



STATE OF WISCONSIN
Department of Employee Trust Funds
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CORRESPONDENCE MEMORANDUM

DATE: January 23, 2013
TO: Wisconsin Deferred Compensation Board
FROM: Steve Hurley, Director, Office of Policy, Privacy and Compliance
SUBJECT: Draft Board Procedure on Vendor Procurement Appeals

Staff recommends the Wisconsin Deferred Compensation Board (Board) approve the attached vendor procurement appeals procedure.

The attached procedure is intended to guide the handling of vendor appeals of procurement awards made by the Board. Under Chapter 40, the Board is vested with the power to select and contract with deferred compensation plan providers.¹ Solicitations for requests for bids and requests for proposals include provisions that instruct bidders on the process for appealing a contract award.

Summary

- The vendor has five days from the issuance of the intent to award, to notify the Department of Employee Trust Funds (ETF) of an intention to appeal.
- ETF will forward to the Board any written notices of intent to appeal.
- The vendor has ten days from issuance of the intent to award to submit a formal appeal to ETF.
- The vendor can only submit an appeal once per award.
- ETF will review and submit the appeal to the board with a recommendation.
- The Board has final authority on the appeal.

Staff will be available at the meeting to answer questions.

Attachment: Deferred Compensation Board Procedure on Vendor Procurement Appeals

¹ 40.80(1) The deferred compensation board shall select and contract with deferred compensation plan providers to be used by state agencies for providing deferred compensation plans to state employees.

(2) The deferred compensation board shall:

(a) Determine the requirements for and the qualifications of the deferred compensation plan providers.

(b) Approve the terms and conditions of the proposed contracts for administrative and investment services.

(c) Determine the procedure for the selection of the deferred compensation plan providers.

Reviewed and approved by Robert J. Marchant, Deputy Secretary

Electronically signed 2/1/13

| Board | Mtg Date | Item # |
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| DC | 2.19.13 | 4 |

Deferred Compensation Board Procedure Vendor Procurement Appeals

Authority: Wis. Stat. §§ 40.80(1), (2)

Phase One: Notice of Intention to Appeal Received by Department

1. Board authorizes Employee Trust Funds (ETF) staff to issue "intent to award" to the successful bidder.
2. ETF staff issue the intent to award to the successful bidder and notify all firms who submitted a bid.
3. Vendors who wish to appeal the award **MUST** send a written notice that they intend to appeal the decision to the Board, c/o the Secretary of ETF, within 5 business days after the intent to award notice is sent.
4. Upon receiving the written intent to appeal from the vendor, the ETF Secretary will forward the notice to all Board members.

Phase Two: Formal Appeal Received by Department

5. Within 10 days from the issuance of the intent to award, the vendor **MUST** submit the formal appeal in writing to the Board, c/o the Secretary of ETF.
6. The appeal must state the contract number, detailed factual grounds for the objection to the contract award, and any statutes and administrative codes that were violated.
7. If the vendor withdraws the intention to appeal or does not follow up within 10 days with a formal appeal, the ETF Secretary will notify the Board that the matter is adjudicated and no Board action is required.
8. The Secretary forwards the formal appeal to the Board.
9. All communications and documentation will be maintained with the procurement file.
10. The ETF Secretary will direct ETF Legal Counsel and the ETF Director of Procurement to investigate the alleged violation of the Statutes or Administrative Code.
11. The results of the investigation will be forwarded to the Board in writing and include a recommendation to the Board as well as legal and factual support for the recommendation.

Phase Three: Board Decision

12. The Board reviews the appeal and ETF's recommendation.
13. The Board renders a decision. For most appeals, the options available to the Board are: rescind the original intent to award and direct staff to issue the award to a different bidder; rescind the original intent to award and direct staff to terminate the procurement; or deny the appeal and proceed with implementing the original decision.
14. Following Board action, a written decision will be sent to the vendor appellant. The vendor appellant is allowed one appeal per procurement contract or process. All Board decisions are considered final.