Finance and Administration Committee

Agenda Item 5a

March 14, 2017

Item Name: East San Gabriel Valley Human Services Recommended Termination of Agency Contract

Program: Pension Contract Management Services

Item Type: Action

Recommendation

Staff requests the Finance and Administration Committee (FAC) recommend that the Board of Administration (Board) terminate the East San Gabriel Valley Human Services Consortium (Consortium) contract with the California Public Employees' Retirement System (CalPERS or System), in accordance with Government Code section 20572. Staff further requests that the Committee recommend that the Board declare the Consortium in default on the effective date of termination if the Consortium has not paid the amounts required under Government Code section 20577.

Executive Summary

At the February 2017 FAC meeting, Staff presented an update on agencies that are significantly delinquent in the payment of required contributions to the System. Staff's update included the status of the Consortium, an agency which has not yet terminated its contract. The purpose of this agenda item is to recommend termination of the Consortium's contract with CalPERS in accordance with Government Code section 20572. To the extent the Consortium fails to pay the full amount owed under Government Code section 20577, Staff is further requesting the Board declare the Consortium in default, which will require CalPERS to reduce the retirement benefits of the Consortium's employees and retirees.

Strategic Plan

This Agenda item supports Goal A of the CalPERS 2012-17 Strategic Plan, which aims to improve long-term pension and health benefit sustainability.

Background

The Consortium is a joint power authority (JPA) formed in September 1979 by the Cities of West Covina, Covina, Azusa, and Glendora. The primary objective of the Agency was to provide employment and training services to local residents and to inmates incarcerated by the Los Angeles County Sheriff's Department (LACSD). The Consortium contracted with CalPERS effective December 1, 1979 to provide retirement benefits for local miscellaneous employees. In September 2014, the Consortium terminated all employees due in part to the loss of a contract with LACSD and closed its headquarters. The Consortium currently has an active board with no programs in place.

The Consortium became delinquent on its Unfunded Accrued Liability (UAL) payment obligations to fund its members' benefits in August 2015. CalPERS Staff contacted the agency to address the outstanding UAL. The Consortium informed staff that it could not pay its obligations due to the loss of all funding sources. The Consortium has been delinquent on the UAL owed for FY 2015/2016 and FY 2016/2017 for the classic miscellaneous plan and will owe UAL on all plans in FY 2017/2018. Staff have made over 34 telephone calls and sent multiple collection notices to the Consortium in an effort to collect the outstanding total amount of $406,345. A final collection letter was sent to the agency on November 1, 2016, demanding that the outstanding amount be paid within 10 days of the date of the letter (Attachment 2).

On January 3, 2017, staff sent a final demand letter by certified mail to the Consortium, providing it 30 days to pay the amount owed or Staff would recommend termination of the Consortium's contract (Attachment 3). Staff sent copies of the demand letter to the four founding members of the Consortium. In addition, Staff sent certified letters to the Consortium's employees and retirees to advise them of CalPERS' proposal to terminate the contract, which would require benefit reductions. The 30 days lapsed without any payment.

On February 2, 2017, staff sent letters to each of the four founding member agencies of the Consortium requesting payment of amount owed within 15 days (Attachments 4, 6, 8, & 10). The 15 days passed with all of the member agencies stating that they would not pay the amounts owed to CalPERS (Attachments 5, 7, 9, & 11). Consequently, Staff seeks the Board's approval to terminate the contract of the Consortium under Government Code section § 20572.

Government Code section 20572 provides that if an agency fails for 30 days after demand by the Board to pay in full any installment of contributions required by its contract, the Board can terminate that contract by a resolution adopted by a majority vote of its members. The resolution to terminate is effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the agency. Staff has exhausted all reasonable efforts to collect from the Consortium the amounts owed, including providing the Consortium multiple opportunities to bring its account current. Because the Consortium has failed to make any payments towards its UAL for FY 2015/2016 and FY 2016/2017 within 30 days of the date of CalPERS' final demand letter, staff recommends that the Board terminate the contract of the Consortium.

Further, under Government Code section 20577, if an agency fails to pay the full amount owed upon termination, the Board can declare the agency in default and consequently shall reduce member retirement benefits as of the date the Board declares default, in proportion to the amount of the deficiency in accumulated contributions of the agency and its employees. Staff recommends that, to the extent that the Consortium fails to pay the full amount of its termination liability by the effective date of termination, the Board declares the Consortium in default and retirement benefits paid to employees and retirees of Consortium reduced, in accordance with section 20577.

While the Actuarial Office will calculate the final amount of termination UAL, the Consortium is only 37.0% funded as of June 30, 2015, based on a benefit formula of 2.0% at 55 as shown in the table below. The agency's current funded status represents a benefit reduction of approximately 63% for their 191 members in the classic miscellaneous plan and approximately 24% for the six members in the PEPRA plan. The reduction of benefits would only apply to the members' portion of benefits derived from their service to the Consortium.

	Termination Cost[1]		**Employees/Retirees Impacted**
Rate Plan	Termination Unfunded Accrued Liability at 2%	Funded % at 2%	Plan Participants[2]
Misc.	$19,352,259	37.0%	**Total= 191** Transferred= 36 Separated= 93 Retired= 62
PEPRA Misc.	$7,685	74.5	**Total= 6** Separated= 6

[1]Estimated
[2]No active members

Pursuant to Government Code section 20572, termination is effective 60 days after the mailing of the notice of termination to the Consortium. If the Consortium fails to pay the amount of the termination liability and benefit reductions are required under Government Code section 20577, CalPERS will notify current and former employees of the Consortium of this decision before the implementation of the reduction. The reduction in members' benefits will occur on the first pay period 30 days after the contract termination date.

Budget and Fiscal Impacts
Termination of the pension contracts and addressing the outstanding liabilities of the Consortium through the reduction in benefits will align the benefits received by members with the contribution amounts paid into the System on their behalf.

Benefits and Risks
CalPERS is charged with administering the System in accordance with the law. Enforcing the provisions of CalPERS' contracts and the Public Employees' Retirement Law with respect to contract terminations and resulting benefit reductions, when appropriate, helps ensure that employers contracting with CalPERS comply with the statutory provisions governing the System. This includes agreeing to timely payment of required contributions and termination liabilities in order to fully fund benefits accrued

prior to termination. The Board has a fiduciary duty to ensure the integrity of the System in order to pay benefits and to protect the soundness of the System when employers do not pay their required contributions to CalPERS.

Other contracting agencies will not be impacted by the involuntary termination of the Consortium. However, the retirement benefits of a total of 62 retirees and 135 separated employees will be impacted by future benefit reductions.

Attachments
Attachment 1 – East San Gabriel Valley Human Services Consortium PowerPoint
Attachment 2 – Final Collections Letter
Attachment 3 – Formal Demand Letter
Attachment 4 – Payment Request – City of Azusa
Attachment 5 – Payment Request – City of Azusa Response
Attachment 6 – Payment Request – City of Covina
Attachment 7 – Payment Request – City of Covina Response
Attachment 8 – Payment Request – City of Glendora
Attachment 9 – Payment Request – City of Glendora Response
Attachment 10 – Payment Request – City of West Covina
Attachment 11 – Payment Request – City of West Covina Response

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