

403(b) Vendor Compliance Questionnaire Score Card

		A	x	B	=	C
Vendor Name	Date Questionnaire Received	Weight Assigned by School District		Vendor Score		Total Question Result
		-1 = Not Acceptable 0 = No Preference 1 = Desirable 2 = Important 3 = Essential		0 = No 1 = Yes		If A = 3 and B = 0, or if A = -1 and B=1, then vendor is disqualified (DQ)
	Does the District/SU currently have an active employee(s) contributing to this vendor?					
	<p>Why Important? This question is unrelated to compliance. However, employers may elect to discontinue pre-existing vendors in which there are no active contributions.</p>					
Q3	Does your 403(b) contract impose a minimum annual contribution? (If "no", go to Q4)					
	If "Yes", is that minimum contribution less than or equal to \$200?					
	<p>Why Important? With limited exceptions, if any employee can choose to make elective deferrals to the 403(b) plan, all employees must be given that opportunity. This includes substitute teachers, adjunct faculty and other groups of employees if they normally work at least 20 hours per week (based on a 1,000-hour annual standard which generally becomes effective January 1, 2009). A failure to satisfy this nondiscrimination rule can cause the entire plan to fail under Code Section 403(b). If a contract or account excludes someone who should be includible, and if no other contract or account is available to them, it can trigger this failure. If this failure occurs it can also apply to Employer contributions to the plan, if any, thus also triggering employment taxes as well as income taxes.</p>					
Q4	Will your firm monitor the contribution limits for each employee who participates in a 403(b) contract or account? (If "no", go to Q5)					
	a. Does the monitoring include the age 50 catch-up (Sec. 414(v)) and special catch-up under Sec. 402(g)(7)?					
	b. Do you monitor the overall Sec. 415 contribution limitations?					
	• Is monitoring available on a Plan Year Basis?					
	c. When is monitoring performed?					
	• At initial contribution or start-up					
	• When processing non-automatic changes to the contribution					
	• Each time a contribution is received the account is monitored to ensure annual contributions do not exceed a specific percentage of salary and/or a fixed dollar amount					
	• Every year at year end					
	• As requested by the employer or employee					
	• Other _____					

Vendor Name: _____

	<p>Why Important? The 403(b) rules impose limits on both Employer and employee contributions. For 2007, the limit on elective deferrals is \$15,500 and could be increased for employees age 50 or older (\$5,000), or for employees with 15 years of service or more with the Employer (up to a possible maximum of \$3,000). The 2008 limit on combined employee and Employer contributions is the lesser of 100% of includible compensation, or \$46,000, and also may be increased for employees age 50 or older. If the limits are not monitored by plan providers, they must be monitored by the Employer or another party designated by the provider. It is important for monitoring to consider all deferrals, including deferrals to multiple providers, thus also requiring coordination of information across providers. Excess contributions can cause the entire contract to fail to satisfy the requirements of Code Section 403(b), and can result in additional withholding obligations as well as employment taxes on Employer contributions to the plan, if any. In addition, procedures for monitoring and enforcing contribution limits, whether maintained by providers or plan sponsors (or both), can help qualify the plan for self-correction, when failures are identified, under applicable IRS guidance.</p>			
	<p>d. If you learn that contributions have exceeded a given limit, what steps does your company take to correct the excess:</p> <ul style="list-style-type: none"> • No action taken • The employee is notified of the excess contribution • The employer is notified of the excess contribution • The excess is returned to the employee and reported as taxable income • The excess is returned to the employer • Other _____ 			
	<p>Why Important? The IRS has provided specific guidelines for correction of excess amounts. The treatment of such excesses varies depending on the nature of the excess amount, such as is it a result of an employee elective deferral or an Employer contribution, as well as the timing of the excess. In the case of employee elective deferral contributions the excess amount should be returned directly to the employee. For example, excess elective deferral contributions may be returned to the participant while excess Employer contributions should normally remain in the plan in a segregated account. In addition, new rules governing contributions in excess of the Code Section 415(c) limits may require separate accounting of the excess amount from the outset to avoid taxation of the entire account in the event of an undiscovered defect. In any event, timely correction is required in order to maintain the tax-favored status of your plan. The employee should be notified to facilitate their tax planning. You may choose to be notified as well.</p>			
Q5	<p>Are after-tax Roth contributions permitted under your 403(b) contract or account? (<i>If "no", go to Q6</i>)</p>			
	<ul style="list-style-type: none"> • Does your firm establish a separate account for Roth deferrals and distributions? <p>Why Important? After-tax Roth contributions can be a valuable tax and retirement planning tool for your employees. Whether pretax or after-tax elective contributions, or a combination of the two, are the best option is a decision each employee would make after consulting with their tax or financial advisor. If the plan permits Roth 403(b) contributions but one or more available contracts or accounts do not permit them, it will be important to ensure that participants know which accounts accept these contributions. Roth contributions must be separately accounted for on the recordkeeping system in order to maintain qualification of the 403(b) contract, ensure proper tax treatment (i.e., pretax or after-tax) as well as to facilitate proper contribution limit monitoring.</p>			

