

Deferred Compensation Plan BOARD REPORT 15-41

Date: August 4, 2015
To: Board of Deferred Compensation Administration
From: Staff
Subject: Request for Proposal – Third Party Administrator

*Board of Deferred
Compensation Administration
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Michael Amerian, Vice-Chairperson
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Recommendation:

That the Board of Deferred Compensation (a) approve staff's proposed communication plan for the 2015/2016 development process for the Deferred Compensation Plan's Third Party Administrator (TPA) procurement; and (b) approve a proposed Conflict-of-Interest & Ex-Party Communication Pledge form and its execution by Board members/City staff involved in the development process for this procurement.

Discussion:

At its July 21, 2015 meeting, the Board adopted a series of recommendations relative to procuring for Third-Party-Administrative (TPA) services for the City of Los Angeles Deferred Compensation Plan. The contract with the incumbent provider expires on December 31, 2016. Pursuant to staff recommendations, the Board adopted a Master Procurement and Contracting Schedule which included the TPA search within its five-year search plan; approved the initiation of the TPA procurement in 2015/2016 with a target implementation date for a new service provider contract to be in place by January 1, 2017; approved requesting City Council approval to expand the Board's authority to enter into five-year contracts for Deferred Compensation services to include TPA, consulting and all other administrative services, and authorized the Board Chairperson to sign and submit that report to Council; and approved moving forward with a tentative calendar for TPA RFP development (Attachment A).

The next action items on the calendar (for the month of August) include:

- Approving staff proposals for participant outreach and communications during the selection process; and
- Adopting a proposed Conflict-of-Interest & Ex-Parte Communication Pledge form for execution by all Board members/City staff involved in the development process for this procurement;

A. Participant Communications

As noted at the Board's July 21, 2015 meeting, proactive and effective participant communications are a primary focus of the Board's and staff's effort to administer the City's Plan. Effective communications with respect to procurement processes, particularly the TPA procurement, are necessary so that Plan participants are fully and continuously informed of the Board's and staff's objectives, process and outcomes as

the process unfolds, and to ensure that participants are provided opportunities to provide feedback to the Board.

Staff proposes the following primary communications elements relative to this search process:

- (1) **Participant Survey** – Staff proposes issuing a survey to all Plan participants modeled after the Investment Survey conducted in 2008¹. The purpose of the survey would be two-fold: (a) obtain and assess participant feedback on a range of topics related to the services, processes and structure of the Plan, which can help to inform the type of services and their relative importance in the RFP; and (b) within its introduction the survey can help to explain to participants why the search process is being conducted, how it will be conducted, the principles informing the process, where to obtain further information, and provide additional ways for participants to provide feedback.
- (2) **Participant Focus Groups** – Staff proposes conducting a series of focus groups of active and retired participants providing opportunities for a “deeper dive” into participant feedback on current Plan services as well as services that are not presently provided but may be of interest in the future.
- (3) **Quarterly Newsletters/Web Articles** – The Plan can use its standard communications media (quarterly newsletters and the website) to communicate the RFP development process in an ongoing fashion. The first announcement would take place with the newsletter for the quarter ending 09/30/15 (to be issued in October 2015). Additional updates will be provided in subsequent newsletters as well as in ongoing postings on the Plan’s TPA as well as Governance websites (the latter is available through the Personnel Department’s home page). Staff’s intent would be to ensure that these communications communicate the Board’s commitment, as discussed at its July 21, 2015 meeting, to a transparent, merit-driven process focused strictly on what is in the best interests of Plan participants.

As part of each subsequent update report to the Board regarding the TPA development process, staff will bring to the Board its proposed communication materials and events. The first materials (e.g. the survey and introductory newsletter article, along with a schedule of focus groups) will be presented at the Board’s September 15, 2015 meeting.

¹ The 2008 Investments Survey was used to invite participant feedback regarding the Board’s developing concepts for restructuring the Deferred Compensation Plan investment menu. The survey served to both explain the Board’s rationale for its investment menu proposed changes as well as determine if participants were supportive of those changes. That survey generated a strong response: it was direct mailed to 38,691 participants, of whom 8,139 responded, for a response rate of 21.04%.

