



Board Report 22-43

Date: August 16, 2022

To: Board of Deferred Compensation Administration

From: Staff

Subject: Request for ED-3 Review Waiver

Board of Deferred Compensation Administration
Thomas Moutes <i>Chairperson</i>
Raymond Ciranna <i>Vice-Chairperson</i>
Robert Schoonover <i>First Provisional Chair</i>
Neil Guglielmo <i>Second Provisional Chair</i>
Joshua Geller <i>Third Provisional Chair</i>
Dana H. Brown
Linda P. Le
Baldemar J. Sandoval
Jeremy Wolfson

Recommendation:

That the Board authorize the Board Chairperson to sign and transmit the attached letter (Attachment A) to the Officer of the Mayor requesting an exemption of Deferred Compensation Plan (DCP) contracts from the Office of the City Administrative Officer (CAO) review component of the Executive Directive No. 3 (ED-3) requirement.

Discussion:

ED-3 (Villaraigosa series) requires, among other things, that contracts meeting certain criteria be routed to the Mayor's Office for approval prior to execution. The Mayor's Office refers these contracts to the CAO for its initial compliance review prior to the Mayor's Office review. The CAO's review of a contract consists of the following elements to ensure compliance with the City's contracting requirements:

- Council has approved the purpose of the contract and it is included in the Department's Contractual Services Account or has been approved by the Council by another action
- The Contract term is within the authority of the Administrative Code or requires Council approval
- Budgeted funds are identified and sufficiently available to support contract expenditures
- Charter Section 1022 findings have been completed
- Proposals have been requested
- CAO Risk Management review of insurance requirements and proof the contractor has met or will meet minimum insurance requirements

- Compliance with the City’s Standard Provisions for Contracts including various ordinances like the Equal Benefits & First Source Hiring Ordinances and submission of required compliance forms like the Bidder Certification CEC Form 50 and 55

After the CAO’s review is completed, the CAO will draft an “Analysis of Proposed Contract” report based on its review of the above elements. Included in the report is a recommendation to the Mayor to approve or not approve the proposed contract. The CAO report is then forwarded to the Mayor’s Office. The Mayor’s Office will review the report and upon its approval of the CAO’s recommendation, a transmittal memo with the CAO report attached is sent to the department indicating the Mayor’s Office’s approval of the proposed contract. Upon receipt of the Mayor’s transmittal, the department will proceed to complete the remaining steps to execute the contract.

On many occasions, the CAO review has resulted in significant delays in the execution of contracts, especially during a time when the requesting department submits many contracts for review and priority projects, such as the annual budget cycle, take precedence. Delays in executing contracts create several significant risks for the DCP including:

- Contractor unable to start work as planned
- Contractor stopping work until a new contract or contract extension is executed resulting in service disruptions to DCP participants
- Inability to fulfill the City’s due diligence and fiduciary obligations as a plan sponsor

To minimize these risks, the Personnel Department has successfully requested the Mayor’s Office, on a case-by-case basis, waive the CAO review of a proposed contract, including DCP contracts, and permit the contracting authority to move forward with completing the remaining steps to execute a contract.

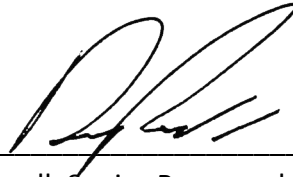
The DCP is currently undergoing work to amend and execute a high volume of contracts, particularly in anticipation of onboarding new collective investment trust management firms. The risks of not executing contracts timely cannot be understated. To ensure timely execution of contracts, prevent service delays and interruptions, and that the City fulfills its due diligence and fiduciary obligations, staff recommends the Board request a blanket waiver of CAO review of all DCP contracts based on the following considerations:

- The Board is the contracting authority for DCP agreements
- Per LAAC Division 4, Chapter 14, all DCP costs are required to be funded exclusively by participant fees. The City’s General Fund incurs no expense in the administration or operation of the DCP and accordingly, DCP contracts have no impact on the City’s General Fund.
- DCP staff work closely with the Personnel Department’s Administrative Services Division and the City Attorney’s Office to ensure contracts comply with the City’s contracting requirements
- Delays in contract execution present a liability for the City and a potential disruption of services to DCP plan participants, particularly when new firms or managers are selected

that may have a material impact on participant services and investment returns and costs

Accordingly, staff recommends that the Board Chairperson sign and transmit the attached letter (**Attachment A**) requesting an exemption of DCP contracts from the CAO review component of the Executive Directive No. 3 (ED-3) requirement.

Submitted by:



Daniel Powell, Senior Personnel Analyst II



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Board of Deferred Compensation
Administration

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August __, 2022

The Honorable Eric Garcetti
Mayor of Los Angeles
City Hall, Room 303
Los Angeles, CA 90012

Attn: Heleen Ramirez, Legislative Coordinator

Subject: Request for exemption from ED-3 CAO contract review

The City of Los Angeles Deferred Compensation Plan (DCP) is a 457(b) retirement savings plan designed for City employees to supplement their pension benefits in retirement. The DCP is administered by the Board of Deferred Compensation Administration and is supported by the Personnel Department.

The DCP is currently undergoing numerous new contract executions and amendments to existing contracts. Delays to contract executions can present liability concerns for the City, particularly when agreements entail new or altered participant services or changes to the investment menu returns and fee structures.

To mitigate unforeseen delays to the execution of DCP contracts, the Board requests that the Office of the Mayor exempt DCP contracts from the Executive Directive No. 3 requirement that the agreements be reviewed by the City Administrative Office. The following facts support this request:

- The Board is the sole contracting authority for all DCP agreements.
- Per LAAC Division 4, Chapter 14, all DCP costs are required to be funded exclusively by participant fees. The City's General Fund incurs no expense in the administration or operation of the DCP and accordingly, DCP contracts have no impact on the City's General Fund.
- DCP staff work closely with the Personnel Department's Administrative Services Division and the City Attorney's Office to ensure contracts comply with the City's contracting requirements

- Delays in contract execution present a liability for the City and a potential disruption of services to DCP plan participants, particularly when new firms or managers are selected that may have a material impact on participant services and investment returns, and costs

Please contact Daniel Powell of the DCP with any questions. He can be reached at Daniel.Powell@lacity.org or (213) 978-1597.

Respectfully submitted,

Thomas Moutes, Chairperson
Board of Deferred Compensation Administration