
JANUARY 27, 2014

AGENDA ITEM 3
ACTION ITEM

SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

Approval of the Approach to Selecting Vendors for the Secure Choice Market Analysis and Feasibility Study

Presenter

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Actions Recommended

1. Authorize staff to contract for services with a consultant to provide procurement assistance for the market analysis, program design, feasibility study and legal approvals, and to provide project management and project oversight services.
2. Authorize staff to draft three Request for Proposals (RFPs), issue the RFPs and solicit proposals, evaluate and score the proposals, and choose the finalists to be interviewed by the Board according to the process outlined in this memo.
3. Approve the tentative timeline.

Background

Before the Legislature can consider further legislation to implement the California Secure Choice Retirement Savings Program (Program), SB 1234 requires the California Secure Choice Retirement Savings Investment Board (Board) to conduct a market analysis and feasibility study to determine whether the legal and practical conditions for implementation can be met.

Specifically, California Government Code Section 100040 states: “The board shall initially conduct a market analysis to determine whether the necessary conditions for implementation of this title can be met, including, but not limited to, likely participation rates, participants' comfort with various investment vehicles and degree of risk, contribution levels, and the rate of account closures and rollovers.”

Additionally, Government Code Section 100042 says the Program can become operative “only if the board determines that, based on the market analysis, the provisions of this title will be self-sustaining.” Secure Choice staff believes making this determination will require the Board to be informed by an expert financial analysis on which to base its ultimate conclusion on the question of whether or not the program can be self-sustaining.

Finally, Government Code Section 100043 says “The Board shall not implement the program if the IRA arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act (ERISA).” Making this determination will require a legal analysis and a carefully crafted request for formal guidance from the U.S. Department of Labor and U.S. Department of the Treasury.

Secure Choice staff believes that to meet the statutory requirements and to make its various determinations, it will be necessary for the Board to authorize expert studies sequenced in the following phases:

Phase 1: Market Analysis – A market analysis to determine likely levels of participation and elements of program design that could maximize participation, maximize the likelihood of private sector financial providers offering products and services necessary to the Program, and minimize inconvenience or disruptions to employers.

Phase 2: Program Design – Based on the findings of the market analysis, work will have to be done to determine how the Program would best be structured and administered. This will include determining the best methods for communicating with participants, handling payroll deductions, and accomplishing the recordkeeping and administration functions. The work in the program design phase will also need to include the development of recommendations on plan features and options such as the level of the automatic (or “default”) contribution level, maximum contribution levels and investment options.

Phase 3: Feasibility Study – The final phase will include a legal analysis to determine whether the Program, designed using the results of the Phase 1 and 2 studies, meets legal requirements specified in the Secure Choice Retirement Savings Trust Act, and a financial analysis to determine whether likely demand and participation would make it possible for the proposed Program to be self-sustaining.

The Approach to Selecting Vendors to Conduct the Study

During the past year, Secure Choice staff have spent a significant amount of time considering how to define the scope and requirements for the market analysis and feasibility study, and discussing various options for contracting with vendors to complete the work. We have received informal input from public and private defined contribution plan administrators, consulting firms specializing in human resource and financial services, and legal experts. In addition, some responses to the Secure Choice Request for Information (RFI) provided advice about how to proceed with the study.

Based on the input we have received, Secure Choice staff recommends issuing three separate Request for Proposals (RFPs); one for the market analysis, one for the program design work and the financial feasibility study, and one for the legal analysis. We also recommend contracting with a vendor to assist with overall management of the study process.

An alternative to the recommended approach, which is outlined in greater detail below, would be to issue a single RFP that includes the combined scope of work currently envisioned for the three separate RFPs included in the staff recommendation. With the single RFP we would likely receive proposals from teams of bidders. The advantage of this alternative is that a single RFP requires less staff work and could speed the process of selecting vendors.

We believe, however, there are significant disadvantages to the single RFP approach. The Board would select the best overall team rather than the best vendor for each aspect of the work as in the recommended approach. This could result in a situation where each team of finalists includes one or more partners with significant weaknesses.

Please note that if Board members wish to actively participate in the RFP process, Treasurer's Office legal staff advised that three or more members participating in an advisory capacity in the RFP process may constitute an advisory body subject to the Bagley-Keene Open Meeting Act.

Contract for Project Management Services

Due to limited staff resources, the complexity and breadth of the overall project, and the relatively tight timeline for completion, Secure Choice staff recommends contracting with a project management consultant to assist with the procurement of vendors to conduct the market analysis and feasibility study, assist our limited-time state staff in coordinating and supervising the work of vendors engaged in different components of the overall project, and provide independent oversight of the project.

If the Board approves this recommendation, we believe it will be possible to hire a project management consultant relatively quickly by choosing among pre-qualified management consultant vendors who are available from a list maintained by the State of California's Department of General Services.

1. Coordination of work among vendors and managing the project to the schedule

The majority of responses to the RFI questions about how to proceed with the study suggested contracting with more than one company to complete the required work because the skills and expertise necessary to conduct the market analysis are distinctly different from those required to carry out the work of designing the program and conducting the legal and financial feasibility analysis.

