

13227

Date: August 2, 2010

To: Board of Acquisition and Contract

From: Ann Marie Berg
Commissioner of Finance

Re: **Resolution Authorizing the County of Westchester to enter into an Agreement with Labor Cost Management for the Provision of Social Security and Medical Insurance Tax Recovery Services on a Contingency Fee Basis, for a One (1) Year Term Commencing on September 1, 2010 and Terminating on August 31, 2011**

Attached for your consideration is a Resolution which, if approved by your Honorable Board, would authorize the County of Westchester, acting by and through the Department of Finance (the "Department"), to enter into a contract with the firm of Labor Cost Management, Troy, New York, for the purpose of providing Social Security and Medical Insurance Tax overpayment recovery services related to loss time injury cases for a term of one (1) year, commencing on September 1, 2010 and terminating on August 31, 2011. Said services shall be performed for tax years 2007, 2008 and 2009. In consideration for said services, Labor Cost Management will retain 25% of the County's portion of all refunds or credits secured.

In addition to recovering tax overpayments on behalf of the County itself, Labor Cost Management will also offer recovery services on behalf of those injured County workers who specifically authorize such recovery. Any funds recovered on behalf of such injured County employees will not be subject to any contingency fees and will be fully refundable to the injured employees.

Pursuant to Regulation 1.104-1(b) and Section 3121(a) of the Internal Revenue Service Code, wages paid in lieu of or as part of Worker's Compensation benefits are exempt from Social Security and Medicare tax payments. This includes the use of leave time and wages paid during the "waiting period." The tax exempt status of these wages is limited to 66 & 2/3% of the average weekly benefit awarded to the individual employee for non Section 207a & c covered employees. Wages paid to workers covered under Section 207-c are 100% exempt for periods meeting the Worker's Compensation Law standards. Tax overpayments are recoverable for three years, three months and fifteen

days from the close of the tax year. The recovery period can be extended by one year if a protective claim is filed with the IRS prior to this date.

Labor Cost Management, founded in 1984, is a full service management consulting firm located in Troy, New York. All work relating to Social Security and Medicare tax recovery is performed by the Firm. These services include, without limitation, review of all records, preparation of all amended filings, handling of all inquiries both from employees and Federal agencies.

Authority to exempt this Agreement from the requirements of the Westchester County Procurement Policy and Procedures pursuant to Section 3(a)xxi thereof, has been submitted to your Honorable Board in accordance with a separate resolution of even date herewith.

This contract will serve a public purpose by bringing additional revenue to the County which would otherwise be lost.

The goals and objectives of this Agreement are to provide a means for the County to recover overpayments of social security and medical insurance taxes.

The goals and objectives are in the best interests of the County in terms of fiscal responsibility because this service will make it possible for the County to generate additional revenue by recovering overpayments of social security and medical insurance taxes.

The goals and objectives of this Agreement will be tracked and monitored by the Department on the basis of the amount and the frequency of recoveries generated for the County by Labor Cost Management.

Accordingly, your favorable action on the annexed Resolution is urged and recommended.

AMB/JPG/sw
Attachment

RESOLUTION

Upon a communication from the Commissioner of Finance, be it hereby

RESOLVED, that the County of Westchester is hereby authorized to enter into an agreement with the firm of Labor Cost Management, Troy, New York, for the provision of Social Security and Medical Insurance Tax overpayment recovery services for tax years 2007, 2008 and 2009 on behalf of the County of Westchester and those injured County employees who authorize recovery, for a one (1) year period commencing on September 1, 2010 and continuing through August 31, 2011; and it is further

RESOLVED, that in consideration for the provision of said tax recovery services on behalf of the County of Westchester, Labor Cost Management shall retain 25% of the County's portion of all refunds or credits secured; and it is further

RESOLVED, that there shall be no charge by the Firm for recovery services rendered on behalf of those injured County workers who specifically authorize such recovery; and be it further

RESOLVED, that the County Executive or his duly authorized designee is hereby authorized to take such action and execute such documents as may be necessary and proper to effect the purposes hereof.

Account to be Charged/credited	Fund	Agency	Capital Project Or Org	Revenue Code	Trust Account	Activity	Dollars
	101	52	1000	9670	N/A	N/A	Subject to the Amount Recovered.

Budget Funding Year(s) 2010 Start Date 9/01/2010 End Date 8/31/2011
 (must match resolution)

Funding Source Tax Dollars _____
 State Aid _____
 \$ Revenue _____ Federal Aid _____
 (must match resolution) Other Revenue _____