

**Oklahoma Firefighters Pension and Retirement System**  
**Large Cap Growth RFP Questions Submitted by Managers**

- 1.) Does the submission of a proposal bind the investment manager to the Investment Management Contract or will the successful manager have an opportunity to negotiate certain parts of the contract in good faith?

**The successful manager will have an opportunity to negotiate certain parts of the contract in good faith. No changes that are inconsistent with the laws of the State of Oklahoma will be considered.**

- 2.) Our standard investment management agreement contains the following provision:

*“Liability: Duty of Care.* Except as otherwise provided by law, the Investment Manager shall not be liable to the Client for any loss that the Client may suffer by reason of any investment decision made or other action taken or omitted in good faith by the Investment Manager with that degree of care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a fiduciary capacity would use in the conduct of an enterprise of a like character and with like aims. In any event, neither the Investment Manager nor its affiliates shall be liable for any loss or damage arising or resulting from the acts or omissions of the custodian, any broker, financial institution or any other third party with or through whom the Investment Manager arranges or enters into a transaction in respect of the Portfolio.

We believe this language is standard in most investment management agreements and does not limit liability where the investment manager has breached its fiduciary duties.”

Please confirm that this provision would not be prohibited by the Oklahoma state constitution.

**While the proposed clause as currently drafted is inconsistent with Oklahoma law, we believe that an investment manager should be responsible only for actions taken by it, or by its employees, contractors or affiliates, in bad faith or with negligence or intentional misconduct (except as otherwise provided in the federal securities laws).**

- 3.) *Sections III question A4, of the RFP Cover letter says, “Bids containing limitation of liability clauses may be rejected as non-responsive.”* Will a provision disclaiming liability of the respondent for actions taken in accordance with the Agreement (i.e. investment losses, etc.) or acts or omissions of third parties (such as brokers, trustees or custodians) be considered a disqualifying “limitation of liability clause?”

**While the Oklahoma State Constitution prohibits inclusion of any clause which limits the liability of a vendor, it is not anticipated that the successful investment manager will be responsible for the actions of an unrelated third party. In addition, the System acknowledges the risk of investment losses.**

- 4.) May the investment manager's contract provide that the investment manager's liability is limited to those damages/losses incurred by the System that result from the investment manager's negligence, intentional misconduct or bad faith?

**While the Oklahoma State Constitution prohibits inclusion of any clause which proposes to limit the liability of a vendor for damages/losses incurred by the System, we believe that an investment manager should be responsible only for actions taken by it, or by its employees, contractors or affiliates, in bad faith or with negligence or intentional misconduct (except as otherwise provided in the federal securities laws).**

- 5.) Section III (A) (4) states that the Oklahoma State Constitution prohibits the inclusion of clauses in any state contract which limit the liability of the vendor. Please confirm that the following clause in our standard investment advisory agreement, which we believe is standard within the industry, complies with this prohibition:

“The Adviser undertakes to perform only those duties that are specifically set forth in this Agreement. Except for bad faith, intentional misconduct or negligence in regard to the Adviser's performance of its duties under this Agreement, neither the Adviser nor any of its directors, officers, employees or agents shall be liable for any acts or omissions or for any loss suffered by the Account. The Adviser and its directors, officers, employees and agents shall be entitled to rely, and shall be protected from liability in relying, upon any information or instructions furnished to it (or any of them as individuals) which is believed in good faith to be accurate and reliable. The federal securities laws impose liability under certain circumstances on persons who act in good faith, and therefore nothing herein shall in any way constitute a waiver or limitation of any rights that the sponsor may have under federal securities laws. The sponsor understands the Adviser does not warrant any rate of return, market value or performance of any assets in the Account. The terms of this Section shall survive the termination of this Agreement.”

**While the proposed clause as currently drafted is inconsistent with Oklahoma law, we believe that an investment manager should be responsible only for actions taken by it, or by its employees, contractors or affiliates, in bad faith or with negligence or intentional misconduct (except as otherwise provided in the federal securities laws).**

- 6.) Will proposals be subject to public disclosure, and if so, can proprietary information be marked and protected as such?

**Under the Oklahoma Open Records Act, any document you submit to the System will be available to any person for inspection, copying, or mechanical reproduction unless a state or federal law specifically requires that such document be kept confidential. Therefore, even if you mark documents submitted to the System as “proprietary” or “confidential,” you are not entitled to a reasonable expectation that such information will not be publicly accessible.**

- 7.) Regarding Section III A.4. We would like to confirm that your limitation on liability clause does not require a Manager to assume responsibility or liability for the actions or inactions of broker-dealer when the Manger has selected such broker-dealers in accordance with its fiduciary duties.

**While the Oklahoma State Constitution prohibits inclusion of any clause which limits the liability of a vendor, it is not anticipated that the successful investment manager will be responsible for the actions of an unrelated third party.**

- 8.) On tab (14) in the excel spreadsheet, should we provide gross or net returns?

**Please provide gross of fee returns.**

- 9.) Would you prefer the data to reflect a 12.31.09 date?

**Please provide data as of 12/31/09**

- 10.) In Appendix B, an attached Excel spreadsheet is referred to but is not included. Could you please forward the excel spreadsheet to the email address listed in the previous paragraph?

**An electronic copy of the RFP and excel spreadsheets MUST be requested from Duane Michael with the Oklahoma Firefighters Pension and Retirement System. An e-mail request for these files should be sent to [dmichael@oklaosf.state.ok.us](mailto:dmichael@oklaosf.state.ok.us).**

- 11.) In the spreadsheet attached to the RFP you are requesting assets under management and performance numbers for third quarter 2009. Would you like fourth quarter 2009 information if it is available?

**Please provide data as of 12/31/09.**

- 12.) Question 5(e) under “Organization Information” in Appendix B requests that Respondent provide a copy of any deficiency letter regarding our recent regulatory

examinations. Respondent had a routine SEC examination in June/July 2008 and received a deficiency letter dated November 2008. Respondent, as a registered investment adviser and as a manager of registered investment companies, is subject to routine, cyclical and special examinations from federal and state securities regulators, including the U.S. Securities and Exchange Commission. While it is Respondent's general policy not to comment or publish SEC examination inquiries or results, we are able to present members of our legal and compliance teams to address any particular questions you may have. Please confirm that our approach, which we believe is standard within the industry, is acceptable.

**Please provide a copy of the deficiency letter or in the alternative provide a summary description of any significant findings described in the letter.**

- 13.) Please also provide a copy of the current Investment Policy and Guidelines for the System as referenced in Appendix A, Question 11.

**A copy of the Investment Policy and Guidelines is posted on the Website along with the RFP.**

- 14.) In Appendix A: Competitive Bid Standards – Item 11 – The Systems Investment Policy Statement and Guidelines are mentioned but not included, and we had difficulty locating them on the System's website. Is it possible to get a copy of the Policy Statement and Guidelines?

**A copy of the Investment Policy and Guidelines is posted on the Website along with the RFP.**

- 15.) In Appendix B: Manager Questionnaire – Item 27 – Do the three client references have to be provided with the Questionnaire, or can they be provided if and when selected as a finalist candidate?

**Please provide client references as requested in the Questionnaire.**

- 16.) Can the printed versions of the proposal be double sided (i.e. using both the front and back side of a page for printing)?

**Yes.**

- 17.) The solicitation instructions state that "Three ring binders are discouraged." Are spiral bound proposals ok? Or would it be better to leave the pages loose, but clipped together?

**Spiral bound proposals are fine.**