proprietary software and subscriptions. However, the definitions of proprietary software and subscriptions are outdated and arguably do not clearly include the types of data and tools that the Investment Office requires. In addition, the exemption from competitive bidding includes a maximum contract amount of \$250,000, which is inadequate in today's market for these products. In fact, based on FY 2012-13 invoice payments, several contracts with Bloomberg, Factset, Glass Lewis and FTSE exceeded \$250,000 and utilized the provider's standardized contractual agreements.

For this reason, the Investment Office proposes a new definition for investment proprietary software and subscriptions that will include the following five general investment subscription categories:

- Proprietary Analytics/Research Data & Tools – Data and Tools used in the management of Investments
- Data – Data required for the management of Investments
- Investment Operational Support Tools – Tools needed in the processing and support of Investment activities
- Professional Membership
- Publication/Periodical

In addition, the Investment Office proposes that when contracts for these products exceed \$250,000, the Investment Office will obtain an exemption from bid via established delegation of authority.

The proposed definition, to be included in the CPPM, for investment proprietary software and subscriptions is as follows:

Contracts Exempt (from Competitive Bidding) by Policy:

Contracts to procure for the Investment Office Proprietary Software and Subscriptions for Investment Analytics/Research Data & Tools, Investment Data, Investment Operational Support Tools, Professional Membership, and Publication/Periodicals. Exemption from competitive bidding approval is required for contracts over \$250,000.

Finally, the Investment Office proposes that these contracts be exempt from the Board's approved standard terms and conditions for CalPERS contracts. The Investment Office will develop, in coordination with the Legal Office, a risk based review process for the standardized provider contracts for these products. This process will be administered by the Investment Compliance and Operational Risk group. Board level reporting will continue to apply to these contracts.

BENEFITS/RISKS

Adopting this new investment software/subscription-type contract definition will ensure that Investment Office staff will have the flexibility to obtain critical tools and data needed to invest and manage the System's assets. Failure to adopt a clarified subscription-type contract definition may hamper the ability of the Investment Office to manage the System's assets and achieve investment return targets.

CAROL MOODY
Senior Portfolio Manager
Investment Compliance and Operational Risk

JANINE GUILLOT
Chief Operating Investment Officer