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## ***Correspondence Memorandum***

**Date:** August 14, 2024  
**To:** Deferred Compensation Board  
**From:** Shelly Schueller  
 Deferred Compensation Director  
**Subject:** 2023 Contract Compliance Audit Update

**This memo is for informational purposes only. No Board action is required.**

The Department of Employee Trust Funds (ETF) and Empower have discussed the recommendations identified in the calendar year 2023 (CY2023) Wisconsin Deferred Compensation Program (WDC) contract compliance audit ([Ref. DC | 06.06.24 | 4](#)). A total of four items and four process improvement considerations were recommended in the Office of Internal Audit's (OIA's) WDC Contract Compliance Audit. This memo provides an update on the actions taken related to these findings.

### **Summary of Audit Findings, Recommendations, and Management Response (Actions in Progress/Taken)**

The WDC Contract Compliance Audit had four findings and four recommendations for actions for Empower and ETF to take. The four findings are related to:

1. Quarterly Service Level Agreement Reporting
2. Self-Directed Option (SDO) Required Minimum Balances and Participant Fees
3. Equity Wash Requirements
4. Contribution Limit Review

#### 1. Quarterly Service Level Agreement Reporting

Recommendations for Empower:

- a) Implement a process to ensure records can be provided to ETF to allow for timely monitoring and validation of performance standards.
- b) Implement a report review process to ensure the quarterly Service Level Agreement Report is accurate.

*Patti Epstein*

Reviewed and approved by Patti Epstein, Chief Benefits Officer, Division of Benefits Administration  
 Electronically Signed 08/22/2024

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Empower's Management Response (Action in Progress):

- a) Empower is in the process of reviewing options to determine what is feasible regarding records that can be shared with ETF to validate performance standards.
- b) Empower is reviewing its internal processes that ensure each quarterly Service Level Agreement Report is accurate.

Recommendations for ETF:

- a) Require supporting documentation be submitted with the Quarterly Service Level Agreement Reports or as requested and consider a contract penalty for instances when requests for supporting documentation are not timely or accurately provided.
- b) Perform regular reviews or sample verifications of performance standards.
- c) Amend the contract language to clarify the appropriate scale to be used for the Employer Survey.

ETF's Management Response (Action in Progress):

- a) Empower is in the process of completing an internal review of its performance standards to determine what documentation may be available to plan sponsors. Results of this review will be shared with ETF this fall.
- b) Once the results of Empower's internal review are shared with ETF, ETF will evaluate its options regarding performance standard oversight. If appropriate and feasible, a contract amendment that includes provisions for requested supporting documentation or revising WDC performance standards may be proposed for Board consideration.
- c) ETF will include language on the employer survey scale with the next contract amendment or extension, whichever comes first.

2. SDO - Required Minimum Balances and Participant Fees

Recommendation for Empower: Empower should implement procedures and controls to ensure required minimum balances in the core investment options are maintained for participants utilizing the SDO, and participant fees are appropriately charged.

Empower's Management Response (Actions Taken): Empower has been briefed on the Plan and Trust changes recommended by ETF and will implement them upon Board approval.

Recommendation for ETF: ETF should identify changes that may be warranted to ensure required minimum core investment balance is maintained for participants utilizing the SDO, and participant fees are appropriately charged.

ETF's Management Response (Actions in Progress): Proposed changes include charging an annual \$60 SDO fee, which would be debited from participant accounts at \$15 per quarter, increasing the minimum balance from \$1,000 to \$3,000 to establish a SDO account, and requiring a minimum balance of \$2,500 be maintained in the core investment spectrum.

ETF recommends revisions to Article VIII of the WDC Plan and Trust to implement these proposed changes. These changes will be discussed as part of the Plan and Trust agenda item at the September Board meeting. ([Ref. DC | 09.12.24 | 10](#)).

### 3. Equity Wash Requirements

Recommendation for Empower: Empower should determine the cause for the override of the transfer from the Stable Value Fund to a competing investment option and implement a process to ensure equity wash requirements are adhered to.

Empower's Management Response (Actions Taken): The override of the transfer was due to a manual oversight. The manager who approved the override is no longer with Empower. The call center representative who entered the override has been provided additional coaching and training. The participant account was corrected, and the participant was notified in writing of this correction.

### 4. Contribution Limit Review

Recommendation for Empower: Empower should improve its calculation of over deferral projections to accurately identify participants who are at or near exceeding the maximum contribution limit and provide notification to those participants.

ETF's and Empower's Management Responses (Actions Taken): ETF and Empower discussed the over deferral project parameters used by the local WDC office in May 2024 and agreed on revisions to certain internal Empower procedures that should result in improvements to this process.

## **Summary of Audit Process Improvement Considerations and Actions Taken**

The CY2023 WDC Contract Compliance Audit recommended three process improvements for ETF and one for Empower. ETF's process improvements and the actions taken thus far are as follows:

1. Impose penalties associated with failed performance standards each quarter, rather than only if the performance standard is missed for two consecutive quarters.

Action Taken: After discussion, ETF and Empower agree this topic should be included with any future contract amendments or contract extension negotiations.

2. Review performance standards with Empower to determine whether certain performance standards can be reported at plan level and whether Empower can accommodate this.

Action Taken: Empower is internally reviewing this consideration. Empower states that their performance standards are consistent across their “book of business,” and no government clients receive the additional level of performance standard reporting suggested by this contract compliance finding. ETF agrees that this topic should be included with any future contract amendments or contract extension negotiations.

3. Work with Empower to correct a participant’s Social Security Number (SSN) identified as incorrect for the WDC based on ETF data.

Action Taken: SSN was corrected on April 18, 2024.

Empower’s one process improvement and the action taken thus far is follows:

1. Determine the cause for managed account fees that are not charged a prorated fee at the time of full withdrawal and implement process to ensure managed account fees are appropriately collected. These fees are collected by Empower and do not impact the funds used to administer the WDC.

Action Taken: This is a known internal issue at Empower. It does not impact the WDC as the managed account fees are paid directly to Empower.

ETF is satisfied with the changes resulting from the audit findings thus far and expects closure on all CY2023 WDC Contract Compliance Audit findings by the end of 2024. Another update will be provided at the December 2024 Board meeting.

Staff will be at the Board meeting to answer any questions.

Attachment A: [OIA WDC Audit Tracking Spreadsheet](#)