



STATE OF WISCONSIN
Department of Employee Trust Funds
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CORRESPONDENCE MEMORANDUM

DATE: October 9, 2012
TO: Wisconsin Deferred Compensation Board
FROM: Shelly Schueller, Director
Wisconsin Deferred Compensation Program
SUBJECT: Administrative Services Agreement Amendment: Unforeseeable Emergencies and Miscellaneous Participant Fees

Staff recommends the Board approve an amendment to the administrative services agreement with Great-West Retirement Services (GWRS) for the Wisconsin Deferred Compensation Program (WDC).

The proposed administrative services agreement amendment between the Board and GWRS has two components, which are explained below:


1. Unforeseeable Emergencies. The WDC is required to follow the Internal Revenue Code (IRC) and Wisconsin Administrative Code Chapter ETF 70.10 when granting a financial emergency hardship withdrawal (also called an unforeseeable emergency).

The decision to either allow or deny an unforeseeable financial emergency hardship withdrawal application is subject to each Section 457 plan provider's interpretations of the rules and how they apply to individual situations. Each participant's financial emergency hardship withdrawal application must be carefully evaluated, and the importance of applying the rules and procedures consistently cannot be understated. As illustrated in the table on page 2, the number of participants requesting unforeseeable financial emergency hardship applications, and the workload associated with them, has increased dramatically over the past three years.

Currently, GWRS works with participants to assemble their financial hardship documentation and uses existing federal criteria to make an initial recommendation to the Department of Employee Trust Funds (ETF) to either approve or deny an application. ETF is responsible for making the final decision and GWRS notifies participants of the outcome.

ETF requested its legal counsel to review state statutes and administrative code relating to unforeseeable financial emergency hardships. Counsel has agreed that it is permissible under existing state laws for the Board to expressly delegate the decision to

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DC	11.6.12	9

Reviewed and approved by Matt Stohr, Administrator,
Division of Retirement Services

Signature _____ Date 10/12/12

approve or deny an unforeseeable financial emergency hardship application to GWRS. GWRS is willing to assume this responsibility, as outlined and authorized in the attached proposed amendment. Department staff recommends the Board consider authorizing GWRS to make the decisions regarding unforeseeable financial emergency hardship applications. If a WDC participant disagrees with a decision on a hardship application, the existing process for appealing a decision, provided in ch. ETF 11, WI Admin. Code, remains in place. A participant may request that the Department provide a written determination regarding a financial emergency hardship application. This determination may then be formally appealed in writing to the Board.

WDC FINANCIAL EMERGENCY HARDSHIP APPLICATIONS

Year	Hardships submitted to ETF	Approved	Percent Approved	Denied	Percent Denied	Dept. Determ. Letters	Appeals
2012 (to date)	128	121	95%	7	5%	0	0
2011	215	191	89%	24	11%	1	0
2010	218	205	94%	13	6%	2	0
2009	160	151	94%	9	6%	3	1
2008	119	112	94%	7	6%	2	0
2007	135	115	85%	20	15%	2	0
2006	106	83	78%	23	22%	5	0
2005	79	71	90%	8	10%	3	0
2004	51	48	94%	3	6%	2	0
TOTALS	1,083	976	90%	107	10%	20	1

2. Miscellaneous Participant Fees. Article 7.6.G of the contract between the Board and GWRS permits GWRS to charge participants a fee for certain distribution requests. The proposed new contract language clarifies that the services for which there is a miscellaneous fee are: overnight delivery; and one-time electronic Automated Clearing House (ACH) delivery of partial and full withdrawals. Additionally, this fee is assessed for each type of account (e.g., traditional and Roth). Therefore, if a participant has a distribution from both types of accounts, the fee is assessed on both accounts. Instead of all participants in the plan bearing the costs for these special one-time distribution requests, this fee is assessed by GWRS to the individual participants requesting it.

A draft contract amendment containing the proposed changes is attached to this memo for your review and consideration. If this recommendation is adopted, staff will finalize the contract amendment with GWRS and the Board Chair will be asked to sign it.

Staff will be available to discuss this recommendation at the board meeting on November 6, 2012.

Attachment: Eighth Amendment to the WDC Administrative Service Contract

Important Note: Service Agreement Amendments, Pricing Change Agreements, and other contractual documents must be duly executed by both parties prior to the effective date of the changes. Backdating contracts or funding agreements is in violation of our corporate governance and regulatory requirements. Changes cannot be implemented prior to the date all documents are fully executed, even if that requires the effective date to be postponed. There are no exceptions to the rule that the effective date must follow the date all documents are executed.

**EIGHTH AMENDMENT TO THE
STATE OF WISCONSIN DEFERRED COMPENSATION PROGRAM
ADMINISTRATIVE SERVICE CONTRACT (ETE0005) BETWEEN
THE STATE OF WISCONSIN DEFERRED COMPENSATION BOARD
AND GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY**

This Eighth Amendment to the State of Wisconsin Deferred Compensation Program Agreement for Administrative Services Including Recordkeeping and Communications (hereinafter "EIGHTH AMENDMENT") made and entered into between the State of Wisconsin Deferred Compensation Board ("BOARD") on behalf of the State of Wisconsin Deferred Compensation Program ("PLAN") and Great-West Life & Annuity Insurance Company ("GREAT-WEST") pursuant to Article 2.8 of the Agreement for Administrative Services Including Recordkeeping and Communications ("CONTRACT") to amend the CONTRACT between the parties.

