

AMENDMENT TO 2009 GREAT WEST MODEL 457(b) PLAN DOCUMENT FOR  
GOVERNMENT EMPLOYERS  
County of Tulare 3121 Plan

The Model Plan Document adopted as the Tulare County 457(b) Deferred Compensation Plan is amended as follows:

1. The following is added to "Introduction":

The Employer also intends to use this deferred compensation plan to establish and operate a "retirement system" that satisfies the requirements of 26 U.S.C. section 3121(b)(7)(F) of the Internal Revenue Code of 1986, as amended from time to time (hereinafter referred to as the "Code"), section 31.3121(b)(7)-2 of the Income Tax Regulations promulgated thereunder, and corresponding provisions of the Social Security Act. This "retirement system" shall be for those employees who are not eligible to participate in either the Tulare County Employees Retirement Association, or any other County "retirement" plan which satisfies the requirements of 42 U.S.C. section 418(b)(4) of the Federal Social Security Act, as amended from time to time (hereinafter "3121 employees").

2. Section 1.10 is amended to delete "or an independent contractor."

"Employee." Each natural person (individual) who is employed by the Employer, either as a common law employee ~~or an independent contractor~~, including elected or appointed individuals, as selected in the Adoption Agreement. Any employee who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the Plan shall be excluded.

3. Section 1.20 is amended to delete reference to independent contractors as follows:

~~In the case of a Participant who is an independent contractor, Severance from Employment shall be deemed to have occurred when the Participant's contract for services has completely expired and terminated, there is no foreseeable possibility that the Employer shall renew the contract or enter into a new contract for services to be performed by the Participant, and it is not anticipated that the Participant shall become an Employee of the Employer.~~

4. The following is added to Section II:

For all employees who are not eligible to participate in either the Tulare County Employees Retirement Association, or any other County "retirement" plan which satisfies the requirements of 42 U.S.C. section 418(b)(4) of the Federal Social Security Act, as amended from time to time ("3121 employees"), the employer shall defer, as a minimum contribution, payment of the participant's compensation in an amount equal to at least 7.5% of compensation as defined for FICA tax purposes, not to exceed an amount derived by multiplying 7.5% times the then applicable Social Security base compensation.

5. The following is added as Section 2.12:

The Superior Court of California, Tulare County, and other public entities, districts, and boards may participate in the Tulare County 457(b) Deferred Compensation Plan if the Tulare County Board of Supervisors approves such participation, and the public entity enters into a written agreement with the County of Tulare agreeing to adopt the county plan as its own plan, agrees to abide by the Plan Document provisions and all administrative decisions of the Plan Administrator, to hold the County harmless, and agrees to such other terms and conditions by the County.

6. At Section 6.01 is added: "Except as otherwise provided by contractual obligations of investment or service providers:"

7. At Section 6.02 is added: "Except as otherwise provided by contractual obligations of investment or service providers:"

8. Sections 7.02 through 7.12, except 7.09, are deleted.

9. Sections 9.01 and 9.02 are replaced with the following:

Designation of Administrator and Deferred Compensation Committee. The Plan shall be administered by the County Auditor-Controller, who shall be the Administrator of the Plan, and a Deferred Compensation Committee of 11 members consisting of the County Auditor-Controller, County Assessor, County Director of Personnel, County Counsel, County Administrative Officer, or their designees, five (5) active full-time County employees, one (1) nominated by each member of the Board of supervisors and approved by the Board, and one (1) retired County employee appointed at large by the Board. Designees must be permanent appointees, and must be members of the office or department of the appointing officer, except that the County Administrative Officer may appoint a designee who is not a member of his or her office. The retiree member must be a current participant in the Plan, or must have previously participated in the Plan. All members shall serve Four (4) year terms and the terms shall be staggered. The Deferred Compensation Committee shall have authority to adopt rules and regulations for the administration of the Plan and to interpret, alter, amend or revise any rules and regulations adopted.

10. Sections 9.04 is deleted.

11. Section 9.07 is deleted and replaced with the following:

All contractors to and with the Plan such as plan vendors and providers, consultants, investment funds, etc., shall provide services in accordance with all applicable Federal, State, and local laws, regulations and directives. This includes the laws prohibiting or pertaining to conflict of interest in the provision of products and services to the Plan, including SEC regulations and restrictions and state conflict of interest laws including but not limited to, Government Code

section 1090 et seq., and the Political Reform Act, Government Code section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. These laws generally prohibit public officers, employees, and consultants and contractors, from participation in a public decision in which the consultant or contractor has a direct or indirect financial interest. A violation can occur if the consultant or contractor participates in or influences any decision which has the potential to confer any pecuniary benefit on the consultant or contractor, or any business firm in which the consultant or contractor has an interest, with certain narrow exceptions.

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