B. Ex-Parte Communication & Conflict of Interest Pledge Form

At the Board's July 21, 2015 meeting, staff indicated that in certain prior procurements Board members and staff had executed an Ex-Parte Communication and Conflict of Interest Pledge Form. Staff indicated that the intent of this document is to provide additional demonstration and documentation of Board/staff member diligence in observing the provisions of the Board's Governance Policies/Bylaws relative to procurements. A draft of the Pledge Form had not been finalized at the time of the July 21 Board meeting. That document is now finalized, reviewed by Board counsel, and is provided as Attachment B. Staff recommends that the Board approve the form and its execution by all Board members/City staff involved in the development process for this procurement.

C. Updates & Next Steps

Staff is drafting a report to City Council requesting that Council expand the Board's authority to enter into five-year contracts for Deferred Compensation services to include TPA, consulting and all other administrative services. This report will be reviewed by Personnel Department management and Board counsel before being submitted to the Board Chairperson for signature. Staff will further reach out to key Council and City Administrative Office (CAO) staff in preparation for submitting the report. The recommendation would first be reviewed by the Personnel and Animal Welfare (PAW) Committee before being submitted to full Council.

Further, as noted at the July 21, 2015 meeting, the Personnel Department is developing a Request for Information (RFI) relative to the City's Pension Savings Plan (PSP), the retirement program for the City's part-time, temporary and seasonal employees. Staff is on track to release this RFI by either August or September 2015.

For the Board's September 15, 2015 meeting, staff is scheduling a review with the Board's new consultants from Segal to provide the Board with a broad overview of the RFP development process, certain changes in the services and provider landscape since the TPA contract was last placed out to bid, key evaluation categories, benchmarking opportunities, and other information pertinent to the development process.

Submitted by: _____
Alexandra Castillo

Approved by: _____
Steven Montagna

Month(s)	Action	
Jul-15	Approve staff proposals related to moving forward with the TPA RFP, 5-year contracting, and related items	Completed
Aug-15	Review staff proposals for participant outreach and communications during selection process; submit approved report to City Council regarding 5-year contracting	
Sep-15	Staff/consultant overview of RFP development process and key evaluation categories	
Oct-Dec 2015	Develop RFP	
Jan-16	Board approval and release of RFP	
Mar-16	Response Due Date	
Apr/May-16	Response Evaluation	
Jun/Jul-16	Board selection of provider	
Dec-16	Execute contract	

**PLEDGE REGARDING CONFLICT OF INTEREST, CONFIDENTIALITY AND PROPOSER
COMMUNICATIONS**

**Deferred Compensation Plan
2015/2016 Request for Proposal for Third-Party-Administrative Services**

As a participant in the evaluation and decision-making process for the above-referenced 2015/2016 procurement process for Deferred Compensation Plan Third-Party-Administrative services, I hereby assert the following:

1. I recognize it is my responsibility to act in accordance with ethical standards to assure the integrity of this Request for Proposal (RFP) procurement process and to provide a fair and objective process for interested vendors by (a) making decisions in the best interests of the City's Deferred Compensation Plan and its participants using only the City's and Board's adopted policies relative to procurements as well as the specific criteria set forth in the RFP, and (b) considering the designated review panel's evaluation and recommendations of vendor proposals based on the information contained in vendor proposals, without regard to any other factor.
2. I do not presently have a financial or other interest¹, nor does any member of my immediately family² have a financial or other interest, in the outcome of this selection process.
3. I have reviewed the City Attorney's Primer on Conflicts of Interest and agree to bring to the attention of the Board of Deferred Compensation Administration and its staff any potential conflict of interest matter, including but not limited to conflict of current or previous employment, business or personal relationships with a proposer which may prevent me from providing a fair and impartial evaluation immediately upon becoming aware of such matter so that the City can determine whether there is a disqualifying conflict of interest. For the purposes of this Pledge, a proposer includes any officer, employee, representative, agent or lobbyist of the proposer and any subcontractor/subconsultant involved in the proposal or the provision of services under the proposed contract. I understand and agree that, should a conflict of interest be determined to exist, I will withdraw from the selection process and comply with applicable legal requirements.
4. I agree to abide by the provisions set forth in the Board's Governance Policies/Bylaws, Sections 6 and 7, as they relate to the Board's Code of Ethics and Procurement Processes and Contracting, respectively. I further understand the limitations of Los Angeles Municipal Code Section 49.5.11(A) and agree that, effective **upon execution of this agreement** through award of contract, I will not meet or otherwise communicate privately with employees, representatives or registered lobbyists of any actual or potential proposer regarding this RFP with the purpose or result of engaging in a conversation materially related to the vendor's securing business from the City's Plan. I understand that this

¹ The term "financial or other interest" includes but is not limited to: (1) Any direct or indirect financial interest in the specific contract or Proposer, including any income, commission or fee, share of the proceeds, prospect of a promotion or of future employment, profit, or any other form of financial reward; and (2) Any of the following interests in the Proposer's ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.

