



## Guidance for Investment Practices and Performance Evaluations

(§802.109, Texas Government Code)

~~As required by Senate Bill (86R)~~

~~(Adopted October 17, 2019)~~

Texas Government Code §802.109 requires Texas public retirement systems with at least \$30 million in assets to complete an Investment Practices and Performance Evaluation. The Pension Review Board (PRB) is providing this informal guidance to assist systems in defining the scope and content of the evaluation.

The following provides guidance on the different areas required by statute to be reviewed by the independent firm performing the evaluation. The PRB recognizes that evaluations should and will vary significantly based on the specific characteristics of each system's size, governance structure, and investment program. Therefore, this guidance is intended to inform systems and their stakeholders on the basic aspects of the evaluations and associated reports and is not an exhaustive list of all items that should be reviewed.

### **A thorough evaluation would include the following elements:**

- 1) Identify and review existing investment policies, procedures, and practices. This should include any formally established policies (e.g. Investment Policy Statement) as well any informal procedures and practices used to carry out the investment activities of the system. It is not necessary to review past policies, procedures, and practices that are no longer applicable unless they are deemed helpful to understand current policy or practice.
- 2) Compare the existing policies and procedures to industry best practices.
- 3) Generally, assess whether the board, internal staff, and external consultants are adhering to the established policies.
- 4) Identify the strengths and weaknesses of the current policies, procedures, and practices and make recommendations for improvement.
- 5) Include a detailed description of the criteria considered and methodology used to perform the evaluation, including an explanation of any metrics used and associated calculations.

### **Applicability**

Systems with assets of **at least \$100 million** must complete an evaluation **once every 3 years**.<sup>1</sup> Systems with assets of **at least \$30 million but less than \$100 million** must complete an evaluation **once every 6 years**. Systems with assets **less than \$30 million** are **not required**, but are encouraged, to conduct an evaluation. Systems that have not voluntarily completed an evaluation and have assets less than \$30

million will be required to complete an evaluation if, as of the last day of their preceding fiscal year, their assets exceed \$30 million. Systems completing their first evaluations must conduct a comprehensive review of all invested asset classes while systems conducting subsequent evaluations may select specific asset classes to focus on.

## Deadlines

### Systems that have not completed an evaluation

A report of the first evaluation must be filed with the governing body of the system **not later than May 1** the following year in which the system is either required to be or voluntarily evaluated, ~~2020~~.

**Example timeline and deadlines for a system with assets that first exceed \$30 million in 2022 or a system that decides to voluntarily complete an evaluation in 2023.**

<u>Fiscal Year Assets Exceed \$30 Million</u>	<u>Preparation Recommended Start Date</u>	<u>Evaluation Process Completion Year</u>	<u>Submission to Governing Body and Request Review-and-Comment Target Date</u>	<u>Governing Body Response to Review-and-Comment Due</u>	<u>Final Report to a System's Governing Body Due</u>	<u>Report Due to the PRB</u>
<u>2022</u>	<u>February 2023</u>	<u>2023</u>	<u>March 2, 2024</u>	<u>April 1, 2024</u>	<u>May 1, 2024</u>	<u>June 1, 2024</u>

### Systems that completed an evaluation

Reports of subsequent evaluations must be filed with the governing body of the system not later than May 1 the following year in which the system is evaluated. of the applicable year. Each report is **due to the PRB not later than 31 days after** ~~the date the governing body of a public retirement system receives it.~~