WHEREAS, the BOARD and GREAT-WEST desire to amend the CONTRACT to add additional services to the CONTRACT.

NOW THEREFORE, the parties hereby agree as follows:

1. Effective with the execution of this EIGHTH AMENDMENT, Articles 3.17 and 4.7 of the CONTRACT, shall be deleted and replaced in their entirety with the following new Article 3.17:

"3.17 Unforeseeable Emergencies

BOARD authorizes the Department of Employee Trust Funds ("DEPARTMENT") to instruct GREAT-WEST to process and either approve or deny, without DEPARTMENT signature, all Unforeseeable Emergency Requests ("Requests") received in good order, and in a manner satisfactory to GREAT-WEST, due to an unforeseeable emergency as described below resulting in a severe financial hardship to the participant or beneficiary that cannot be alleviated by any other means available to the participant. DEPARTMENT further instructs GREAT-WEST to rely on any and all representations made by a participant in a Request, including, but not limited to:

1. An illness or accident of the participant or beneficiary, the participant's or beneficiary's spouse, or participant's or beneficiary's dependent (as defined in Internal Revenue Code §152, and for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B));
2. Loss of the participant's or beneficiary's property due to casualty;
3. The following extraordinary and unforeseeable circumstances if they arise as a result of events beyond the control of the participant or beneficiary:
 - a. The imminent foreclosure of or eviction from the participant's or beneficiary's primary residence;
 - b. The need to pay for medical expenses, including nonrefundable deductibles, as well as the cost of prescription drug medication; and
 - c. The need to pay for the funeral expenses of a spouse or a dependent (as defined in Internal Revenue Code §152, and, for taxable years beginning on or after January 1, 2005, without regard to §152(b)(1), (b)(2) and (d)(1)(B)) of participant or beneficiary.

SITUATIONS NOT QUALIFYING FOR WITHDRAWAL

Except in extraordinary circumstances, the following are examples of situations that are not considered eligible for withdrawal:

1. Purchase of real estate;
2. Payment of college tuition;
3. Unpaid rent or mortgage payments, except in the event of imminent foreclosure or eviction;
4. Unpaid utility bills;
5. Loan repayments;
6. Personal bankruptcy (except when resulting directly and solely from illness, casualty loss or other similar extraordinary and unforeseeable circumstances beyond the participant's control);
7. Payment of taxes, interest or penalties; or
8. Marital separation or divorce.

For each participant receiving an unforeseeable emergency distribution, the BOARD authorizes DEPARTMENT to instruct GREAT-WEST to notify the appropriate payroll department to suspend elective deferrals for the period required by the PLAN. For each Request that cannot be approved due to its failure to satisfy the criteria for an unforeseeable emergency event or due to a failure to provide information necessary to process the REQUEST, the BOARD authorizes DEPARTMENT to instruct GREAT-WEST to notify the participant that he or she can request a department determination from DEPARTMENT.

After receiving the notice from GREAT-WEST, the participant may file a written request with DEPARTMENT for a department determination. The written request must be received by DEPARTMENT within 60 days of the date of the notice from GREAT-WEST. The participant may appeal in writing to the BOARD the department determination that was issued by DEPARTMENT. The appeal must be received by the BOARD within 90 days of the date of the department determination.

The BOARD agrees to provide GREAT-WEST direction in unusual circumstances upon request.

In the event of any changes to applicable laws and/or regulations, GREAT-WEST shall revise this authorization and instruction and shall provide notice of these revisions to DEPARTMENT. This authorization and instruction shall remain in effect until revoked by agreement of the parties.”

2. Effective with the execution of this EIGHTH AMENDMENT, Article 7.6.G of the CONTRACT shall be deleted and replaced in its entirety with the following new Article 7.6.G:

“G. Should a Participant request an overnight delivery, GREAT-WEST will assess the Participant its current overnight delivery fee.

Should a Participant request a payment via Automated Clearing House (ACH) for partial and full withdrawals, GREAT-WEST will assess the Participant its current ACH fee (for each

type of account - i.e. traditional and Roth). Should a Participant request periodic payments via ACH, GREAT-WEST will not assess an ACH fee.”

3. Except for additional terms, conditions, and modification contained in this EIGHTH AMENDMENT, and any other modifications contained in this EIGHTH AMENDMENT, all other terms of the CONTRACT, including amendments thereto remain unchanged and shall continue to apply with respect to the CONTRACT.

IN WITNESS WHEREOF, THE BOARD, ON BEHALF OF THE STATE OF WISCONSIN, AND GREAT-WEST HAVE EXECUTED TWO (2) ORIGINALS OF THIS EIGHTH AMENDMENT EFFECTIVE THE _____ DAY OF _____, 2012.

For: State of Wisconsin Deferred Compensation Board

Name: Edward D. Main
Title: Deferred Compensation Board Chair
Signature: _____ Date: _____

Witnessed by

Name: _____
Title: _____
Signature: _____ Date: _____

For: Great-West Life & Annuity Insurance Company

Name: Brent Neese
Title: Vice President, Government Markets
Signature: _____ Date: _____

Witnessed by

Name: _____
Title: _____
Signature: _____ Date: _____