

Deferred Compensation Plan BOARD REPORT 13-32

Date: August 12, 2013
To: Board of Deferred Compensation Administration
From: Staff
Subject: DOL Fee Regulation Compliance Update and
Non-Participant Fee Disclosure

*Board of Deferred
Compensation Administration
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Recommendation:

That the Board of Deferred Compensation Administration a) receive and file this report, and b) direct staff to add to its project list development of fee awareness modules in user-friendly print or electronic form.

Discussion:

Background – In 2012 new Department of Labor (DOL) regulations governing fee disclosure requirements became effective for retirement plans covered by the Employee Retirement Income Security Act (ERISA). These regulations were developed to encourage transparency and uniformity in disclosing fee information across all types of retirement plans. The regulations address:

- (1) Fee disclosure provided by service providers to plan sponsors; and
- (2) Fee disclosure provided by plan sponsors to both participants as well as eligible non-participants.

Governmental Section 457 plans are not subject to ERISA. As a result, the City's Plan is not required to follow the regulations but may elect to do so voluntarily.

In June 2012, staff developed a report and recommendation to the Board on this topic. At the time, staff indicated that many governmental plans (including approximately 94% of surveyed NAGDCA members) intended to comply with the regulations. Staff recommended voluntary compliance. The Board supported this but with certain modifications and stipulations. This report provides a status update, recaps the Board's prior actions, and provides a recommendation with respect to the outstanding issue of communications to eligible non-participants.

Service Provider to Plan Sponsor Fee Disclosure - All of the City's service providers have voluntarily complied with the "service provider to plan sponsor" fee disclosure regulation. Staff has reviewed this information and determined that the fees indicated in the materials

are consistent with the fees indicated in applicable service agreements and as applied in the Plan.

Plan Sponsor to Current Participant Fee Disclosure - DOL regulations require subject employers to provide disclosure of fee information to plan participants beginning 08/30/12 with ongoing quarterly notices to be initiated by 11/14/12. As indicated in the June 2012 report, Great-West had developed a fee disclosure communications package for its plan sponsor clients which it was offering to distribute to the City's participants a cost of \$1.50 per participant, or approximately \$60,000. However, staff indicated that the fee information contained in the disclosure was already well-developed within existing quarterly statement materials and need only be consolidated or slightly modified to meet the new requirements, without incurring any additional special mailing costs. The Board agreed to this approach for communicating fee disclosure to current participants.

Non-Participant Fee Disclosure – For non-participants, staff had initially proposed a special mailing to non-participants to communicate Plan fees but to package it with a solicitation to enroll in the Plan. The Board expressed concerns about the costs of voluntary compliance for non-participants and directed staff to develop a pilot program mailing in order to assess the effectiveness of the outreach effort on obtaining new enrollments.

At its November 2012 meeting, staff submitted, and the Board approved, a proposal for a pilot disclosure effort. The purpose of the pilot was to assess what kind of response could be anticipated while also testing different methods of delivery (e.g. by regular mail or electronic mail). In early 2013 staff finalized the enrollment and fee disclosure materials, which consisted of:

- Introductory letter from the Board's Chair and a review of the Plan's benefits
- Flyer - "20/20 Vision" (how contributing \$20 pre-tax and Roth and increasing those amounts by \$20 yearly could accumulate)
- Enrollment form
- Fee disclosure and investment performance document
- Promotional seed packet

Staff analyzed the eligible non-participant population and created three test groups that would allow staff to review how different delivery methods might impact response. Each test group was representative of the Plan's demographic (including MOU, age, department, etc.). On April 4, 2013, staff distributed materials to these test groups:

- 150 eligible non-participants were mailed a hardcopy of the entire packet, including fee disclosure document and promotional seed packet;
- 150 eligible non-participants were mailed a hardcopy of a condensed version of the packet, which was only the letter from the Chair and an enrollment form; and
- 150 eligible non-participants were sent an electronic copy of the full packet (without the promotional item).

Staff gathered enrollment data to determine how many of the individuals in the test groups enrolled in the Plan subsequent to the mailing and e-mail distribution. Results are indicated in the following table:

METHOD	COST*	SENT	ENROLLED	
Electronic	\$ 0	150	4	2.7%
Mail – Full packet	\$566 \$3.77/per	150	2	1.3%
Mail – Condensed packet	\$320 \$2.13/per	150	1	0.7%
TOTAL		450	7	1.6%

* Approximate total costs - based on print, assembly, mailing, and seed packet costs.

Overall, 1.6% of participants in the test groups enrolled in the Plan. As indicated, electronic delivery was the most effective in garnering an enrollment action (2.7%). The fact that the electronic test group members all had work email addresses for staff to issue its communication to could be a factor in explaining the higher response rate. Individuals in the mailing groups were sent packets to their home addresses.

Findings - There are approximately 15,000 eligible sworn, civilian and DWP City employees who are not currently participating in the Plan. A full mailing involving all of the materials included in the pilot direct mailing would cost the Plan approximately \$28,000.

The results of the pilot distribution suggest that few individuals will enroll as a result of the solicitation. Although the 2.7% response rate for the electronic distribution was roughly three times the response rate of distribution by regular mail, it should be noted that the process of creating the 150-member test group for electronic distribution revealed that a considerable amount of staff time would be required to replicate this for the full population of 15,000, a significant portion of whom do not have City email addresses.

In terms of communicating Plan fees, these results suggest that using a mass mailing containing complex information with an expectation that most recipients will actually review and understand that information is probably unrealistic. There is considerable research suggesting that as information output has exploded, people read less and “skim” more, whether in print or electronic form.

As noted earlier in this report, the City is not obligated to follow the DOL’s fee disclosure regulations. The DOL’s objective in developing these regulations was to promote fee transparency nationwide, with a particular focus on smaller and private sector plans, where fee disclosure has often been lacking and non-uniform. Lack of disclosure has been less of a problem in the governmental sector, particularly with larger plans such as the City’s, where practices around fee transparency have been institutionalized for many years.

Other non-ERISA defined contribution plans are also considering alternative approaches to fee disclosure. Although 94% of NAGDCA members indicated in 2011 that they intended to comply with the participant disclosure regulations as a best practice, per NAGDCA’s 2013 Defined Contribution Plan Survey, presently 57% of responding plans are adhering

“as much as possible” to participant fee disclosure rules, and of these 81% were disclosing fees via their plan website.

Communicating plan features (including fee information) to non-participants in an ongoing fashion is a valuable practice which occurs in a variety of venues (e.g. Citywide emails, new employee orientations, table service at various City facilities, etc.). Staff is developing other communications capabilities (e.g. video and animated clips) in connection with the roll-out of the retirement replacement calculator and account management web tool. As staff builds its skills and resources in this arena, these and other alternative venues and methods may prove more effective as educational and awareness tools.

As a result, staff recommends utilizing a more creative approach to building out future fee disclosure communications in more concise structures (e.g. one-page flyers or video clips) which can be accessed via the Plan website or web links distributed to employees. Links can be incorporated periodically along with other Plan electronic communication or marketing efforts.

Staff believes taking this approach is consistent with the spirit of the DOL regulations. Although the regulations certainly represent a significant step forward for many employer plans across the country, disclosure is ultimately only half the challenge. In the end, if the material is so lengthy and complex that employees are unwilling to engage with it, it will not satisfy the primary goal of increasing awareness.

Thus, as part of voluntary compliance with the DOL regulations in a manner consistent with how participants and non-participants are likely to engage with Plan materials, staff recommends that the Board direct staff to add to its project list development of fee awareness modules in user-friendly print or electronic form.

Submitted by: _____
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Approved by: _____
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