



CITY OF *Los Angeles*

DEFERRED COMPENSATION PLAN

Personnel Department | Employee Benefits
200 N Spring St. Room 867 | Los Angeles, CA 90012
www.LA457.com | (213) 978-1621

**Board of Deferred
Compensation Administration**
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April 24, 2020

The Honorable Eric Garcetti

200 N. Spring Street
Los Angeles, CA 90012

Attention: Miguel Sangalang, Deputy Mayor of Budget & Innovation
Diana Mangioglu, Budget Director

Subject: City of Los Angeles Deferred Compensation Plan
- Requested Exemption of Positions from Hiring Freeze
- Defined Contribution Plan Manager Position Authority

The Board of Deferred Compensation Administration (Board) respectfully requests that the Office of the Mayor, in support of the City of Los Angeles \$6.4 billion Deferred Compensation Plan (DCP) and its 50,000 active and retired participants:

- (a) Include positions funded by the City's Deferred Compensation Plan (DCP) among those special funded positions exempted from the Mayor's recently instituted hiring freeze; and
- (b) Support the Board working with the City Council to add one regular position authority of Defined Contribution Plan Manager to the Fiscal Year 2020-21 Budget.

On March 19, 2020, Mayor Eric Garcetti issued a memorandum, "Fiscal Year 2019-20 Belt-Tightening Measures," providing that all General Fund positions (including partially funded) and Special Fund positions (excluding Airports, Harbor, DWP, LACERS, and LAFPP) are subject to a hiring and promotional freeze until further notice. The Board recognizes the extraordinary human, economic, and fiscal consequences of the COVID-19 pandemic. We also recognize the importance of the City's DCP to supporting our current and former employees with resources to help them weather the current economic and investment storm.

At our March 31, 2020 emergency meeting, Board members discussed two urgent concerns related to DCP staffing: first, the need to pursue a Special Fund hiring freeze exemption on par with those provided for Airports, Harbor, DWP, LACERS, and LAFPP; and second, the need to establish a Defined Contribution Plan Manager leadership position for the DCP within the Fiscal Year 2020-21 budget. The Board directed the Board Chairperson and Vice-Chairperson to share the Board's concerns with the Office of the Mayor.

The Board wishes to emphasize the unique context of and needs for this program, where we must:

- Fulfill our ongoing and significant fiduciary, administrative, and operational obligations in support of our 50,000 participants;
- Execute procurements for virtually all DCP investment mandates, involving approximately \$6 billion of current and former City *employee* assets;
- Support our participants with all available resources, especially given recent extraordinary market volatility; and
- Implement and administer significant new retirement-related legislative actions in response to the COVID-19 epidemic.

Our small contingent of Personnel Department staff play the most essential role in all of these efforts, as they are responsible for processing multi-million dollar participant contributions, advancing policy initiatives, directing contracted service providers, and providing direct participant services. **We note that all of the City's internal administrative costs in support of the DCP, including all direct and indirect staffing costs, are required to be fully paid by participant fees; the City's General Fund makes no contribution in support of the DCP.**

Following is further information in support of our requests.

Background

In 1983, the City of Los Angeles established the DCP under Internal Revenue Code Section 457 and City of Los Angeles Administrative Code (LAAC) Division 4, Chapter 14, as a voluntary supplemental retirement savings program for all employees who are members of one of the City's three primary defined benefit retirement plans. The DCP allows employees to set aside a portion of their compensation (up to applicable annual Federal contribution limits) on a tax-advantaged basis. Employees elect how their savings are invested within the DCP investment option menu. The mission of the DCP is to assist City employees in achieving retirement income security. As the City's DCP does not include an employer match on contributions, no City funds are contributed to participant accounts.

The Board was established by the City Council to oversee the DCP and has broad program oversight and administrative responsibilities, including contracting authority. The Board is supported by City staff who are employees of the Personnel Department's Employee Benefits Division and the Office of the City Attorney. Per LAAC Division 4, Chapter 14, all of the City's internal administrative costs in support of the DCP, including all direct and indirect staffing costs, are required to be fully paid by participant fees; the City's General Fund makes no contribution in support of the DCP.

The Board and staff both serve as fiduciaries to the DCP. Fiduciaries hold a legal and ethical relationship of trust to the DCP, its participants, and beneficiaries and are held to the highest ethical and legal standards in managing the DCP and its assets. As of April 17, 2020, the DCP had \$6.4 billion in assets and over 50,000 participants. Over the next ten years, DCP assets are projected to reach approximately \$12 billion and participant accounts approximately 67,000.

Basis for Exempting DCP Positions from Hiring Freeze

As noted previously, LAAC Division 4, Chapter 14, requires that all DCP direct and indirect staffing costs be fully paid by participant fees. These costs are reimbursed to the City on a quarterly basis directly from participant fees and payable to the General Fund. As a result, there is no General Fund impact to exempting DCP positions from the hiring freeze.

Even more significantly, however, is the critical nature of DCP positions to the City from a risk management perspective. The fiduciary, administrative, operational, investment, and oversight risks and responsibilities of the DCP cannot be overstated. When governmental defined contribution plans such as the City's DCP were initially created in the 1980s, they were generally treated as just one of many employee benefit programs. Three decades later, these programs have grown exponentially in size, prominence, and fiduciary oversight responsibilities. Governmental defined contribution plan assets reached \$2.5 trillion nationally in 2018, representing over 40% of total governmental retirement assets. The City's DCP reached \$1 billion in assets in 1997; less than 20 years later, assets peaked at over \$7 billion prior to recent market declines. For many government agencies, including the City, defined contribution plans are rivaling defined benefit plans both in assets as well as total participation.

