

Deferred Compensation Plan BOARD REPORT 11-39

Date: June 6, 2011
To: Board of Deferred Compensation Administration
From: Staff
Subject: California Defined Contribution Peer Network

*Board of Deferred Compensation
Administration
Eugene Canzano, Chairperson
Richard Kraus, Vice-Chairperson
Sangeeta Bhatia
Cliff Cannon
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Recommendation:

That the Board of Deferred Compensation Administration (a) receive and file this report regarding a meeting of the California Defined Contribution Peer Network on June 2-3, 2011; and (b) revise its previously approved funding for this business meeting to include \$150.00 for a workshop expense.

Discussion:

Meeting Outcomes - The Board previously approved funding for travel expenses for two staff members to attend the June 2-3, 2011 business meeting of the California Defined Contribution Peer Network in San Diego, California. Staff members Steven Montagna and Natasha Gameroz attended this meeting. The network consists of the following plans:

- City of Los Angeles
- County of Los Angeles
- State of California
- County of San Diego
- City/County of San Francisco
- CalPERS
- CalSTRS

The member plans had previously determined that the entire agenda of this meeting would be dedicated to an in-depth review of the core question of whether the plans and their participants would be better served by retaining the informal nature of the group or establishing a more formal organization. To accomplish this, two external resources were brought in: (1) a tax attorney (Jeff Yablon) with a specialized background in working with non-profit organizations; and (2) a facilitator to guide discussion of the core question.

Mr. Yablon provided the following information regarding establishing a non-profit. He began by clarifying the distinction between the terms “non-profit” and “tax-exempt,” which he indicated are often incorrectly used or thought of interchangeably. He indicated that “non-profit” refers to an organization having been incorporated under a non-profit state statute, while “tax-exempt” refers to an organization which has been exempted by the Internal Revenue Service from payment of the corporate tax rate of 35%.

He indicated that Section 501(c)(1-28) provides a list of categories of non-profits exempt from corporate tax, and reviewed many of the 28 categories (e.g. credit unions, charities, social welfare organizations, labor unions, trade associations, etc.) to provide context for where a potential California defined contribution organization might fall (as perhaps a charity or trade organization). He indicated that to be exempt from corporate tax an organization must be a non-profit and must satisfy certain other requirements such as having received prior written approval from the IRS, filing an annual report, filing certain other reports depending on the category of tax-exempt status, etc.

Mr. Yablon next reviewed the advantages and disadvantages of forming a non-profit. He stated that advantages include the perception of greater organizational credibility and limited liability. He stated that disadvantages include the time, expense, and work involved in setting up the group and filing required reports.

Following this presentation and over the course of two days the group debated its potential organizational objectives and options. As a result of that discussion, the following key findings were reached:

- (1) The group identified two potential primary benefits provided by the group:
 - (a) leveraging **intellectual** resources (information exchange); and
 - (b) leveraging combined **plan** resources (potential joint procurement initiatives).
- (2) Of these, the group determined that the initial priority should be on maintaining the opportunities for leveraging intellectual resources by maintaining the meeting structure previously used by the group and containing the following components:
 - (a) Limiting group discussion size to no more than 10-15 participants;
 - (b) Maintaining a base meeting length of approximately 1.5 days; and
 - (c) Maintaining a recurrent meeting structure of two meetings annually along with a shorter meeting occurring during the annual NAGDCA Conference.
- (3) The group determined that limiting group discussion size as described above did not necessarily mean precluding other organizations from joining.
- (4) Certain member plans indicated that continuing to fund travel expenses would require some formalization of the group.
- (5) Formalizing the group for the purpose of maintaining its intellectual resource benefits did not require creating a non-profit entity, but rather identifying a fiscal agent to process the relatively modest revenues/payments associated with conducting the meetings.
- (6) A fiscal agent is an entity which will process such revenues/payments for a zero or small fee and/or some expectation of a reciprocal benefit.
- (7) A number of potential fiscal agents were identified, and the group will be communicating to those agents for the purpose of identifying their interest in acting as fiscal agent for the group and at what cost or expectation of reciprocal benefit.
- (8) If those outreach efforts prove unsuccessful, alternate strategies for affiliations without fiscal agent services (e.g. working with a university) may be available, although this would leave certain member plans with the ongoing challenge of securing travel funding.
- (9) Leveraging plan resources through joint procurement initiatives (which could include the joint development of Requests for Proposal and joint issuance of same) was identified as a longer-term potential development goal since it would likely require the

formation of a non-profit or a joint powers authority; the group elected to defer further review of this concept until the less-complex development objective of establishing a fiscal agent relationship was accomplished.

- (10) Establishing the group as a sub-chapter of NAGDCA was discussed but there were concerns over potential limitations, and at any rate NAGDCA has not previously debated the issue.
- (11) Developing a proposed organizational statement, bylaws, strategic plan, and conflict-of-interest monitoring was identified as a near-term objective.
- (12) The group will attempt to resolve its fiscal-agent question by the time of its meeting at the 2011 NAGDCA Conference, and will review the proposed documents identified in (9) above at its January meeting, which will be hosted by the Los Angeles plans.
- (13) The group created a draft mission statement, which reads as follows: *“To provide California governmental defined contribution plan administrators opportunities for peer-driven exchanges of best practices; training and educational resources; and other information to facilitate the efficient and optimal operations of their respective programs, meet each organization’s fiduciary and due diligence responsibilities, and better serve the interests of plan participants.”*
- (14) The group renamed itself as the California Defined Contribution Peer Network.

The group made valuable developmental progress at this meeting. By doing so, it not only took steps towards securing the benefits it has provided to its members in previous meetings, but creating opportunities for additional benefits over the medium- and longer-term.

Workshop Funding – The Board previously approved funding for staff to attend the June 2-3 meeting of the California Defined Contribution Peer Network. The original approval did not include a workshop expense for a facilitator to conduct the meeting and assist the group in reviewing its options for moving forward. That expense was not include because the prior expectation was that this service would be provided entirely pro bono, but that did not end up being the case. As a result, staff is recommending that the Board revise its prior action approving expenses for this business meeting to include a \$150 workshop expense (see attachment for documentation of these costs).

Submitted by: _____
Steven Montagna

Approved by: _____
Alejandrina Basquez