Vendor Name: _____

Q6	Does your contract permit transfers/rollovers to or from other plan types (IRAs, 401(k))? <i>(If "no", go to Q7)</i>			
	Does your program track such amounts separately for distribution reporting purposes?			
<p>Why Important? All contracts and accounts are required to permit outgoing rollovers of eligible rollover distributions (ERDs). If the plan also permits incoming rollovers, and if the contract or account does not permit them, or does not properly account for them, this can create problems for a plan sponsor. At a minimum, participants would need to be made aware of which contracts and accounts available under the plan permit and properly account for such rollovers. In addition, the failure by a provider to accept or properly account for such rollovers could give rise to additional Employer obligations.</p>				
Q7	Are loans permitted under an employee's 403(b) account? <i>(If "no", go to Q8)</i>			
<p>Why Important? If the plan provides that all contracts and accounts permit loans, then it is important to confirm that each contract and account does so. If the plan does not require every product to offer loans, a plan sponsor might elect to place a lesser value on a response to this question.</p>				
	a. Are loans restricted to amounts that do not exceed the lesser of (i) \$50,000 minus the highest outstanding loan balance during the preceding 12 months, or (ii) 50% of the vested account balance?			
	b. Will your firm comply with employer-imposed limitations on number of loans and/or minimum loan amount?			
	c. Is a default deemed to have occurred no later than the last day of the calendar quarter following the quarter in which a loan payment is missed?			
	d. What loan repayment method(s) are permitted under your contract:			
	<ul style="list-style-type: none"> • Payroll deduction? 			
	<ul style="list-style-type: none"> • Direct payment to vendor? 			
	<ul style="list-style-type: none"> • Direct payment to vendor using direct withdrawal from participant's bank account? 			
<p>Why Important? The Internal Revenue Code permits loans from 403(b) accounts if the plan and the underlying investment product permit. Such loans in the aggregate are limited, generally, to the lesser of \$50,000 or 50% of the vested balance in the plan, subject to certain adjustments. Payments must be made at least quarterly, over a period not to exceed five years. (A longer term may be available for loans used to purchase a primary residence.) If a participant has an outstanding loan that is in default, that participant may only take a new loan under the plan (across investment products) if that new loan is repaid by payroll deduction.</p>				

Vendor Name: _____

Q8	Generally, assets contributed to your 403(b) program may not be distributed to an employee, absent a distributable event such as death, disability, separation from service, attainment of age 59½, or hardship (if the contract permits). Will your organization monitor the distributions from contracts and/or accounts under the 403(b) program consistent with those restrictions? <i>(If "no", go to Q9)</i>			
	<ul style="list-style-type: none"> No direct monitoring of distributions: the employee self-certifies all distribution requests (note: this method does not meet DOL requirements) 			
	<ul style="list-style-type: none"> Information is coordinated with the Employer and/or other providers, as agreed between the Employer and providers, as necessary to comply with these requirements at the plan level 			
	<ul style="list-style-type: none"> Separation from service is confirmed with employer before processing post-separation distributions. 			
	<ul style="list-style-type: none"> The employer is responsible for approving all withdrawals. 			
<p>Why Important? As a general rule, contributions are only eligible for distribution at attainment of age 59½, at severance of employment, or in the event of death, disability or financial hardship. Hardship distributions must meet prescribed rules regarding the amount and reason for the distribution. Violation of these distribution limitations, either through distributions from a single contract or account or through distributions from multiple contracts and/or accounts, can cause a participant's contract or account to fail to qualify as a 403(b) contract, resulting in taxation of the account and potential application of employment taxes to Employer contributions. As with other compliance areas, the IRS may permit self-correction of defects if processes and procedures are in place designed to prevent a failure. Such procedures should also ensure compliance in the case of participants with multiple contracts or accounts across vendors. Generally, employee certification of certain information, such as information outside of the knowledge of the plan, may be relied upon, while information such as the purpose of the hardship withdrawal may require documentation. In reviewing such procedures, you must balance your business needs with compliance.</p>				
Q9	Does your 403(b) contract permit hardship withdrawals? <i>(If "no", go to Q10)</i>			
	<ul style="list-style-type: none"> Is your firm capable of reviewing and making determinations on hardship distributions, and making available information on such withdrawals to the school system or another party? <i>(a check in the first box is equivalent to a "no" – If "no", go to Q10)</i> 			
	<ul style="list-style-type: none"> The employee must provide information regarding the amount and the reason for the hardship distribution on the appropriate distribution form. 			
	<ul style="list-style-type: none"> The employer is responsible for approving hardship withdrawals. 			
<p>Why Important? As noted under Q7 above, the ability to make withdrawals in the event of financial hardship can be an important benefit for your employees, and can provide comfort needed to increase retirement savings. In order to effectively administer such distributions in accordance with the Code requirements, you may decide that your vendor(s) should have procedures to assist in hardship determinations, and to make available information as needed to you, your legal counsel, or other parties.</p>				

