Date: February 19, 2016
To: Joint Labor Management Benefits Committee
From: Staff
Subject: Request for Proposal – Flex Benefits Third-Party-Administrator

RECOMMENDATION:
That the Joint Labor-Management Benefits Committee approve (a) moving forward with the proposed calendar for development of a Request for Proposal for Third-Party-Administration of the City’s Flex Benefits Program; and (b) execution of Conflict-of-Interest & Ex-Party Communication Pledge forms for all JLMBC members/City staff involved in the development process for this procurement.

DISCUSSION:
The Personnel Department presently has a contract with Mercer HR services, LLC (“Mercer TPA”) for recordkeeping, enrollment and administrative services for the City’s Flex Benefits Program. The contract term originally began June 5, 2009 and, as a result of various extensions, expires June 5, 2017. There are presently approximately 15 months remaining before expiration of the current contract. This report will address staff’s proposed calendar for development of the Request for Proposal (RFP) and the execution of Conflict-of-Interest & Ex-Party Communication Pledge forms for JLMBC members/City staff involved in the development process for this procurement.

A. Overview of TPA Services
The Flex Benefits TPA is responsible for a wide range of services related to administering the Flex Benefits Program. These services broadly include:

- Recordkeeping employee and dependent eligibility for the Flex Benefits Program and the full suite of benefit plans and benefit levels proscribed in Flex Plan rules and Flex member Memorandums of Understanding (MOUs)
- Processing benefit elections made by eligible members
- Communicating coverage and benefit elections to the Flex Program’s contracted benefit plan providers
- Generating invoices for payment of premiums by the Flex Program’s contracted benefit providers
- Producing a wide range of reports and data used by staff to monitor eligibility and coverage outcomes
Maintaining a member website and telephonic customer service center to assist members in making benefit elections

Presently, the TPA also provides the City with a payroll analytics tool for determining eligibility under the Affordable Care Act and warehousing the data necessary for Federally-required tax reporting services.

The TPA is responsible for administering an enormous amount of complexity relative to Federal rules/regulations, the City’s Flex Benefits Program design, and benefits negotiated in Flex member MOUs. Because of that complexity, a high degree of customization has been needed in order to adapt the recordkeeping requirements to the abundant variations that exist within the benefits structure of the City’s workforce. The Flex Benefits Program requires a TPA service provider that has the organizational resources, quality control mechanisms, and technical competence to properly administer the Program.

B. TPA RFP Development Process

Staff’s objective is to ensure that the TPA search incorporates meaningful mechanisms to evaluate service provider capabilities for the complex array of services required for effective administration. Towards that end, a significant investment of staff time and resources is required to ensure that the RFP fully incorporates the City’s needs and obtains all the necessary information to effectively evaluate the vendor’s service capabilities and resources.

The RFP will incorporate all of the best-practice tools that the Employee Benefits Division is institutionalizing within Flex Benefits procurements, including the following:

- Detailed Plan Profile & Scope of Services
- Proposal Questionnaire
- Problem Resolution Essay Questions
- Performance Exams

As with its recent procurements for Health and Dental service providers, staff will develop these various RFP components in stages and present them to the JLMBC for consideration. Staff has developed the following tentative calendar for RFP development which is recommended for JLMBC approval:
<table>
<thead>
<tr>
<th>Month(s)</th>
<th>Action</th>
<th>Target Date</th>
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</thead>
<tbody>
<tr>
<td>March-16</td>
<td>Approve proposed calendar for TPA RFP development</td>
<td>03/03/16</td>
</tr>
<tr>
<td>July-16</td>
<td>Complete review/analysis with City Controller regarding improvements in TPA/PaySr file exchange processes and data</td>
<td>07/18/16</td>
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<tr>
<td>August-16</td>
<td>Review proposed Plan Profile &amp; Scope of Services</td>
<td>08/04/16</td>
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<tr>
<td>Sep-16</td>
<td>Review proposed RFP Questionnaire</td>
<td>09/01/16</td>
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<tr>
<td>Oct-16</td>
<td>(1) Approve final draft TPA RFP (2) Release RFPs</td>
<td>(1) 10/06/16 (2) 10/20/16</td>
</tr>
<tr>
<td>Nov-16</td>
<td>Response Due Date</td>
<td>11/30/16</td>
</tr>
<tr>
<td>Dec-16 – Feb-17</td>
<td>Response Evaluation</td>
<td>12/01/16 – 02/15/17</td>
</tr>
<tr>
<td>Jan-17</td>
<td>Provider Selection</td>
<td>03/02/17</td>
</tr>
<tr>
<td>June-17</td>
<td>Execute contracts</td>
<td>06/01/17</td>
</tr>
</tbody>
</table>

If a change in service providers occurs, the implementation and execution date may need to be deferred to the most optimal time to effect a service provider transition with minimal disruption to Flex Program members. Staff will be in a better position to make this assessment as part of the evaluation of responses and only if a change in providers occurs.

