

# MEMORANDUM #07, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

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Joseph E. Connarton, *Executive Director*

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Placement Agent Policy Implementation

DATE: January 13, 2012

The Public Employee Retirement Administration Commission (PERAC) policy with respect to placement agents is now in effect. Attached is a copy of the form that must be filed with the retirement board and the Commission in accordance with that policy. In addition the form can be accessed at PERAC's Website: [www.mass.gov/perac](http://www.mass.gov/perac). As noted in PERAC Memo #34/2011:

### "Manager Responsibilities"

Each manager is responsible for providing the following information to the board and PERAC in conjunction with responding to an RFP or solicitation, commencing discussions relative to amending an agreement between the manager and the board or entering into a discussion, other than informal general discussions, that may lead to any of the above referenced actions:

- a. a statement whether the manager or any principal, employee, agent or affiliate has compensated or agreed to compensate, directly or indirectly any person or entity to act as a placement agent in connection with investment by the Massachusetts public pension systems;
- b. a resume for each placement agent detailing the person's education, professional designations, regulatory licenses and investment and work experience. If any such person is a current or former member of a retirement board, employee or consultant or immediate family of such a person that fact should be specifically noted;
- c. a description of any and all compensation of any kind provided or agreed to be provided to a placement agent and/or entity acting as a placement agent in connection with investment by Massachusetts' public pension systems, including the nature, timing and value thereof;
- d. a description of the services to be performed by the placement agent and/or entity acting as a placement agent and a statement as to whether the placement agent is used by the manager with all prospective clients or only a subset of clients or only Massachusetts public pension fund clients;
- e. a written copy of any and all agreements between the manager and the placement agent and/or entity acting as a placement agent in connection with investment by Massachusetts' public pension systems;

- f. in the event that any current or former Massachusetts public pension system board members, employees, consultants or other service providers have suggested the retention of the placement agent, the names of any current or former Massachusetts public pension system board members, employees, consultants or other service providers who suggested the retention of the placement agent;
- g. a statement that the placement agent has a minimum of three years experience in the investment field; and,
- h. a statement that the placement agent and/or entity acting as a placement agent is registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority, or, if appropriate, the Commodity Futures Trading Commission and the details of such registration.”

A number of boards are in the process of negotiating amendments to the existing contracts governing investment management. Please be advised that investment managers must file the Placement Agent Form in conjunction with that amendment process.

In addition the Memo outlines contract terms that must be incorporated into as part of the initial contracting process and any amendment of an existing contract:

#### “Contract Terms

Each contract and amendment to an existing contract as of January 1, 2012 shall secure the agreement of the manager in the final written agreement between the board and the manager to provide the board with the following remedies in the event the manager knew or should have known of any material inaccuracy or omission in the placement agent information disclosure or any other violation of this policy:

- a. whichever is greater, the reimbursement of any management or advisory fees paid by the board for the prior two years or an amount equal to the amounts paid or promised to be paid to the placement agent as a result of the board investment;
- b. the authority to immediately terminate the investment management contract or other agreement with the manager without penalty, to withdraw without penalty from a limited partnership, limited liability company or other investment vehicle, or to cease making further capital contributions (and paying any fees on these recalled commitments) to the limited partnership, limited liability company or other investment vehicle without penalty; and,
- c. provisions requiring the manager to annually inform PERAC and the board of any arrangements in oral or in writing, for compensation or other benefit received or expected to be received by the manager or a related person from others in connection with the managers’ services to the board or any other client, provisions requiring the manager to annually disclose to PERAC and the retirement board any compensation, in whatever form, paid or expected to be paid, directly or indirectly, by the manager or a related person to others in relation to the managers’ services to the board or any other client, and provisions requiring the manager to annually disclose to PERAC and the board in writing any conflict of interest the manager may have that could reasonably be expected to impair the manager’s ability to render unbiased and objective services to the board.

Each contract and amendment to an existing contract as of January 1, 2012 shall secure the agreement of the manager in the final written agreement between the board and the manager that the manager shall be solely responsible for, and the board shall not pay (directly or indirectly), any fees, compensation or expenses for any placement agent used by the manager.”

These provisions must be agreed to by the manager as part of the process of establishing a contract or amending an existing contract.

Thank you for your continued cooperation.

Attachment