



STATE OF WISCONSIN
Department of Employee Trust Funds
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CORRESPONDENCE MEMORANDUM

DATE: September 2, 2014
TO: Employee Trust Funds Board
FROM: Mary Alice McGreevy, Compliance Officer
Office of Policy, Privacy and Compliance
SUBJECT: Delegation of Authority to Solicit Proposals For and Contract with Federal Tax Counsel


Staff recommends the Board delegate to the Department of Employee Trust Funds (ETF) the authority to solicit proposals for, and to contract with, federal tax counsel.

BACKGROUND

State law requires the Board and ETF to ensure the Wisconsin Retirement System (WRS) complies with and is administered in a manner consistent with the Internal Revenue Code (IRC). Wis. Stat. § 40.03 (1)(am) and (2)(t). Federal tax law, and a pension system's compliance with it, is a highly complex and specialized field of the law. The Board last approved a delegation of authority in 2008, and in early 2009 ETF contracted with outside tax counsel pursuant to that delegation of authority. The Department has used all extensions on the current contract, which is expiring next year. Staff believes ETF and the Board would benefit by again retaining tax counsel who has experience representing public retirement plans before the Internal Revenue Service (IRS).

The Board is authorized by law to employ or select any legal contractors as required for the administration of the Trust Fund. Wis. Stat. § 40.03 (1)(c). The Board may also delegate its powers or duties as deemed necessary or desirable. Wis. Stat. § 40.03 (1)(L).

All benefit plans administered by ETF are affected by the IRC. The WRS is a tax-qualified plan that is heavily regulated by the IRC. During the past five years of work with outside tax counsel, ETF has received two favorable determination letters from the IRS, which ensure the WRS plan document is in compliance with the IRC. In addition,

Reviewed and approved by Steve Hurley, Director, Office of Policy, Privacy & Compliance

Electronically Signed:
09/09/2014

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the relationship with outside tax counsel has involved numerous other tax projects, including: domestic partner benefits; the Act 32 study; Social Security Number Verification Service use; non-wage payments; disability benefit withholdings; disability survivor benefits; post-*Windsor* decision effects on the WRS; 401(a)(17) limitations; legislative proposals; wellness program tax impacts; and other ad hoc issues. The Department is currently conducting a thorough review of the taxation reporting processes at ETF with the assistance of outside tax counsel.

JUSTIFICATION

The Department has found working with outside tax counsel to be highly valuable not only for the compliance of our complex benefit programs, but also from a staff training and education perspective. To continue our efforts in effectively managing one of the largest public pension funds in the country, it is imperative that ETF continue to manage the WRS in express compliance with the IRC, and maintaining a working relationship with effective and experienced outside tax counsel is a very important component of that compliance. It is important and beneficial to have the ability to consult with counsel who specializes in tax law, has extensive experience handling tax matters before the IRS, and has experience working with public pension plans on a regular basis.

The Department anticipates soliciting proposals for and entering into a one-year contract, with five, one-year extensions.

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