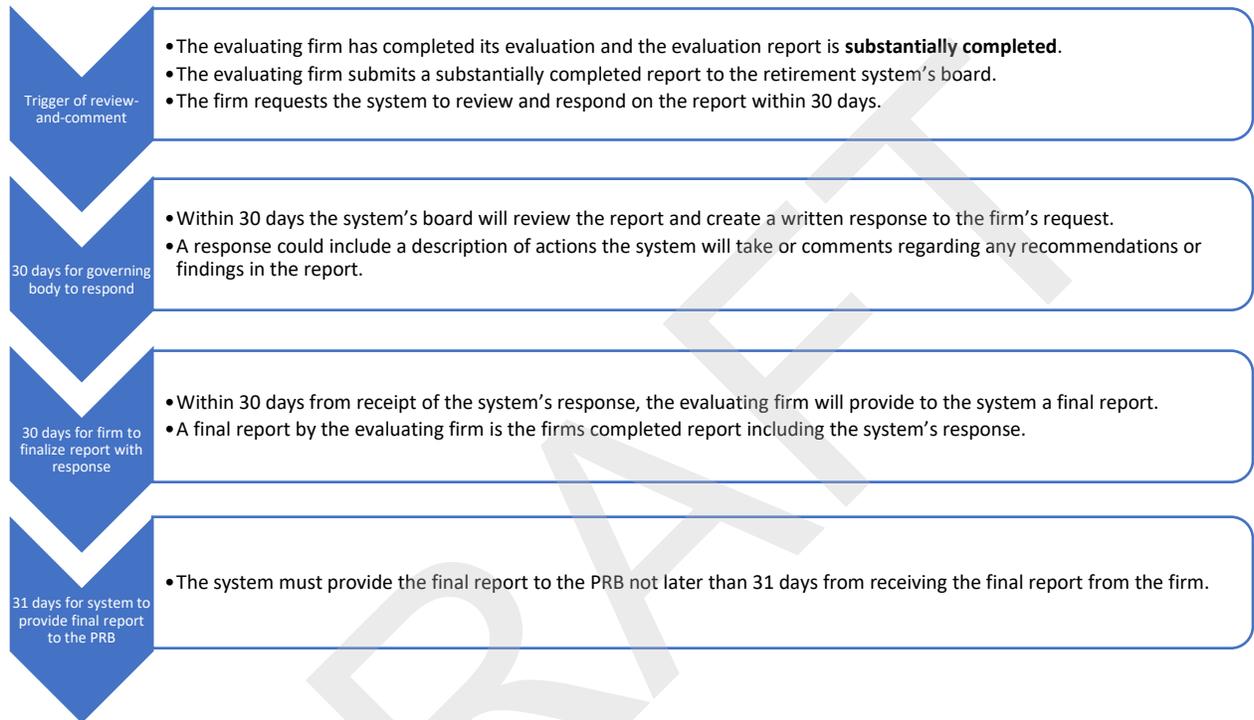
### Example timeline and deadlines for subsequent evaluation

<u>Applicable Systems</u>	<u>First Evaluation Due Date</u>	<u>Preparation Recommended Start Date</u>	<u>Evaluation Process Completion Year</u>	<u>Submission to Governing Body and Request Review-and-Comment Target Date</u>	<u>Governing Body Response to Review-and-Comment Due</u>	<u>Final Report to a System's Governing Body Due</u>	<u>Report Due to the PRB</u>
<u>At Least \$100 Million</u>	<u>May 1, 2020</u>	<u>October 2022</u>	<u>2023</u>	<u>March 2, 2024</u>	<u>April 1, 2024</u>	<u>May 1, 2024</u>	<u>June 1, 2024</u>
<u>First Evaluation Completed in 2020</u>	<u>May 1, 2020</u>	<u>October 2025</u>	<u>2026</u>	<u>March 2, 2027</u>	<u>April 1, 2027</u>	<u>May 1, 2027</u>	<u>June 1, 2027</u>

## Deadline for submission before June 1, 2024

If a substantially completed report is submitted to a retirement system’s governing body in accordance with the formal review-and-comment process before March 2, 2024, a final report is **due to the PRB not later than 91 days after the governing body first receives the substantially completed report.**<sup>1</sup>

### Formal review-and-comment process



### **Independent firm**

*(a) ... A public retirement system shall select an **independent firm** with substantial experience in evaluating institutional investment practices and performance...*