It will be essential to ensure the efforts of vendors working on different components of the overall project are coordinated. Consultants responsible for the program design work, for example, will need to have input into the design of the survey instruments used in the market analysis to ensure the market analysis provides results that will be useful in guiding the design of the program. Similarly, counsel hired to conduct the legal analysis will have to work with the consultants hired to design the program and make recommendations that might increase the likelihood of receiving favorable federal opinions on ERISA and tax questions. We believe the work of a project management expert to manage the scope, schedule, cost, risks and communications among vendors is essential for the successful completion of the project.

2. Assistance with developing RFPs and selecting vendors

A number of project management consulting firms on the Department of General Services list also provide procurement support services. Secure Choice staff thinks it would be useful to include, in the scope of work for the project manager, assistance in developing RFPs and the selection of vendors for the market analysis and feasibility study. In the original timeline presented to the Board in September, 2013, the RFPs were scheduled to be released in January 2014. Given our limited staff resources, outside assistance could help to expedite the RFP process.

In addition, several stakeholder groups, both supporters and opponents of the California Secure Choice Program, have requested that we develop some method for allowing stakeholders to meaningfully provide input into the RFP process, including defining project requirements and minimum qualification requirements for potential vendors. Because the Board must ultimately seek legislative authority to implement the Program if it concludes the Program is feasible, it will be important to work to ensure stakeholders are comfortable with all aspects of the study, including the process for selecting vendors to do the work. Reaching out to stakeholder groups and incorporating their feedback into the RFP process, however, will require additional time and resources. Secure Choice staff could benefit from the services of a consultant to assist with this effort.

3. Provide independent project oversight

In addition to assisting with the RFP process and coordinating the work for the overall project, a project management consultant could also play an important role as an independent voice to inform Secure Choice staff and the Board about the progress of the project, and issues that need to be addressed to ensure the work will meet the required scope and schedule.

Request for Proposal (RFP) for the market analysis

Secure Choice staff believes the market analysis to be the most critical component of the overall project. The results of the market analysis will inform the decision to implement Secure Choice as well as decisions about how to design and structure the Program. Because the analysis, and the conclusions and recommendations drawn from it, will receive significant public scrutiny, we believe it is important to choose a vendor with a proven track record of performing market analysis for companies in the financial services industry, and a vendor that is – and is perceived to be – independent, with no financial interest in the outcome of the study. The vendor selected should be knowledgeable about and have experience conducting survey research on California's low income workers and small businesses, or subcontract with a firm that does have such knowledge and experience.

The market analysis should include a review of existing research on retirement savings behavior and participation rates for automatic enrollment savings plans, of California workers who have no access to retirement savings plans at work, and of employers who do not offer retirement savings plans to their employees. Qualitative research using focus groups may be necessary to

guide the development of the survey instrument for quantitative research, and after completion of the survey to fully understand how best to interpret survey results. To accurately reflect what we believe to be a very diverse and heterogeneous population of working Californians, survey research should be conducted in multiple languages.

At a minimum, the market analysis should be designed to address the following questions:

- Who are the California workers with no access to retirement savings plans at work? How are they distributed with respect to demographic variables such as age, gender, race/ethnicity, type of occupation, household income, and geographic location? How does their profile compare to those California workers who presently do have access to employer-sponsored retirement savings plans? What does this information suggest in terms of Secure Choice marketing and communication strategies, plan design features and appropriate investment options?
- What is the financial situation of California workers with no access to retirement savings plans at work? What is their ability to save for retirement and to what extent are they currently saving?
- How do these workers prioritize various savings objectives such as minimizing loss, minimizing costs, maximizing potential investment returns, achieving a predictable stream of income in retirement?
- Based on the results of the survey and findings from existing research on automatic enrollment savings plans, if Secure Choice were to become operational, what is the likely participation rate and the likely average contribution level from the Program's inception to its maturity?
- What savings plan features and options would maximize participation rates and contribution levels?
- What state or national developments are likely to significantly improve or diminish the chances for the Program's success?
- What opinions and attitudes do employers who do not currently offer retirement savings plans to their employees have about Secure Choice? Are there ways to structure and administer Secure Choice in a manner that would eliminate or minimize concerns identified by employers?

Request for Proposal (RFP) for the program design and feasibility study

Secure Choice staff recommends issuing a single RFP for a consulting firm to do the plan design work as well as the economic feasibility analysis. The firm should have experience designing retirement plans and also the expertise to conduct the financial analysis, including actuarial expertise.

By statute, the Secure Choice Program can become operational only if the Board determines, based on the market analysis, the Program will be self-sustaining. In addition, the Board shall not implement the program if it is determined that Secure Choice accounts will not qualify for favorable federal tax treatment or that the Program will be subject to ERISA.

Before the financial and legal feasibility analyses can begin, it will first be necessary for the Board to determine, with greater specificity than is provided in the law, how the Program will be structured and administered. Responses to the Secure Choice Request for Information (RFI) question about how the Program should be structured fall along a broad spectrum ranging from a cash balance-type plan with a guaranteed minimum interest rate, to traditional individual IRA accounts that would allow participants to choose among a variety of funds. Assumptions about participation and costs will likely vary depending on the structure chosen by the Board. In addition, the federal government's determination of the tax treatment and ERISA status of Secure Choice will likely depend on how the program is structured and administered.

