



CITY OF *Los Angeles*

DEFERRED COMPENSATION PLAN

Board Report 20-05

Date: February 18, 2020

To: Board of Deferred Compensation Administration

From: Staff

Subject: Board Member and Staff Procurement Responsibilities

Board of Deferred Compensation Administration

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Recommendation:

That the Board of Deferred Compensation Administration (Board) direct staff to discontinue the use of procurement pledge forms and instead, provide timely and regular education on procurement responsibilities to Board members and staff to include: (a) a review of procurement responsibilities during new staff/Board orientations; (b) annual procurement responsibility reminders/reviews at the beginning of each calendar year; and (c) procurement responsibility reminders upon submission to the Board of draft RFPs.

Discussion:

At its meeting on December 10, 2019, the Board directed staff to review the current procedure for notifying Board members and staff of their responsibilities related to ensuring procurements are carried out in an impartial and transparent manner consistent with the Deferred Compensation Plan (DCP) Governance Policies/Bylaws (Bylaws). This report provides a review of Board and staff member responsibilities established by the Bylaws and proposed new procedures for communicating these expectations.

A. Board Member and Staff Responsibilities Related to Procurements

The Bylaws (**Attachment A**) establish the responsibilities of Board members and staff related to the DCP's procurement and contracting processes. These responsibilities are intended to ensure that procurement processes and contract decision-making are conducted strictly and solely in the best interests of the DCP and its participants.

Specifically, the Bylaws describe Board and staff member responsibilities related to contact with potential proposers. According to section seven of the Bylaws, Board members and staff may not meet privately with representatives of actual or potential respondents in the *twelve months leading up to the scheduled initiation of a procurement process, nor within any time period following the start of a procurement process through the time the final contract is awarded,*

which results in a conversation related to the vendor securing business from the DCP. Board members who do not comply with this policy may be disqualified from taking any action related to selecting a vendor for the related procurement. Staff members who do not comply with this policy will be disqualified from participating in the evaluation of procurement responses.

When staff provides the Board with a Request for Proposal (RFP) for review and approval, staff typically also recommends the adoption of a pledge form that requests Board members and staff to affirm by signature that they will comply with the responsibilities set forth by the Bylaws. The current process presents a few challenges:

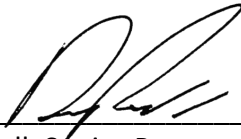
1. The Bylaws require Board members and staff to limit certain discussions with the vendor community for the twelve months leading up to the issuance of an RFP. However, pledge forms have only been presented to Board members when staff presents at a Board meeting a completed draft of an RFP for the Board's review and approval.
2. The process of collecting pledge forms from Board members and staff is not transparent. When completed pledge forms are submitted, a separate report is not provided that documents if a pledge form was submitted by a Board or staff member. Hence, there is no public record of the individual's pledge.
3. The pledge form reiterates responsibilities already established by the Bylaws. The Bylaws are sufficiently comprehensive and the pledge form is a duplicative process.

To improve upon this process, staff proposes that the following new procedures be adopted for communicating Board and staff member responsibilities related to procurements:

1. Currently, when a new Board member or staff member joins the DCP, staff provides an onboarding orientation for the individual. This orientation provides the individual with a broad overview of the DCP and details Board member and staff responsibilities related to the program. Staff will begin including the procurement responsibilities described in section seven of the Bylaws in the orientation materials.
2. At the first regular Board meeting of each calendar year, staff will remind the Board of its procurement responsibilities and will provide a review of procurements anticipated in the following twelve months, thereby providing a public record that Board members and staff were made aware of their responsibilities related to procurements.
3. When staff provides an RFP for Board review and approval, staff will remind the Board of its procurement responsibilities as outlined in section seven of the Bylaws but will not recommend the adoption of a pledge form.

Staff, therefore, recommends that the Board direct staff to discontinue the use of procurement pledge forms and instead, provide timely and regular education on procurement responsibilities to Board members and staff to include: (a) a review of procurement responsibilities during new staff/Board orientations; (b) annual procurement responsibility reminders/reviews at the beginning of each calendar year; and (c) procurement responsibility reminders upon submission to the Board of draft RFPs. These proposed changes will streamline and improve the communication of Board member and staff responsibilities related to DCP procurements as outlined in the Bylaws.

Submitted by:



Daniel Powell, Senior Personnel Analyst I

Reviewed by:



Jenny M. Yau, Senior Management Analyst II

Approved by:



Steven Montagna, Chief Personnel Analyst

7. PROCUREMENT PROCESSES AND CONTRACTING

7.1. Pursuant to the obligations and expectations outlined in Section 6, Code of Ethics, the Board and staff recognize that it is imperative during all procurement and contracting processes to safeguard the trust of the City of Los Angeles Deferred Compensation Plan participants, assure the integrity of the process, meet their fiduciary obligations as members of the Board and staff, provide a fair and equitable process for interested vendors, efficiently consider the broadest pool of potential providers, and make decisions which are based strictly on what is in the best interests of the Plan and its participants. Towards that end, all members of the Board and staff agree to conduct themselves in the highest ethical manner before, during and following a procurement process, to include the following:

- A. Board members and staff agree not to meet privately with employees, representatives or registered lobbyists of any actual or potential respondents in the twelve months prior to scheduled initiation of a procurement process, nor within any time period following the initiation of a procurement process and up until the final contract award, with the purpose or result of engaging in a conversation materially related to the vendor's securing business from the City's Plan. Should a Board member engage in such a meeting, he/she shall, apart from any potential sanctions under the Ethics Ordinance, be disqualified from voting on or taking any other action in regard to the selection of the contractor. Should a staff member engage in such a meeting, he/she shall, apart from any potential sanctions under the Ethics Ordinance or disciplinary action, be disqualified from participating directly or indirectly in the evaluation of RFP responses. The date, location, and substance of the matters discussed in such meetings as described above shall be disclosed in writing and submitted to staff for distribution to the Board and made available for public review. Nothing in this section shall prohibit staff members from communicating with actual or potential respondents to an RFP as provided for in the rules for communication as set forth in a given RFP, nor shall it restrict communications with incumbent vendors for the purpose of ongoing administration of the City's Plan.
- B. No member of the Board shall participate directly in the development, review, evaluation, negotiation, or recommendation process of responses to RFPs or any other requests award of a contract, contract amendment, or change order involving the Board except as provided in Los Angeles Municipal Code Section 49.5.17 "Commissioner Participation in Contracting Process". All such reviews shall be conducted by the Board's staff, consultant, and/or other members of a review committee established by the Board for each RFP.
- C. This section is not intended to prohibit contact with potential candidates for award of a contract at group social events, educational seminars, conferences, or charitable events so long as there is no direct marketing, and there are no discussions about the contract or the process to award it.