*(c) Provides that a public retirement system, in selecting an **independent firm** to conduct the evaluation described by Subsection (a):*

*(1) subject to Subdivision (2), is authorized to select a firm regardless of whether the firm has an existing relationship with the retirement system; and*

*(2) is **prohibited** from selecting a firm that **directly or indirectly manages investments** of the retirement system.*

### **Directly or Indirectly Managing Investments**

<sup>1</sup> [§802.109 \(e-1\), Texas Government Code](#)

A firm is considered to be directly or indirectly managing investments if the firm, a subsidiary, or its parent company, has assets of the system under management, or is solely responsible for selecting or terminating investment managers.

### **Restriction on Performing the Evaluation**

If a firm is identified as directly or indirectly managing investments of the system, the firm is not considered an independent firm and is not eligible to perform the evaluation.

### **Required Disclosure by Independent Firm**

The evaluation ~~must~~ include the following disclosures by the independent firm:

- 1) a summary outlining the qualifications of the firm in evaluating institutional investment practices and performance;
- 2) a statement that the firm meets the experience requirements;
- ~~2)3)~~ a statement indicating the nature of any existing relationship between the firm and the system being evaluated;
- 4) a statement acknowledging that the firm, or its related entities, is not involved in directly or indirectly managing investments of the system;
- 5) a statement identifying any potential conflict of interest or any appearance of a conflict of interest that could impact the analysis between the independent firm and the system or any current/former member of the system's governing body;
- ~~3)6)~~ a list of the types of remuneration received by the firm from sources other than the retirement system for services provided to the system; and
- 7) an explanation of the firm's determination regarding whether to include a recommendation for each of the evaluated matters in the report or a lack thereof.

### **Governmental Entity's Ability to Cover Evaluation Costs**

A public retirement system's associated governmental entity may pay for all of part of the costs resulting from the evaluation. Any remaining cost not covered by the governmental entity shall be paid by the system.

- ~~4) a statement acknowledging that the firm, or its related entities, is not involved in directly or indirectly managing investments of the system.~~

## Components of Evaluation

This section provides suggested questions and topics for consideration under each of the five areas required to be covered in each evaluation.<sup>ii</sup> The questions below are intended to help systems identify the types of information an evaluation may include. Additionally, these questions may be helpful to systems that will use a request for proposal (RFP) to select a firm to perform the evaluation.

*Each evaluation must include:*

*(1) an analysis of any **investment policy or strategic investment plan** adopted by the retirement system and the retirement system's compliance with that policy or plan;*

- Does the system have a written investment policy statement (IPS)?
- Are the roles and responsibilities of those involved in governance, investing, consulting, monitoring and custody clearly outlined?
- Is the policy carefully designed to meet the real needs and objectives of the retirement plan? Is it integrated with any existing funding or benefit policies? (i.e. does the policy take into account the current funded status of the plan, the specific liquidity needs associated with the difference between expected short-term inflows and outflows, the underlying nature of the liabilities being supported [e.g. pay-based vs. flat \$ benefit, automatic COLAs, DROP, etc.]?)
- Is the policy written so clearly and explicitly that anyone could manage a portfolio and conform to the desired intentions?
- Does the policy follow industry best practices? If not, what are the differences?
- Does the IPS contain measurable outcomes for managers? Does the IPS outline over what time periods performance is to be considered?
- Is there evidence that the system is following its IPS? Is there evidence that the system is not following its IPS?
- What practices are being followed that are not in, or are counter to, written investment policies and procedures?
- Are stated investment objectives being met?
- Will the retirement fund be able to sustain a commitment to the policies under stress test scenarios, including those based on the capital markets that have actually been experienced over the past ten, twenty, or thirty years?
- Will the investment managers be able to maintain fidelity to the policy under the same scenarios?
- Will the policy achieve the stated investment objectives under the same scenarios?
- How often is the policy reviewed and/or updated? When was the most recent substantial change to the policy and why was this change made?

