

25.6(c)(16)–continued

(D) Violations. ORP employers shall reserve the right to restrict solicitation privileges of authorized representatives based on violations of the solicitation procedures in this paragraph and each ORP employer’s local policies and procedures.

(d) Qualified Domestic Relations Orders (QDROs).

(1) Company Responsibilities. Each ORP employer shall ensure that all ORP contracts include a provision that the ORP company is solely responsible for determining whether a domestic relations order is qualified and payable in accordance with Texas Government Code, Chapter 804. In lieu of requiring a contractual provision, ORP employers may require companies to certify, as part of the ORP employer’s ORP company authorization process as provided in [subsection \(c\)](#) of this section, that the ORP company is solely responsible for determining whether a domestic relations order is qualified and payable in accordance with Texas Government Code, Chapter 804.

(2) Company Interpretation. ORP employers may include criteria relating to an ORP company’s interpretation of Texas Government Code, Chapter 804, in the ORP employer’s ORP company authorization or certification process as provided in [subsection \(c\)](#) of this section.

(e) Investment Advisory Fees. Participants may pay certain investment advisory fees with tax-deferred funds in their ORP account in accordance with the following conditions.

[Hyperlink Outline: 25.6\(e\) Investment Advisory Fees](#)

- (1) Use of ORP Funds
 - (A) No More than Two Percent
 - (B) Direct Payment
 - (C) Full-time Registered Advisor
 - (D) No More than One-Year Contract
- (2) Employee Right
- (3) Permissible Employer Prohibition
- (4) Signing of Forms by Employer

(1) Use of ORP Funds. Investment advisory fees may only be paid with amounts in a participant’s ORP account in accordance with the following provisions.

(A) No More than Two Percent. The investment advisory fees for each fiscal year shall not exceed two percent of the annual value of the participant’s account as of the last day of that fiscal year.

(B) Direct Payment. The fees shall be paid directly to a registered investment advisor that provides advice to the participant.

(C) Full-time Registered Advisor. The investment advisor to whom the fees are paid shall be registered with the Securities and Exchange Commission and any other applicable federal or state agencies, and shall be engaged full-time in the business of providing investment advice.

25.6(e)(1)–continued

(D) No More than One-Year Contract. The participant and the investment advisor shall enter into a contract for a term of no more than one year. A contract that automatically renews each year shall be considered acceptable as long as both parties have the right to sever the relationship, with reasonable notification, at any time.

(2) Employee Right. An ORP employer shall not prohibit participants from utilizing this right and shall not restrict the payment percentage to less than two percent.

(3) Permissible Employer Prohibition. An ORP employer may include in its ORP company authorization or certification process, as provided in [subsection \(c\)](#) of this section, a provision that prohibits commissions to an individual who also receives investment advisory fees for the same ORP account.

(4) Signing of Forms by Employer. An ORP company may request the ORP employer to sign a statement that investment advisory fees are permissible under the plan to provide assurance to the company that it is releasing ORP funds to the advisor in accordance with applicable ORP provisions.

(A) An ORP employer shall not sign the company's form indicating that investment advisory fees are permissible under the plan unless the ORP employer has received satisfactory documentation that the four conditions described in [paragraph \(1\)](#) of this subsection have been met.

(B) An ORP employer shall not sign a form that actually authorizes the payments because that is a relationship between the advisor, the participant and the company.

(f) Distribution Restrictions.

Hyperlink Outline: [25.6\(f\) Distribution Restrictions](#)

- (1) [Restricted Access](#)
- (2) [Authorization to Release ORP Funds](#)
- (3) [Prohibited Distribution by ORP Company](#)

(1) Restricted Access.

Hyperlink Outline: [25.6\(f\)\(1\) Restricted Access](#)

- (A) [No Pre-Termination Access unless Age 70-1/2](#)
- (B) [No Loans or Hardship Withdrawals](#)
- (C) [Previously Contributed Amounts](#)
- (D) [Employment Transfer is not a Termination](#)
- (E) [Transfer of Funds is not a Termination](#)
- (F) [Simultaneous Contributions and Withdrawals](#)
- (G) [Documentation of Restrictions](#)