

Deferred Compensation Plan BOARD REPORT 10-30

Date: August 9, 2010
To: Board of Deferred Compensation Administration
From: Staff
Subject: Third-Party-Administrator Request for Proposal

*Board of Deferred
Compensation Administration
Eugene, Canzano, Chairperson
Richard Kraus, Vice- Chairperson
Sangeeta Bhatia
Cliff Cannon
Sally Choi
John R. Mumma
Michael Perez
Maggie Whelan*

Recommendation:

That the Board of Deferred Compensation Administration (a) receive and file information related to options for addressing the current Third-Party-Administration (TPA) contract; and (b) provide tentative approval for the staff/consultant proposed primary evaluation categories and rating weights for the Deferred Compensation Plan 2010/11 Request for Proposal for these services.

Discussion:

At its meeting on June 15, 2010, the Board initiated the development process for a Request for Proposal (RFP) for Third Party Administration of the City's Deferred Compensation Plan. The current contract for these services expires December 31, 2011.

The Board requested that staff and the City Attorney review options related to the length of the existing TPA contract and potential alternatives for conducting procurement for these services. Section 1 of this report will address contracting options, and Section 2 will address the next action item for the RFP, evaluation criteria.

(1) Contract Term

Following is information regarding contracting options identified by staff:

- (A) *Contract Extension* – The Board has the option to **renew the current contract** with Great-West for an additional period of up to five years, but would require authority from the City Council to do so. This is because at present Council has only authorized five years for this contract.

To provide some background, the original authority for the five-year term came on May 21, 2004, when the Council authorized the Board to release an RFP for a five-year TPA contract. The Board released this RFP and subsequently made a contract award in August 2004. This action was subsequently vetoed by the Council. As a result of that veto, the Board ultimately decided to cancel the RFP

and reissue it. A restructured RFP was released in 2006. The current contract with Great-West resulted from that re-issued RFP.

The 2006 RFP, and contract with Great-West, were written to provide the option of renewing the contract for up to an additional five years. To exercise that option, however, the Board would need to secure City Council approval. Arguments for extending the current contract for some period of time could include the timing of implementing changes to the new investment menu (a process which will likely be unfolding over the same time 12-18 month period as the initially proposed RFP process and contract development) and staff resource strains due to City downsizing.

Potential Exceptions to Three-Year Contract Rule - Board members referenced certain contracting practices utilized by LACERS, Fire/Police Pensions, and the DWP Retirement Plan, as potentially providing alternatives for addressing the current contract with Great-West. City Attorney staff contacted Assistant City Attorney Alan Manning, who supervises the staff providing legal counsel for all three retirement systems. Mr. Manning advised that the City's retirement plans are bound by the same procurement rules as other City departments. Specifically, Division 10, Chapter 1, Section 10.5 of the City of Los Angeles Administrative Code provides for the following regarding the term length for City contracts:

“Except as otherwise provided in the Charter or this Code, no board, officer or employee of the City shall make any contract, obligating the City, or any department of the City, to make or receive payments of money or other valuable consideration for a period longer than three (3) years, unless such contract shall have been first approved by the Council.”

Section 10.5 provides for several exceptions to this general three-year limitation. None of these, however, appear to apply to this contract.

- Section 10.5 grants a specific exception for, *“Contracts entered into by the Board of Deferred Compensation Administration **for investment management services** related to the City of Los Angeles Deferred Compensation Plan, unless they are for a term of more than five years, as defined in Subsection (c) of this section.”* The TPA contract does not fall within the category of “investment management services.”
- Section 10.15(2) grants an exception for, *“Contracts, as determined by the contracting authority, for the performance of **professional, scientific, expert, technical, or other special services** of a temporary and occasional character for which the contracting authority finds that competitive bidding is not practicable or advantageous.”* This is a section that Mr. Manning indicated the City's retirement/pension plans may have used in the past following a finding by their Boards that competitive bidding

was not practicable or advantageous, but staff does not see a basis upon which to reach such a finding for these services.

- Section 10.15(9) grants an exception for “*contracts (including without limitation those, as determined by the contracting authority, for the performance of professional, scientific, expert, technical or other special services), where the contracting authority finds that the use of competitive bidding would be undesirable, impractical or impossible or where the common law otherwise excuses compliance with competitive bidding requirements. For purposes of this Section... the term ‘undesirable’ shall mean and include only such situations in which the nature of the subject of the contract is such that competitive bidding would work an incongruity or be unavailing or would not produce an advantage, with sole reference to the public interest and in light of the purposes to be accomplished.*” Again, staff does not see a basis upon which to reach such a finding for these services.

(B) *RFI* - The Board asked for comment specifically on the question of whether a Request for Information (RFI) could be used as an alternative to issuing an RFP. According to the City Attorney, an RFI could not be used as a basis upon which to extend the current contract or write a new contract absent Council approval. In addition, the concept of an RFI is that it is more generalized in nature and limited in scope relative to an RFP, and given the complexity of the services required, an RFI does not appear to staff to be the most effective way to test the marketplace.

(C) *RFP for Five-Year Contract* – The Board could issue an RFP for a five-year contract term. Doing so would require Council approval because the term would exceed Administrative Code limits.