### Resources

[PRB - Developing an Investment Policy](#)

[GFOA - A Guide for Establishing A Pension Investment Policy](#)

[CFA - A Primer for Investment Trustees](#)

(2) a detailed review of the retirement system's **investment asset allocation**, including:

(A) the process for determining target allocations;

- Does the system have a formal and/or written policy for determining and evaluating its asset allocation? Is the system following this policy?
- If no formal policy exists, what is occurring in practice?
- Who is responsible for making the decisions regarding strategic asset allocation?
- How is the system's overall risk tolerance expressed and measured? What methodology is used to determine and evaluate the strategic asset allocation?
- How often is the strategic asset allocation reviewed?
- Do the system's investment consultants and actuaries communicate regarding their respective future expectations?
- How does the current assumed rate of return used for discounting plan liabilities factor into the discussion and decision-making associated with setting the asset allocation? Is the actuarial expected return on assets a function of the asset allocation or has the asset allocation been chosen to meet the desired actuarial expected return on assets?
- Is the asset allocation approach used by the system based on a specific methodology? Is this methodology prudent, recognized as best practice, and consistently applied?
- Does the system implement a tactical asset allocation? If so, what methodology is used to determine the tactical asset allocation? Who is responsible for making decisions regarding the tactical asset allocation?
- How does the asset allocation compare to peer systems?

(B) the expected risk and expected rate of return, categorized by asset class;

- What are the strategic and tactical allocations?
- What is the expected risk and expected rate of return of each asset class?
- How is this risk measured and how are the expected rates of return determined? What is the time horizon?
- What mix of assets is necessary to achieve the plan's investment return and risk objectives?
- What consideration is given to active vs. passive management?
- Is the approach used by the system to formulate asset allocation strategies sound, consistent with best practices, and does it result in a well-diversified portfolio?
- How often are the strategic and tactical allocations reviewed?

(C) the appropriateness of selection and valuation methodologies of alternative and illiquid assets; and

- How are alternative and illiquid assets selected, measured and evaluated?

- Are the system's alternative investments appropriate given its size and level of investment expertise? Does the IPS outline the specific types of alternative and illiquid investments allowed, as well as the maximum allocation allowable?
- What valuation methodologies are used to measure alternative and illiquid assets? What alternative valuation methodologies exist and what makes the chosen method most appropriate?

*(D) future cash flow and liquidity needs;*

- What are the plan's anticipated future cash flow and liquidity needs? Is this based on an open or closed group projection?
- When was the last time an asset-liability study was performed?
- How are system-specific issues incorporated in the asset allocation process? What is the current funded status of the plan and what impact does it have? What changes should be considered when the plan is severely underfunded, approaching full funding, or in a surplus? How does the difference between expected short-term inflows (contributions, dividends, interest, etc.) and outflows (distributions and expenses) impact the allocation? How does the underlying nature of the liabilities impact the allocation (e.g. pay-based vs. flat \$ benefit, automatic COLAs, DROP, etc.)?
- What types of stress testing are incorporated in the process?

Resources

[GFOA – Asset Allocation for Defined Benefit Plans](#)

[CFA – A Primer for Investment Trustees](#)

*(3) a review of the **appropriateness of investment fees and commissions paid** by the retirement system;*

- Do the system's policies describe the management and monitoring of direct and indirect compensation paid to investment managers and other service providers? What direct and indirect investment fees and commissions are paid by the system?
- Who is responsible for monitoring and reporting fees to the board? Is this responsibility clearly defined in the system's investment policies?
- Are all forms of manager compensation included in reported fees?
- How do these fees compare to peer group and industry averages for similar services? How are the fee benchmarks determined?
- Does the system have appropriate policies and procedures in place to account for and control investment expenses and other asset management fees?
- What other fees are incurred by the system that are not directly related to the management of the portfolio?
- How often are the fees reviewed for reasonableness?
- Is an attorney reviewing any investment fee arrangements for alternative investments?

