

# ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



## STAFF REPORT

**MEETING DATE:** 9/13/2023

**Staff Report No.** 23-414

**TO:** AC Transit Board of Directors  
**FROM:** Michael A. Hursh, General Manager/Chief Executive Officer  
**SUBJECT:** 457(b) Plan Services RFP

### ACTION ITEM

**AGENDA PLANNING REQUEST:**

**RECOMMENDED ACTION(S):**

Consider authorizing the issuance of a Request for Proposal (RFP) for 457(b) Plan Administrative Services.

Staff Contact:  
Chris Andrichak, Chief Financial Officer

**STRATEGIC IMPORTANCE:**

Goal - High-Performing Workforce  
Initiative - Employee Recruitment, Training and Retention

Having a well-managed defined contribution 457(b) plan for employees is a significant benefit for employees. In addition, as part of their fiduciary duties, retirement plan fiduciaries should periodically evaluate the services and costs of the plan's service providers to confirm appropriateness.

**BUDGETARY/FISCAL IMPACT:**

There is no budgetary or fiscal impact to the District from approving release of an RFP. The fees paid to the administrative services provider (also known as a recordkeeper) - currently Empower Retirement (Empower) - and the investment providers come from the plan assets (investments) owned by the participants. As of the end of February 2023, the total plan assets were approximately \$150 million. The estimated yearly fee total owed to Empower out of the plan assets was \$250,000 or 0.17% of total plan assets, along with approximately \$220,000 in fees paid to the investment providers or 0.15% of total plan assets.

**BACKGROUND/RATIONALE:**

The District's current Internal Revenue Code Section 457(b) deferred compensation plan has Empower as its administrative services provider (also known as a recordkeeper). Empower took over this contract by acquiring the retirement plan business of the Massachusetts Mutual Life Insurance Company (MassMutual) in 2021. MassMutual had previously acquired the retirement plan business of The Hartford Financial Services Group.

In the past few years, two new federal bills have been passed, significantly affecting defined contribution plans such as the District's 457(b) plan. These bills are the Setting Every Community Up for Retirement

Enhancement (SECURE) Act from 2019 and the follow-up SECURE Act 2.0 of 2022. These bills made numerous changes to the rules that govern the various types of defined contribution plans such as the District's 457(b) plan. Because of the changes, staff felt it would be prudent to review the District's plan, the performance of its administrative services provider, and plan governance. Additionally, numerous retirement plans have been sued recently by plan participants, alleging, among other things, that plan fiduciaries have not correctly managed plan service provider costs and services; plaintiffs have won or favorably settled many of these cases. Staff has secured the services of Buck Global to conduct a review of the District's plan, service provider, and governance; one of the recommended best practices is to periodically conduct a recordkeeper Request for Proposals (RFP).

The RFP will provide the market-based information that staff and the consultant need to evaluate the services of Empower and ensure that plan participants are receiving the most favorable combination of administrative support, investment products selection, and accompanying fee structure. Buck has significant experience in defined contribution plan reviews and RFPs and will be assisting staff in the process.

In addition, staff will likely need to return to the Board to formalize any governance changes and possible plan amendments. These have yet to be determined.

**ADVANTAGES/DISADVANTAGES:**

The main and significant advantage of the RFP process is to provide the District a basis for evaluation that the District's plan and its participants are receiving favorable support and competitive investments and fees in accordance with fiduciary requirements. Staff does not see any disadvantage to conducting the RFP.

**ALTERNATIVES ANALYSIS:**

The District could continue with the current Empower contract without conducting an RFP, but this would significantly limit staff and the consultant's ability to evaluate the value for the services currently provided as a fiduciary best practice.

**PRIOR RELEVANT BOARD ACTION/POLICIES:**

Board Policy 465 - Procurement Policy

**ATTACHMENTS:**

None

**Prepared by:**

Chris Andrichak, Chief Financial Officer

**In Collaboration with:**

Kenneth Myers, Controller

**Approved/Reviewed by:**

Chris Andrichak, Chief Financial Officer

Jill A. Sprague, General Counsel/Chief Legal Officer