

REPORT
FROM



THE BOARD OF DEFERRED
COMPENSATION
ADMINISTRATION

TO: Personnel and Animal Welfare Committee	DATE September 21, 2015
REFERENCE:	COUNCIL FILE
SUBJECT: City of Los Angeles Deferred Compensation Plan Contracts	

RECOMMENDATION:

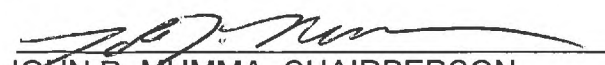
That the City Council:

- (a) Authorize the Board of Deferred Compensation Administration to negotiate and execute contracts with total combined terms not to exceed five years for all Deferred Compensation Plan services and providers without additional City Council approval; and
- (b) Request the Office of the City Attorney to prepare and present the necessary ordinance amending LAAC Division 10, Section 10.5 to provide authority for up to five-year terms for all Deferred Compensation Plan service provider contracts.

In 1983 the City of Los Angeles established a Deferred Compensation Plan ("the Plan") under Internal Revenue Code Section 457 as an optional supplementary retirement savings vehicle for all Civilian, Sworn and Department of Water and Power (DWP) employees who are members of one of the City's three primary defined benefit plans. The City's Plan allows employees to set aside a portion of their compensation up to applicable annual Federal contribution limits on a tax-advantaged basis. The mission of the Plan is to assist City employees in achieving retirement income security. The City's Plan presently has approximately 41,000 participants and almost \$5 billion in assets.

The City Council established a Board of Deferred Compensation Administration to oversee the Plan. The Board is composed of nine members representing the various constituencies of its participant population. The City Council further established the Personnel Department as the Plan administrator. The Board and the Personnel Department have a statutory and fiduciary obligation to act solely in the best interests of Plan participants.

The City Council has provided the Board with the authority to contract with service providers to offer administrative, investment, and consulting services. In 2007 the City Council provided the Board with ongoing authority to enter into contracts with terms up to five years for investment management services. This action benefited Plan participants by creating opportunities for better pricing, higher rates, and greater stability from service providers. For these and other reasons the Board is recommending that the five-year contracting authority exemption previously established for Deferred Compensation Plan investment management services be extended to the Board's other contractual relationships, principally its third-party-administrative and consulting services contracts.


JOHN R. MUMMA, CHAIRPERSON

BOARD OF DEFERRED COMPENSATION ADMINISTRATION


MICHAEL AMERIAN, VICE-CHAIRPERSON

A. GOVERNANCE & CONTRACTING BACKGROUND

Internal Revenue Code Section 457 plans were established by Congress for state and local government entities to offer tax-advantaged retirement savings opportunities to their workers. The City Council established the Plan and selected its original service providers in 1983. The first contributions from City employees were taken in 1984. Per Los Angeles Administrative Code (LAAC) Division 4, Chapter, 14, all of the Plan's costs are borne by its participants: this includes all administrative, investment, consulting, and staffing costs.

The program was originally administered by the City Treasurer. The City Council established a Deferred Compensation Plan Advisory Committee to perform certain administrative duties in connection with administering the Plan. Since inception, the following major changes have occurred with respect to the duties and responsibilities of the Board:

- **1995** - In 1995 administration of the Plan was moved from the City Treasurer to the Personnel Department and the Advisory Committee was established as a seven-member Board (CF #93-2277-S1).
- **1999** - In 1999 the City Council acted to place all Plan assets into trust pursuant to the 1996 Small Business Job Protection Act, which required that all Section 457 plan assets be placed into trust or equivalent form of protective custody for the exclusive benefit of plan participants (CF #98-0465); this action had the added effect of expanding the fiduciary responsibilities of plan sponsors in making decisions regarding their plans.
- **2002** - The City Council amended the Administrative Code to authorize the creation of a separate Plan Document, which delegated certain administrative responsibilities such as contracting to the Board, even as Council retained its role in establishing the Plan and its governance, thus providing greater clarity and transparency with respect to the administrative and fiduciary roles in administering the Plan (CF #01-2576).
- **2006** - The City Council changed the composition of the Board to better reflect and be responsive to the various constituencies of the Plan. Those changes established a nine-member Board which included the managers as well as directly elected representatives from the City's three primary retirement systems, as well as a directly elected retired participant representative (CF 04-1749-S2).
- **2007** - The City Council provided the Board the ability to enter into contracts with investment management service providers for terms of up to five years in length (CF #02-1048).

The current nine-member Board of Deferred Compensation Administration includes:

- General Manager Personnel Department
- General Manager - Los Angeles City Employees' Retirement System (LACERS)
- General Manager - Los Angeles Fire and Police Pensions System (LAFPP)
- Retirement Plan Manager - Department of Water and Power Employees' Retirement Plan (DWPERP)
- Three elected participant representatives who are also members of LACERS, LAFPP and DWPERP
- A directly elected retired participant representative; and
- A labor representative appointed by the City's employee unions.

B. CURRENT BEST PRACTICES IN PROCUREMENTS & CONTRACTING

The Board and the Personnel Department have worked together to establish the City's Plan as a premier program in the universe of governmental defined contribution plans. The City's Plan plays a leadership role among its state and local government peers with respect to innovation, participant outcomes, participation on the national stage, and implementation of best practices. The City Plan's Executive Director serves on the Executive Board of the National Association of Government Defined Contribution Administrators (NAGDCA), the central organization providing educational benefits and legislative advocacy for its state and local government plan sponsor members. This prominent leadership role provides the City with an opportunity to help influence Federal legislation and policy as it relates to defined contribution plans.