(D) *Three-Year Contract* – The Board could issue an RFP for a three-year contract term. Doing so would not require Council approval because the term would not exceed Administrative Code limits. Staff does not recommend this approach, however, given the complexity of the services provided and the nature of the contract. Significant resources must be invested on the part of service providers in order to build the infrastructure necessary to administer the Plan. Example of this resource investment include establishing recordkeeping (including documentary history, tracking different money types, historical transactions, etc.) for over 40,000 participant accounts; creating a website; and setting up a local service operation. A three-year contract is a very short window of time within which to execute and refine the systems and processes for administering so much complexity. In addition, the subsequent RFP process would need to be initiated only 18 months following the beginning of the contract. Although this may not be a consideration for an incumbent, it is certainly a consideration for a new vendor.

Conclusion

In staff's view, the most viable options for the Board to consider are either continuing with the recently initiated RFP process for a five-year contract or postponing the RFP process and extending the current contract. Either option will require Council approval. An RFP process for a five-year contract would require Council approval because the proposed contract term would exceed three years. If an extension of the current contract is requested, it will be necessary to request Council approval for that extension because the term of this contract will exceed five years after December 31, 2011 (Council approved the first five-year term in 2006). The term of any contract extension could be up to, but may not exceed, five years.

(2) Evaluation Categories/Weights

The Board has adopted a calendar for the RFP development process (see attachment). At its July 20, 2010, meeting, the Board approved the first action item on that calendar, which was a disclosure form to be completed by all Board members and staff involved in development and decision-making regarding the RFP.

Assuming the Board's intent is to continue this process, the next action item concerns development of evaluation categories for the primary RFP areas of inquiry, along with rating weights. Staff has developed a draft of those categories for which it is requesting tentative approval from the Board. The final recommended version may differ somewhat from what is being proposed as staff and the consultant continue to develop the RFP document.

Staff's and the consultant's proposed evaluation categories and weights are largely consistent with the factors used in the prior RFP for these services, issued in 2006. The category of Plan Sponsor Services was changed from 9% to 10%, and recordkeeping and processing was reduced from 21% to 20%. In addition, staff has carved out a new category called "Contractual Qualifications" weighted at 5%, most of the questions of which were in the category called "Organizational Qualifications" (which was reduced from 15% to 10%). This change is being done primarily to simplify the narrative flow of the questionnaire and does not substantially alter the prior category weightings.

The following table contains a description of each evaluation category, including a comparison of the current proposed weighting to the weighting from the 2006 RFP:

RFP Evaluation Categories	2006 RFP Weighting	Current Proposed Weighting	Descriptions
Contractual Qualifications	n/a (category did not exist)	5%	Includes lobbying/endorsements/litigation, references, and recently terminated clients
Organizational Qualifications	15%	10%	Includes corporate stability, client base, senior management tenure, relevant experience by clients/assets
Plan Sponsor Services	9%	10%	Includes relationship manager, management reporting, and plan sponsor regulatory and other support services

Participant Services	30%	30%	Includes participant written communications, local counseling and group meeting services, website, call center, automated line, and special communications projects
Recordkeeping & Processing	21%	20%	Includes recordkeeping centers, staffing, systems, data processing, and security
Self-Directed Brokerage	5%	5%	Includes SDBO fund transfers, fees, website, communications, fund availability
Fees	20%	20%	Includes participant fees, service fees, blended fund fees, and custodial fees
Total-->	100%	100%	

Staff and the consultant believe that the categories and weightings indicated above best reflect the range and complexity of services covered under each category as well as their relative importance to participants. Staff recommends that the Board provide tentative approval, subject to final approval when a completed RFP draft is given to the Board.

Submitted by: _____
Steven Montagna

Approved by: _____
Alejandrina Basquez

**DEFERRED COMPENSATION ADMINISTRATION PLAN
TPA REQUEST FOR PROPOSAL CALENDAR**

DAYS UNTIL FINAL BOARD SELECTION	DATE	ACTIVITY	STATUS
320	7/1/2010	Initiate staff/consultant development of RFP	Staff and Plan consultant (Mercer) have initiated their development of the RFP document.
301	7/20/2010	Board Report - Conflict of Interest Statement	Board report submitted at July 20, 1010 meeting.
288	8/2/2010	Staff/consultant review of discussion draft to be completed by this date	Initial review and drafting of questionnaire completed
273	8/17/2010	Board Report/Discussion - Primary Areas of Inquiry & Rating Categories & Request for Council to grant authority for 5-year contract	Board report submitted at August 17, 1010 meeting
244	9/15/2010	Staff/consultant Development of RFP Completed, submitted to Benefits Div. Mgmt for review	
230	9/29/2010	Benefits Division Management Review/Approval of RFP Due	
225	10/4/2010	Revised RFP Submitted to City Attorney for review	
216	10/13/2010	City Attorney Review/Approval of RFP Due	
209	10/20/2010	Revised RFP Submitted to Personnel Administrative Services Division (ASD) for review	
210	10/19/2010	Board Report/Discussion - RFP Development Update	
200	10/29/2010	Personnel (ASD) Review/Approval of RFP Due	
183	11/15/2010	RFP and RFP Review Panel Submitted to Board for approval	
147	12/21/2010	Revised RFP Submitted to Board for approval (if necessary); Board approves review panel members	
141	12/27/2010	RFP Released	
125	1/12/2011	RFP Pre-Bid Conference	
77	3/1/2011	RFP Response Due Date	
46	4/1/2011	Review committee meets to discuss responses and compare ratings	
16	5/1/2011	Complete report/recommendation from Review Committee to Board	
0	5/17/2011	Final Board Decision	