² The term "immediate family" includes but is not limited to those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law and includes a registered domestic partner.

provision does not limit my ability to acquire information from or otherwise communicate with any actual/potential bidder pursuant to procedures provided for in and the RFP, nor does it limit contacts which are permissible as set forth under the Board's Governing Policies/Bylaws, Section 7; however, I will exercise prudence in all proposer communications that may affect my impartiality in the procurement process.

5. To the extent provided for in the RFP and consistent with applicable State and local law, I agree to maintain strict confidentiality of the proposal evaluation and selection proceedings and the security of all documents pertaining thereto, and not to hold discussions nor divulge/accept information on any aspect of the evaluation of proposals outside the authorized participants in the proposal evaluation process.

Board/Staff Member Signature:

Signed: _____ Date: _____

Print Name: _____

6. CODE OF ETHICS

- 6.1. Members of the Board and staff must at all times meet high ethical standards that exceed legal minimums as mandated in State ethics laws, the City Ethics Ordinance and Code of Ethics, and Mayoral Directives. Individual Board members and staff shall avoid favoritism, conflict and disclosure of privileged information at all times and shall act in the best interest of the Plan consistent with their fiduciary duties.
- 6.2. Board members and staff shall conduct themselves with integrity and dignity, strive to understand the Plan's objectives, and exercise care, prudence and diligence in handling confidential information.
- 6.3. Board members and staff shall not seek nor accept any compensation or political contributions that would violate California law, including without limitation the Political Reform Act of 1974 and City Ethics Ordinance.
- 6.4. Board members and staff shall comply with gift restrictions and travel advancement/reimbursement requirements set forth in State law and City regulations and policy.
- 6.5. Board members and staff shall take positive steps to prohibit breaches of duty (through negligence or intentional action), unauthorized communication with individuals seeking to influence the Board, and unauthorized communication with individuals who may receive personal gains as a result of Board actions, such as, but not limited to, the conducting of serial meetings and discussion with any respondents to any procurement process concerning issues directly related to the matter while the procurement process is underway.
- 6.6. Board members and staff shall not act or participate in any manner on matters on which they may have a conflict of interest or an appearance of a conflict of interest as set forth in California law and City regulations and policy. As soon as a Board member or staff member becomes aware of a potential conflict of interest, he/she shall immediately consult with the Board Counsel for guidance. A Board member or staff member who has a conflict of interest or an appearance of a conflict of interest on any matter shall comply with the rules regarding recusal.
- 6.7. Board and staff members shall not request, receive or agree to receive anything of value or other advantages in exchange for a decision or influence on a decision. As soon as a Board member or staff member becomes aware of a potential breach of this obligation, he/she shall immediately consult with the Board Counsel and staff.
- 6.8. Board members and staff shall not communicate with current or prospective vendors or their representatives, or any other person or organization, for the purpose or intent of having a particular vendor secure or maintain a contract or business with the City's Plan, or otherwise realize financial gain from the City's Plan. As soon as a Board member or staff member becomes aware of a potential breach of this obligation, he/she shall immediately consult with the Board Counsel and Plan staff.

6.9. Board members and staff recognize that all Plan business transactions are to be based on integrity, competence, financial merit and benefit to Plan participants and their beneficiaries, and not on personal relationships.

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.

7.2. In order to maintain a high standard of neutral and unbiased administrative services and investment counseling, the Board will not simultaneously contract with the same contractor for Third-Party Administrator (TPA) services and for Plan investment advice or investment provider services.

LOS ANGELES MUNICIPAL CODE

SEC. 49.5.11. CONTRACTS GENERALLY.

A. Except at a public meeting, a member of a City board or commission shall not participate in the development, review, evaluation, or negotiation of or the recommendation process for bids, proposals, or any other requests for the award or termination of a contract, amendment, or change order involving that board, commission, or agency. This does not preclude individual members from reviewing documents and other information provided by agency staff when preparing for a public meeting at which the matter will be considered.