The Board and Personnel Department have extended this leadership and best practice orientation to the conduct of procurements and execution of contracts. Among the innovations the Board has already established in this area are the following:

- (1) **Policies for Transparency & Merit-Driven Procurements** – The Board has gone to extraordinary lengths to ensure the transparency and integrity of its procurement processes. Each search process is designed to meet the highest possible standards of professionalism, due diligence, and transparency. The Board has adopted detailed bylaws which, among other provisions, devote two separate sections relating to procurements/contracting: a "Code of Ethics" section which sets high standards for the conduct of Board members particularly as this relates to vendor contacts during a procurement phase, and a "Procurement Processing and Contracting" section which addresses how procurements will be conducted and the Board's collective commitment to avoiding communications with potential vendors during the procurement development and execution phase, and ensuring that the process is merit-driven and focused exclusively on what is in the best interests of Plan participants. The Board's detailed bylaws and specificity in the procurement/contracting arena are unusual in the world of state/local governance of defined contribution plans.
- (2) **Participant Surveys, Focus Groups and Notifications** – The Board similarly goes to unusual lengths to survey its membership regarding important topics and incorporates that feedback into its decision-making process, including and especially its key procurements and search processes. As examples, the Board surveyed Plan participants in 2005 prior to its last Request for Proposal for the Third-Party-Administrator contract, and further surveyed its participants in 2008 regarding potential changes to the Plan's investment menu before those changes were implemented. In addition, the Board maintains a pool of over 100 participants who have volunteered to serve on focus groups, and frequently draws from that pool to obtain participant feedback on important topics. Finally, the Board also has sought and received recognition for the quality of its communications to participants, as the City's Plan has been a frequent recipient of national awards for communications excellence. Communicating to participants as part of important procurements and search processes is a practice that is regularly employed by the Board to keep participants informed and encourage their participation and feedback.

- (3) **Search Flexibility & Efficiency** – With respect to its investment provider searches, the Board has created an innovative approach within its adopted Investment Policy Statement (IPS) which provide the City's Plan with the flexibility to conduct different kinds of searches (some focused on the institutional provider universe, others the mutual fund universe) which have had the effect of broadening the pool of investment products which can be considered.
- (4) **General Contracting Requirements Compliance Flexibility** – The Board has provided increased flexibility to the vendor community in the RFP response process by allowing for pre-review of certain required general contracting documents; when those documents are incomplete or not fully responsive, the vendor has an additional opportunity to correct them before the final RFP due date.

C. NEW BEST PRACTICE – EXPANDED APPLICATION OF DEFERRED COMPENSATION PLAN FIVE-YEAR CONTRACTING

As previously stated, LAAC Division 10, Section 10.5, currently provides the Board with ongoing authority to enter into five-year service agreements with Deferred Compensation Plan investment managers. Council adopted this change because it recognized that Plan participants would be best served (in the form of better pricing, organizational commitment, and investment provider stability) by this change.

As the Board is initiating its procurement development process for its Third-Party-Administrator (TPA) contract, it acted on July 21, 2015 to approve a request to City Council to extend similar five-year contracting authority for all Deferred Compensation Plan contracts, to include third-party-administrator, consulting and other potential future administrative services that may be entered into by the Board for administration of the Plan.

Longer-term contracting in key services can be considered a best practice if it meets the following tests and can provide the following benefits, which the Board believes are all met with the City's Deferred Compensation Plan:

- **Pricing and Resource Investment** - Promotes more favorable pricing terms and greater willingness on the part of vendors to invest resources into the City's Plan.
- **Member Service Continuity** – Establishes greater service provider continuity and limits disruption for Plan participants as that relates to participant services (e.g. administration, communications, local counseling, etc.).
- **Resource Efficiency** - Reduces the allocation of personnel resources to procurements, which allows those resources to be redirected to other vital areas requiring attention including participant services, compliance, payroll/administrative processes, and communications.
- **Reducing Consulting Costs** – Reduces consulting and other administrative costs required to develop procurements, evaluate proposals and assist with developing contracts.

- **Procedural Efficiency** – Eliminates the need to process contract extensions beyond three years through Council on a per-contract basis.

Notwithstanding these benefits, as is the case for City personal services contracts generally, the Board would always retain the option to procure for a shorter contract term if it so chose, and each contract as a matter of general City policy would provide the Board with the option for at-will termination in the event the Board determined a compelling reason exists for terminating a contract and/or accelerating a new search process. The Board would thus not be obligated to either negotiate or maintain a five-year contract if that was not determined to be in the best interests of the Plan and its participants.

D. FISCAL IMPACT

None. Pursuant to LAAC, Division 4, Chapter 14, all of the City's internal costs of administering the Deferred Compensation Plan are required to be paid exclusively by Plan participants.

E. CONCLUSION

The recommendations contained within this report provide opportunities for the City to continue to enhance its already considerable array of best practices in governance and administration of its Deferred Compensation Plan. The Board recommends that the City Council approve recommendations for expanding long-term authority to enter into five-year contracts to include all service provider relationships, and request the Office of the City Attorney to draft and return with the necessary ordinance to amend LAAC Division 10, Section 10.5.