

AGENDA ITEM

702 SEPTEMBER 2015

DATE: September 21, 2015

TO: Members, Board of Trustees

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Exception to the CalPERS 180 Day Wait Period to Contract with Retiree

EXECUTIVE SUMMARY

To comply with California Public Employee Retirement System (CalPERS) requirements, Board of Trustees action is required to authorize the State Bar to contract with a former employee retired under CalPERS, within six (6) months of retirement. Denise Teraoka, formerly a Grade 8 Bargaining Unit Senior Administrative Assistant in the IOLTA Trust Fund Office, retired July 2, 2015. As part of her job, she administered for the Trust Fund Commission the review of IOLTA funded legal services programs for funding. Her retirement created the need to replace the skills she performed in this review process. This replacement recruiting process is underway, but not yet complete. The deadlines for funding decisions on legal services programs is approaching in November, creating the need for supplemental staffing support in this area. The State Bar seeks interim short term assistance to fill this need in this area. Teraoka is the most experienced and capable resource in this regard, as she is the person who performed this type of work before retirement. In order to use Teraoka in this short term temporary capacity, the State Bar's Board of Trustees must adopt the resolution proposed here. This item authorizes the State Bar to contract with Denise Teraoka for her skills within six months after her retirement to assist with the IOLTA program funding process.

BACKGROUND

The State Bar of California participates in CalPERS retirement system. A CalPERS retiree can contract to work for a former employer as a retired annuitant. However, under pension reform standards (see Government Code section 7522.56 and 21224), the retired individual to be contracted must meet the following standards:

1. The individual must have specialized skills needed to perform work of limited duration;
2. The individual cannot work more than 960 hours in a fiscal year (July 1 – June 30);
3. The contracted compensation rate cannot be less than the minimum nor exceed the maximum paid to other employees, if any, performing comparable duties;
4. Compensation must be limited to maximum rates set forth above and not take the form of other benefits not captured in the compensation rates;

5. The individual cannot have received unemployment insurance benefits for prior retired annuitant work;
6. The individual cannot be employed as a retired annuitant within six (6) months following retirement unless the governing Board of the contracting entity certifies as set forth in the proposed resolution, which must be filed with CalPERS;
7. The individual must be the normal retirement age or older at the time of retirement.

Denise Teraoka has served as Senior Administrative Assistant in the IOLTA Trust Fund Office since June, 1981. Her entire career at the State Bar has involved reviewing and auditing IOLTA programs funded by the Legal Service Trust Fund. She retired from the State Bar July 2, 2015. Because of her retirement, the State Bar has posted and is recruiting to replace her position.

However, the November deadlines for funding IOLTA qualified legal service programs creates an immediate staffing need for the unique knowledge and skills Teraoka possesses regarding the IOLTA program funding process.

Teraoka is the most qualified to effectively review IOLTA programs for funding purposes on an interim basis. The State Bar is prepared to select Teraoka as the individual to contract with to obtain the assistance that is needed regarding the administration of the IOLTA program funding process. The position is posted, not yet filled, and not likely to be filled in the immediate future. Due to November deadlines, immediate short term staffing assistance is necessary. Because of CalPERS restrictions on contracting with a retiree, the Office of Legal Services Trust Fund Program is seeking the Board's authority, as required by CalPERS, to contract with Denise Teraoka as a retired annuitant to perform time limited services, as noted, to the State Bar.

As described above, Teraoka has specialized skills necessary to meet deadlines for funding IOLTA funded programs. The terms of the engagement of Teraoka to perform these duties are as set forth in Attachment A. The resolution recommended for this Board is set forth in Attachment B.

DISCUSSION

As noted above, Denise Teraoka is the individual most qualified at the moment for the State Bar will engage to assist with the funding review of IOLTA programs, which process needs to be completed in November 2015. Because Teraoka is a retiree within six months of retirement, under CalPERS requirements, the Board needs to authorize the State Bar to do this. This item seeks that authority.

Teraoka has individualized specialized skills relevant to the funding review process. This assignment is of limited duration. It is not anticipated that this work will exceed 960 hours for the fiscal year. The position is being recruited at \$5457 per month, with a Grade 8 salary range of \$5457 – \$7201 per month. The hourly rate for the assignment to be authorized here is based on \$6283 per month, \$40 per hour. This rate is less than the salary rate that Teraoka received in her position prior to retirement. This is within the range of a Grade 8 Senior Administrative Assistant, which is the appropriate skill level for this position.

If Teraoka is contracted for this assignment, the employment would occur within six (6) months following retirement and therefore requires the governing Board of the contracting entity to certify as set forth in the resolution that the Board is requested to adopt. Teraoka will be at the fully qualified normal retirement age at the time of retirement therefore further requirements that address the situation where someone is under the normal retirement age do not apply.

The form agreement retaining Teraoka is Attachment A. The resolution that the Board is requested to adopt is Attachment B.

FISCAL/PERSONNEL IMPACT

Within existing budget.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

RECOMMENDATION

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees adopts the resolution, Attachment B.

ATTACHMENT(S) LIST

- A.** Proposed Standard Limited Term Employment Terms
- B.** CalPERS Resolution