Staff is separately engaged in a process of reviewing options and potentially developing a separate procurement for ACA eligibility tracking and tax reporting services. This review process will involve assessing the results and outcomes of the first year of eligibility recordkeeping and tax reporting. ACA eligibility and tax reporting services are broader than the Flex Benefits population because they involve sworn employees as well as employees who do not meet the eligibility requirements of the Flex Program. Staff is conducting the analysis of these services separately due to the more urgent deadlines associated with any potential changes that might be instituted during the current calendar year.

### C. Ex-Parte Communication & Conflict of Interest Pledge Form

The Personnel Department/Employee Benefits Division conducts a large volume of procurements for the City’s Flex Benefits Program and Deferred Compensation Plan. The Division’s objectives are to ensure that procurement processes and contract decision-making are conducted strictly and solely in the best interests of participants in these programs. The Division has developed a range of what it regards as best practices relative to the conduct of procurements. These include the following:

- Information related to the scheduling, development, and initiation of procurement processes is reported during public meetings and duly agendized in accordance with the Brown Act;
• Requests for Proposal, which include all details of the Scope of Services, vendor questionnaire, evaluation criteria, and evaluation process, are provided to governing/oversight bodies at their public meetings and adopted prior to release of the RFP;
• The assistance of consultants is utilized in all procurement development processes requiring expert or technical assistance;
• Once an RFP is released, all questions and responses to the RFP are required to be in writing and those questions and their responses are published as addendums to the RFP in order to assure that all communications regarding the RFP are fully transparent and no individual prospective bidder is provided information related to the RFP that is not made available to all prospective bidders.
• The evaluation panel is comprised of technical experts in the subject matter, which may include members of staff, a consultant, and/or outside raters;
• Selections of contractors are made during public meetings and based on published materials documenting the evaluation process and its results;
• Contract negotiation and development is performed by Personnel Department staff in close cooperation with the City Attorney’s Office;
• Procurement and search processes and the results of changes are communicated to membership through the various communication venues available through the City; and
• Public meeting materials are maintained on the Personnel Department’s Employee Benefits web pages.

Each of these practices helps to fulfill the objectives of transparency, neutrality and merit-driven decision-making in procurement processes. City procurement processes are frequently of keen interest to the vendor community and may be highly competitive. To help protect the integrity and transparency of the decision-making process, staff recommends that the JLMBC execute for this procurement a **Pledge Form Regarding Conflict of Interest, Confidentiality and Proposer Communications** (Attachment A). This document was previously prepared and executed for the Health and Dental Plan procurements. Observance of the requirements within the Pledge Form embodies the best practices identified above.

Relative to contacts with potential vendors, it should be noted that contacts and conversations may occur at events such as conferences or similar events and these would not be considered prohibited so long as there is no discussion around marketing the vendor’s services or the City’s procurement process. In general, however, once an RFP window has opened, it is advisable for JLMBC and staff members to avoid non-public conversations or other communications wherever possible, even if the subject matter is unrelated to an upcoming procurement, as such communications may present the appearance or suggestion of a prohibited discussion.

In the event a vendor attempts to engage a JLMBC or staff member in a conversation regarding the procured services, a sample response to a contact from a vendor or
vendor representative, whether one is approached formally or informally, electronically or in person, is provided as follows:

“Thank you very much for your interest in the City’s Flex Benefits Program. Our practice is to avoid communications and meetings with potential service providers during the RFP process in order to protect the transparency and integrity of our search processes, and to avoid any appearance of special access or influence. Since the RFP process is currently underway, I will respectfully decline your invitation to meet. Information related to the City’s Plan and this RFP process is available through the City’s website at http://per.lacity.org/jlmbc.htm. Additionally, the RFP, once released, will include a point-of-contact and details for submitting questions and receiving responses in writing. All JLMBC meetings are public and provide opportunities for public comment. In addition, inquiries to the JLMBC can be directed in writing to the Employee Benefits Division Chief. Our goal is to ensure a merit-driven decision-making process that is conducted strictly and solely in the best interests of our members.”

Submitted by: ______________________________

Ana Chavez

Approved by: ______________________________

Steven Montagna
PLEDGE REGARDING CONFLICT OF INTEREST, CONFIDENTIALITY AND PROPOSER COMMUNICATIONS

Flex Benefits Program
2016/2017 Request for Proposal for Third-Party-Administrator Services

As a participant in the evaluation and decision-making process for the above-referenced 2016/2017 procurement process for Flex Benefits Program Third Party Administrator 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 Flex Benefits Program and its members using only the City’s and Joint Labor-Management Benefits Committee’s (JLMBC’s) adopted policies/practices 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 JLMBC and Personnel Department 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/sub-consultant 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 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 Flex Benefits Program. I understand that this provision does not limit my ability to acquire information from or otherwise communicate with any actual/potential bidder

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.
pursuant to procedures provided for in and the RFP; 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.

JLMBC/Staff Member Signature:

Signed: ___________________________________________________________ Date: _______

Print Name: ___________________________________________________________