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DECEMBER 18, 2014

AGENDA ITEM 03  
ACTION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

*Consideration of Options to Select a Law Firm for a Contract for Legal Services*

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***Presenter***

Grant Boyken

***Background***

At its September 29, 2014 meeting, the California Secure Choice Retirement Savings Investment Board (Board) approved a resolution authorizing the Acting Executive Director to execute a contract for legal services with Crowell & Moring. The Groom Law Group, due in part to their extensive experience with the U.S. Department of Labor and the IRS, would have worked as a subcontractor to Crowell & Moring.

At the Board's October 27, 2014 meeting, staff reported that the contract had not yet been executed because the Groom Law Group had not yet provided documentation of its filing with the California Secretary of State. Subsequent to the October meeting, the Groom Law Group reported to Secure Choice staff they were working to register with the Secretary of State, but because they determined the process would take longer than they had anticipated, they would not be able to subcontract with Crowell & Moring.

The purpose of this agenda item is to present options for pursuing a legal services contract for the Board to consider given that the Board will not be executing a contract with Crowell & Moring as previously planned.

**Option 1 – Authorize staff to execute a contract with K&L Gates**

Board member Bill Sokol recommended K&L Gates as a law firm that possesses the unique qualifications to do the legal work the Board requires. Mr. Sokol, a member of the evaluation committee for the legal services procurement, contacted K&L Gates to determine whether they would be interested in submitting their qualifications and costs. K&L Gates indicated they were interested and submitted a strong response that meets the requirements specified in the process originally used to select Crowell & Moring.

The team of attorneys identified in the K&L Gates proposal has extensive experience in employee benefits and ERISA, serving clients that include financial institutions as well as private, non-profit, and governmental employers. K&L Gates proposes to conduct the work outlined in our scope of services for a cost of \$275,000.

If the Board authorizes staff to execute a contract with K&L Gates, staff will immediately begin to finalize the contract and seek approval from the Department of General Services. The contract would likely be in place in January 2015.

#### Option 2 – Request qualifications and costs from additional law firms

If the Board desires, staff could post a notice on the Secure Choice web page to request responses from additional law firms for the legal services the Board requires. Law firms would be given approximately one month to respond. The goal would be to recommend a law firm for the Board's consideration at its January 26, 2015 meeting. A contract would likely be in place by the end of February 2015.

#### *Discussion*

Staff has assessed the benefits of each option. The RFP process resulted in proposals from five law firms, of which only one was responsive. After the Board conducted an informal process to obtain more information from the law firms that submitted a proposal to the previous RFP, and from other interested law firms, only one law firm was found to have sufficient experience with the U.S. Department of Labor and the IRS with respect to employment benefits and a familiarity with state initiatives similar to Secure Choice. Attempts to select a law firm through these processes were unsuccessful.

Although K&L Gates did not submit a proposal or response to the Board's earlier attempts to obtain legal services, K&L Gates stands out as a law firm that possesses experience with complex tax and ERISA issues, established working relationships with staff at the IRS and the U.S. Department of Labor, a familiarity with, and demonstrated interest in, state initiatives similar to Secure Choice, and a cost that is comparable to or less than the other law firms and fits within the Board's budget. If the Board decides to move forward with a contract with K&L Gates at this meeting, the contract may be in place in January 2015.

Option 2, on the other hand, would provide another opportunity to seek responses from law firms that have not submitted a proposal or response in prior attempts to select a law firm.