The scope of work for the firm chosen by the Board would include, but not be limited to:

- Work with the vendor chosen to conduct the Secure Choice market analysis to provide input into research methodology and survey design.
- Based on the results of the market analysis, provide a recommendation for how the Program should be structured and administered. The recommendation should include sufficient detail to allow the U.S. Department of Labor and the Department of the Treasury to provide formal opinions as to whether the plan is exempt from ERISA and whether Secure Choice accounts will be treated as tax qualified. This should include, but not be limited to determining:
 - Mechanisms for communicating with participants
 - How to handle payroll deductions
 - Performance of recordkeeping and administration functions
 - Automatic, or “default,” contribution level
 - How deposited funds will be invested
 - Maximum contribution level
 - Roles and responsibilities of employers, employees, Secure Choice and third party administrators
- Upon board approval of program design recommendations, conduct financial analysis to determine whether the Program would be self-sustaining.
- Contract extension option – If the Board receives legislative authority to implement the program, the Board would have the option to extend the contract to allow the vendor to help to procure an investment advisor, a plan administrator and all other contracts necessary to begin operating the program and enrolling participants.

Request for Proposal (RFP) for the legal analysis

Based on the language in California Government Code Section 100043, and consistent with the majority of responses received through RFI process, Secure Choice staff believes that before the Legislature can authorize the Board to make the Program operational, it will be necessary to receive formal guidance from the U.S. Department of Labor and the U.S. Department of the Treasury on the questions of whether the Program would be exempt from ERISA and whether its accounts would receive favorable tax treatment.

We recommend contracting with a law firm, experienced in relevant areas of federal law, to conduct the legal analysis, make program design recommendations, provide technical support for the legislative process if any further state or federal legislation is required, and draft ruling requests for submission to the U.S. Department of Labor and the Department of the Treasury.

Although state procurement rules do allow the Board to contract for legal services without a competitive bidding process, due to the potential cost of this contract, the importance of this work to the success of the Program, and stakeholder interest in the legal analysis and its ultimate outcome, we are recommending the selection of a law firm through a competitive RFP process. While the RFP process does take more time, it allows the Board to test the market and choose the most competitive proposal. It also makes the selection process more transparent and open to the public.

Evaluation and Scoring of Proposals

In terms of the process for evaluating and scoring the proposals, we are recommending proposals for all three RFPs be evaluated and scored, based on scoring criteria built into the RFPs, by a committee which will include Secure Choice staff, the project management consultant, and no more than two Board members (for each RFP) designated by the Chair to serve in an advisory capacity.

Secure Choice staff recommend allocating a maximum of 200 points for the technical proposal evaluation, and a maximum score of 300 point for the lowest fee proposal. All other fee proposals will be rated proportionately relative to the lowest fee proposal. After combining the technical and fee proposal scores, the proposals will be ranked from highest scoring to lowest scoring, with a maximum of 500 points.

Each RFP committee will choose the top two or three finalists to be interviewed by the Board. The score for the Board interview will be allocated a maximum of 500 points. Board members will rank finalists in order from highest to lowest. The rankings for each bidder will be averaged. The bidder with the highest average ranking will be awarded 500 points. All others bidders' scores will be awarded points proportionally relative to the highest

Tentative Timeline

Our goal is to complete the study and obtain Board approval of the report and recommendations before the end of 2014. If the Board, based on the findings of the market analysis and feasibility study, recommends implementation of the California Secure Choice Retirement Savings Program, this deadline will make it possible to seek authorizing legislation in 2015.

We feel this is a relatively aggressive timeline, particularly given that it calls for three separate RFPs to be completed in a relatively short amount of time. It is important to note that a delay in receiving sufficient donated funds could delay the project.

Date	Action
Feb. 26, 2014	RFPs available to Prospective Bidders
March 10, 2014	Written Question Submittal Deadline
March 17, 2014	Answers to Written Questions Distributed
April 7, 2014	Final Date for Proposal Submission
April 8 - 16, 2014	Evaluation and Scoring of Proposals
Late April – Early May	<ul style="list-style-type: none"> • Board Interviews of finalists • Notice of Intent to Award • Commencement of Contracts (pending DGS approval)
May - November 2014	Market Analysis and Feasibility Study Completed
December 2014	Board adopts recommendations and decides whether to pursue authorizing legislation
Jan. 2014 – July 2015	If it chooses to do so, the Board will seek legislative authority to implement the Program.

Next Steps

If the Board approves the recommendation to hire a project manager, Secure Choice staff will begin work immediately and consult with the California Department of General Services as necessary to select a vendor to provide project management services. We will not, however, be able to utilize the project manager’s services until donated funds are received in the Program Fund.

If the Board approves the procurement approach outlined in this memo, Secure Choice staff would begin drafting the RFPs immediately.

The next Board meeting (or meetings) would be held in late April or early May, and would be devoted to the purpose of interviewing RFP finalists and selecting winning bids.