

Board Meeting
November 13, 2008

ROLL CALL

APPROVE RESTATEMENT OF 403(b) PLAN DOCUMENT TO COMPLY WITH
THE NEW FINAL INTERNAL REVENUE SERVICE REGULATIONS GOVERNING
403(b) PLANS

Action: Approve Restatement of 403(b) Plan Document to Comply with the New
Final Internal Revenue Service Regulations Governing 403(b) Plans

Funding: No New Funding Required

University Human Resources recommends for approval a restatement of the Plan document for the *University of Illinois Supplemental 403(b) Retirement Plan* (“Plan”), to incorporate provisions into the Plan which will allow the University to comply with the new final 403(b) regulations. The Internal Revenue Service (IRS) issued the regulations on July 26, 2007, to be effective January 1, 2009.

The subject of this Board item is Phase II of a two-phase process of updates to the Plan, which began with Board approval on January 17, 2008, to allow Roth 403(b) contributions and non-spouse beneficiary rollovers. Phase II involves further Plan changes precipitated by the Pension Protection Act of 2006 and the final 403(b) regulations.

The regulations are a comprehensive update of more than 40 years of guidance on 403(b) plans, as well as statutory changes made during that time. The

regulations are the result of a four-year effort of proposals, comments, educational sessions, and discussions between the IRS and the college and university constituents. Almost all facets of a 403(b) plan are affected by the regulations.

To ensure the University reaches full compliance by January 1, 2009, University Human Resources is engaged in several projects to accomplish the following required by the regulations:

- **Have a written Plan Document** – The University’s existing Plan document is being redrafted to comply with the new 403(b) regulations.
- **Issue Universal Availability Notices** – The right to make 403(b) contributions must be communicated annually to all individuals eligible to participate in the Plan, as well as to all new hires. This is being integrated into the NESSIE New Hire system for electronic distribution to new hires. The annual notice will be distributed primarily via email; however, some paper notices may need to be issued.
- **Engage in Information Sharing Agreements** – Appropriate language is being incorporated into Service Provider Agreements with approved vendors only (Fidelity and TIAA-CREF, effective 2/1/04).
- **Coordinate 415 Limit Requirements** – The University must ensure that contributions to the Plan, when added to employee contributions made to any outside retirement plans that are required to be aggregated with the University's Plan, do not exceed established section 415 limits. Compliance will likely be coordinated through use of a vendor compliance tool and associated services.
- **Coordinate Loans, Hardship Withdrawals, and Distributions** – Prior to the new regulations, employees were allowed to self-certify for loans, hardship

withdrawals, and distributions. The University is now required to determine how loans and hardships will be processed, substantiated, and approved. Compliance will likely be coordinated through use of a vendor compliance tool and associated services.

Due to the significant number of changes precipitated by the regulations, the attached document, “Comparison of Significant Differences Between Current University of Illinois Supplemental 403(b) Retirement Plan and Restatement of Plan,” has been included to detail the provisions of the University’s 403(b) Plan document that are affected by the regulations.

Since the inception of the University of Illinois Supplemental 403(b) Retirement Plan in July 1964, the Plan has operated with relatively little cost to the University or employees, beyond standard plan administration. As a governmental Plan not subject to the requirements of the Employee Retirement Income Security Act (ERISA), the University previously bore no fiduciary responsibility. The final 403(b) regulations require plan sponsors to play a more active role in, and assume greater responsibility for, plan administration, similar to requirements already in effect for 401(k) plans. A direct result of these increased responsibilities is an increase in employer costs.

These costs are comprised of legal services provided by an external law firm specializing in employee benefits, approved through University Counsel, as well as the use of a vendor compliance tool. Many of the costs associated with the vendor compliance tool such as processing loans and hardships will be passed along to participants, allowing the University to contain costs it had not previously incurred. The annual cost for the compliance tool should be held to a total of less than \$10,000,

permitting the University to continue offering this valuable benefit to employees, despite the additional cost.

Because the regulations require significant administrative changes to the 403(b) Plan, a considerable effort will be undertaken to communicate these changes to both participants and non-participants in November and December 2008.

Both of the University's 403(b) Plan vendors, Fidelity and TIAA-CREF, have agreed to comply with all recordkeeping and other legal requirements. These requirements have been cleared by an external law firm specializing in employee benefits. The text of the restated Plan document is compliant with applicable mandates and has been reviewed by the external law firm, with authorization from University Counsel.

It is recommended that the Board of Trustees approve and adopt the attached Plan document, restated as discussed above, as the document governing the administration of the University of Illinois Supplemental 403(b) Retirement Plan.

The Board action recommended in this item complies in all material respects with applicable State and federal laws, University of Illinois *Statutes*, *The General Rules Concerning University Organization and Procedure*, and Board of Trustees policies and directives.

The Vice President/Chief Financial Officer and Comptroller concurs.

The President of the University recommends approval.