Resources

[GFOA - Investment Fee Guidelines for External Management of Defined Benefit Plans](#)

[CFA - A Primer for Investment Trustees](#)

(4) *a review of the retirement system's **governance processes related to investment activities**, including investment decision-making processes, delegation of investment authority, and board investment expertise and education;*

Transparency

- Does the system have a written governance policy statement outlining the governance structure? Is it a stand-alone document or part of the IPS?
- Are all investment-related policy statements easily accessible by the plan members and the public (e.g. posted to system website)?
- How often are board meetings? What are the primary topics of discussion? How much time, detail, and discussion are devoted to investment issues?
- Are meeting agendas and minutes available to the public? How detailed are the minutes?

Investment Knowledge/Expertise

- What are the backgrounds of the board members? Are there any investment-related educational requirements for board members?
- What training is provided and/or required of new board members? How frequently are board members provided investment-related education?
- What are the minimum ethics, governance, and investment education requirements? Have all board members satisfied these minimum requirements?
- Does the system apply adequate policies and/or procedures to help ensure that all board members understand their fiduciary responsibilities?
- What is the investment management model (i.e. internal vs. external investment managers)?
- Does the board receive impartial investment advice and guidance?
- How frequently is an RFP issued for investment consultant services?

Accountability

- How is the leadership of the board and committee(s), if any, selected?
- Who is responsible for making decisions regarding investments, including manager selection and asset allocation? How is authority allocated between the full board, a portion of the board (e.g. an investment committee), and internal staff members and/or outside consultants? Does the IPS clearly outline this information? Is the board consistent in its use of this structure/delegation of authority?
- Does the system have policies in place to review the effectiveness of its investment program, including the roles of the board, internal staff and outside consultants?
- Is the current governance structure striking a good balance between risk and efficiency?
- What controls are in place to ensure policies are being followed?
- How is overall portfolio performance monitored by the board?
- How often are the investment governance processes reviewed for continued appropriateness?

Resources

[NASRA - Public Pension Governance](#)

[PEW - Making State Pension Investments More Transparent](#)

[CFA - Investment Governance for Fiduciaries](#)

[CFA - A Primer for Investment Trustees](#)

(5) a review of the retirement system 's **investment manager selection and monitoring process.**

- Who is responsible for selecting investment managers?
- How are the managers identified as potential candidates?
- What are the selection criteria for including potential candidates?
- What are the selection criteria when deciding between multiple candidates?
- How does the selection process address ethical considerations and potential conflicts of interest for both investment managers and board members?
- Who is responsible for developing and/or reviewing investment consultant and/or manager contracts?
- What is the process for monitoring individual and overall fund performance?
- Who is responsible for measuring the performance?
- What benchmarks are used to evaluate performance?
- What types of performance evaluation reports are provided to the board? Are they provided in a digestible format accessible to trustees with differing levels of investment knowledge/expertise?
- How frequently is net-of-fee and gross-of-fee investment manager performance reviewed? Is net-of-fee and gross-of-fee manager performance compared against benchmarks and/or peers?
- What is the process for determining when an investment manager should be replaced?
- How is individual performance evaluation integrated with other investment decisions such as asset allocation and investment risk decisions?

Resources

[GFOA - Investment Fee Guidelines for External Management of Defined Benefit Plans](#)

[GFOA - Selecting Third-Party Investment Professionals for Pension Fund Assets](#)

[CFA - A Primer for Investment Trustees](#)

---

<sup>i</sup> The Houston Firefighters Relief & Retirement Fund, the Houston Municipal Employees Pension System, and the Houston Police Officers' Pension System may submit the investment evaluation reports in Vernon's Civil Statutes to satisfy the requirements of §802.109.

<sup>ii</sup> The first evaluation "must be a comprehensive analysis of the retirement system's investment program that covers all asset classes" while subsequent evaluations "may select particular asset classes on which to focus."