An ever more complex regulatory framework and fiduciary oversight responsibilities create risks of regulatory sanctions and investor lawsuits. The Internal Revenue Service (IRS) audits defined contribution plans to monitor the proper application of tax law in contributions and distributions. Investor lawsuits of defined contribution plans have been growing in recent years with a particular focus on plan sponsor due diligence in managing the costs of plan administration and investment products.

The growing regulatory framework also includes new protections and resources for our participants. Most recently, to help mitigate the impact of the COVID-19 public health emergency and its economic impacts, the Federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020. As the largest economic relief bill in the history of the United States, the CARES Act provides financial aid and support for individuals and businesses. The CARES Act also includes certain mitigation and support measures for individuals participating in defined contribution retirement plans. Such provisions apply to the City's Deferred Compensation Plan (DCP) on either an optional or mandatory basis. The Board is moving swiftly to review and act on this legislation and ensure that DCP staff can administer applicable provisions.

It is crucial that the City maintain the necessary staff resources in support of the scope, complexity, and risks inherent to program administration. DCP staff positions should not be regarded as equivalent to or interchangeable with other City or Personnel Department positions having dissimilar program scope, fiduciary responsibilities, or funding sources. Exempting DCP staff positions from the hiring freeze will ensure that the City maintains its resource commitment to the DCP without impact to the City's General Fund. It would not be advised for the City to assume any unnecessary risks by limiting or restricting critical resources in support of the DCP with assets in excess of \$6 billion.

Currently, the DCP has one vacant Senior Personnel Analyst I position. This critical position is responsible for managing three full-time staff and five onsite local retirement counselors in the daily and administrative operations of the DCP. It is essential that the DCP be able to fill this position for the reasons stated above.

Basis for Establishing a Defined Contribution Plan Manager Position

The Personnel Department, on behalf of the Board, requested one regular position authority of **Defined Contribution Plan Manager** in the Mayor's Fiscal Year 2020-21 Proposed Budget, in the Personnel Department. We are aware that this position request, submitted by the Personnel Department on behalf of the Board, was initially not included by the City Administrative Officer (CAO) in its consideration of the Personnel Department's overall budget request.

The Board identified establishment of this position as a critical strategic objective for the City's DCP. As is the case for exempting other DCP positions from the hiring freeze, **the Board further believes that a dedicated, full-time program manager oversight position is critical to ensure the City meets its fiduciary obligations and effectively manages the regulatory, investment, and operational risks inherent to the City's DCP.**

In the past a Senior Personnel Analyst II, reporting to the Employee Benefits Division Chief, has been partially dedicated to the DCP. We understand this Senior Personnel Analyst II is also responsible for overseeing the City's Human Resources Benefits Budget, LIVEwell Wellness Program, Commute Options and Parking Program, Unemployment Insurance Cost Containment Program, and Pension Savings Plan (PSP), as well as providing partial operational support to the LAwell Civilian Benefits Program. We are aware demands on this Senior Personnel Analyst II position have significantly expanded in recent years as program expectations and complexity have grown including addressing new elected officials, stakeholders, and Mayoral and Personnel Department initiatives related to employee engagement with sustainability objectives in alignment with the Mayor's Green New Deal; improved employee commuting and air quality outcomes; benefit program design and administration; wellness initiatives; and cybersecurity risk management. Given the important nature of all these efforts, the available time dedicated to the DCP has declined substantially.

Using this single position to manage all of these programs and initiatives and provide management of the DCP results in a serious under-allocation of oversight resources relative to the risks and responsibilities associated with the DCP. Currently, the Employee Benefits Division Chief **partially** fills the present resource gap, given the incumbent's unique 25-year experience and institutional DCP knowledge. Notwithstanding these efforts, it is unrealistic to expect that the Division Chief can dedicate the necessary time to complete required tasks that should be an entirely separate full-time position. Moreover, the Division Chief is expected to retire in two years, and it is equally unrealistic to expect the City will be able to replace his defined contribution plan knowledge and experience from within its ranks.

The Personnel Department is moving forward with finalizing steps to establish a new "Defined Contribution Plan Manager" classification. This specialized class will allow the City to recruit workers from both the private and public sectors who have a background in executive-level and/or

highly technical aspects of defined contribution plan administration. Many such experts in this field outside of the City exist. What is required now is the position authority approval within the budget process so that the position can be filled. As is the case with other DCP positions, **this position would be fully paid by participant fees.**

Conclusion

We recognize the challenging times currently facing the City, both in weathering the immediate crisis and addressing the future fiscal fallout. Retirement assets are a vital responsibility of the City and of vital interest to our City employees. We believe that supporting the modest staffing needs of the DCP, especially given that the DCP is fully funded by its participants, is not only an important City responsibility but fully consistent with the City's budgetary objectives. We therefore respectfully request that the Office of the Mayor (a) include positions funded by the City's DCP among those special funded positions exempted from the Mayor's recently instituted hiring freeze; and (b) support the Board working with the City Council to add one regular position authority of Defined Contribution Plan Manager to the Fiscal Year 2020-21 Budget.

Thank you for your consideration of our request.

Sincerely,



Thomas Moutes, Chairperson



Raymond Ciranna, Vice-Chairperson

Board of Deferred Compensation Administration

Cc: Members of the Budget & Finance Committee
The Honorable Paul Krekorian, Council District 2
The Honorable Bob Blumenfield, Council District 3
The Honorable Paul Koretz, Council District 5
The Honorable Curren D. Price, Council District 9
The Honorable Mike Bonin, Council District 11

Richard Llewellyn, City Administrative Officer