

Deferred Compensation Plan BOARD REPORT 12-17

Date: March 8, 2012
To: Board of Deferred Compensation Administration
From: Staff
Subject: Requests for Proposal and Investment Menu Implementation

*Board of Deferred
Compensation Administration
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Recommendation:

That the Board of Deferred Compensation Administration and file this report from staff, and receive an oral report from the City Attorney, regarding Investments Services Requests for Proposal and the City of Los Angeles Business Inclusion Program.

Discussion:

At the Board's February 21, 2012 meeting, the Board requested guidance from the Office of the City Attorney regarding the applicability of the City's Business Inclusion Program (BIP) to the City's procurements for investment-related services.

To recap, the Board has approved and authorized release of two Requests for Proposal: one for Investment Management Services, and a second for Custodial Services. The RFPs have been pending release as staff has been attempting to address issues in connection with the City's Business Inclusion Program (BIP).

The Business Inclusion Program (BIP) creates targets for participation by Minority-owned Business Enterprises (MBEs), Woman-owned Business Enterprises (WBEs), Small Business Enterprises (SBEs), Emerging Business Enterprises (EBEs), Disabled Veteran-Business Enterprises (DVBES), and all Other Business Enterprises (OBEs) in the performance of City contracts. As part of encouraging participation in contracts by these firm types, BIP requires that bidders complete an outreach process for potential subcontracting opportunities as a condition of responsiveness to an RFP. Conducting the outreach process is required even in instances where few if any potential subcontracting opportunities may have been identified.

Demonstration of compliance must be completed through the City's www.labavn.com website. Staff indicated its concerns that otherwise strong candidates might fail BIP due to confusion over the complexity, confusion or deadlines associated with the outreach process, or simply elect not to respond to the RFP because of BIP requirements. Staff indicated this was especially concerning because:

- (a) The specialized nature of the services being requested in both RFPs do not lend themselves to subcontracting;

- (b) The disqualification of firms for failing to comply with an outreach process creates a potential conflict with the Board's fiduciary responsibilities to Plan participants to select the most capable providers; and
- (c) In particular with the Investment Management Services RFP, the potential volume of impacted vendors could be large, and in the worst case might necessitate canceling the RFP if the Board determines that a large group of otherwise well-qualified firms were excluded from consideration.

Given the potential impact of applying BIP to these RFPs, the Board requested guidance from Board counsel on the question of whether investment-related services should be exempt from BIP.

The Board's Legal Counsel, Curt Kidder, has preliminarily indicated to staff that the Deferred Compensation Plan's investment services contracts are subject to BIP. Mr. Kidder indicated that additional information and details would be provided orally at the Board meeting. Assuming that these preliminary findings are confirmed at the Board meeting, staff will proceed with issuing the RFP in accordance with prior Board direction.

Submitted by: _____
Steven Montagna

Approved by: _____
Alejandrina Basquez