

Robert P. Astorino
County Executive

Department of Finance

Ann Marie Berg
Commissioner

29670

DATE: October 4, 2012

TO: Honorable Members of the 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 Medicare Tax Recovery Services on a Contingency Fee Basis, for a Five (5) Year Term Commencing October 1, 2012 and Ending September 30, 2017

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 Medicare Tax overpayment recovery services related to loss time injury cases for a term of five (5) years, commencing October 1, 2012 and ending September 30, 2017. Said services shall be performed for tax years 2010, 2011, 2012, 2013 and 2014. 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 refunds 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 from

the close of the tax year. The recovery period can be extended 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 related 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 of 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 medicare 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 medicare 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/DCK/ih
Attachment

RESOLUTION

UPON A COMMUNICATON 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 Medicare Tax overpayment recovery services for open tax years on behalf of the County of Westchester and those injured County employees who authorize recovery, for five (5) year period commencing on October 1, 2012 and continuing through September 30, 2017; 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	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
101	52	1000	9670	N/A	Subject to the Amount Recovered.

Budget Funding Year(s) 2012 Start Date 10/1/2012 End Date 9/30/2017
 (must match resolution)
 Funding Source Tax Dollars _____
 State Aid _____
\$ Revenue Federal Aid _____
 (must match resolution) Other Revenue \$ _____