Vendor Name: _____

	<ul style="list-style-type: none"> Does your system facilitate automatic cessation of deferrals for a period of six months for any employee who received a hardship distribution? 			
	<p>Why Important? One of the requirements for receiving hardship distribution is an immediate and heavy financial need. One potential requirement is that the employee cease elective deferrals for six months after receiving a hardship distribution. If this process is adopted, procedures should be in place to be aware of such distributions, and subsequently stop payroll deductions.</p>			
	<ul style="list-style-type: none"> Does your system facilitate the sponsor in automatic recommencement of deferrals for any participant who received a hardship distribution upon the satisfaction of the 6-month suspension period? 			
	<p>Why Important? Once the six-month suspension period has ended, a participant may resume contributions. Automatic recommencement of deferrals can reduce the administrative burden on the participant and avoid unnecessary delays in retirement savings.</p>			
Q10	Does your firm enforce the required minimum distribution rules under IRC Sec 401(a)(9), requiring distributions to begin by the later of (i) April 1 of the calendar year following the calendar year in which an employee attains age 70 ½, or (ii) April 1 of the calendar year following the calendar year in which the employee terminates employment?			
	<p>Why Important? Unless still working for the sponsoring Employer, when a participant reaches age 70½, he or she will generally need to begin receiving distributions from their 403(b) account. The first such minimum distribution must begin by April 1 of the calendar year following the year after attainment of age 70½, or severance of employment. A participant with multiple 403(b) accounts may choose to take the minimum payment from one account or a combination of accounts. Because a participant may choose which account or accounts from which to take their minimum distributions, distributions from a contract or account may not be required in a given year. Providing information to participants can be an important step to help avoid the adverse consequences of failures under this rule, including income and penalty taxes to participants, and additional consequences if contributions have also been made to the participant's account in the year of the defect.</p>			
Q11	Do you notify participants of the requirement for taking minimum required distributions prior to the date they attain 70 ½, assuming that they are not still employed by the plan sponsor? <i>(If "no", go to Q12)</i>			
	<ul style="list-style-type: none"> Do you notify participants annually of the continuing requirement to take minimum distributions (as applicable)? 			
	<p>Why Important? See Q9 above</p>			

Vendor Name: _____

Q12	Does your firm calculate the minimum required distribution amount for a participant?			
	<ul style="list-style-type: none"> • Only with respect to the account balance held with your firm? 			
	<ul style="list-style-type: none"> • Considering all accounts for the participant under the 403(b) plan (including assets held elsewhere)? 			
<p>Why Important? See Q9 above</p>				
Q13	Does your contract permit transfers from the 403(b) to purchase permissive service credits or for repayment to a receiving governmental defined benefit plan?			
Q14	Does your contract permit distributions required by a Qualified Domestic Relations Order (QDRO) ?			
	<p>Why Important? Various events in an employee's life may lead to a Domestic Relations Order. Such an order by the court may require that a portion of a participant's 403(b) account be payable to another person. An investment product and plan may require that such beneficiary only have access to the account upon the participant's attainment of a distributable event. On the other hand, the product and plan may permit immediate access to such amounts. A provider's ability to address the requirements of a Domestic Relations Order is important to reduce a plan sponsor's administrative burden.</p>			
Q15	Does your record-keeping system include functions that can assist with compliance among multiple vendors (for purposes of monitoring contribution limits, loans, hardship withdrawals, as applicable) and are you willing to share information at the plan sponsor level to facilitate compliance with the rules under 403(b)?			
	<p>Why Important? Many 403(b) requirements apply to the 403(b) plan as a whole, regardless of the number of vendors, thus across vendors.</p>			
Q16	Does your system offer employer access to view single product provider data?			
Q17	Does your system offer employer access to view aggregate vendor data (i.e. are participant records maintained at the Employer group level)?			
	<p>Why Important? Participant accounts may be funded either with individual contracts or accounts, or with group contracts or accounts. In either case, it can be very important for a provider to maintain records tying all such contracts together under the Employer's plan, in order to ensure compliance with applicable rules.</p>			

Vendor Name: _____

Q18	Are you able to provide plan-level reports to the employer? (If "no", go to Q19)			
	<ul style="list-style-type: none"> Are these plan-level reports automated and available on-line? 			
	<ul style="list-style-type: none"> Do these plan-level reports include information reflecting participant hardship withdrawals? 			
	<ul style="list-style-type: none"> Do these plan-level reports include information reflecting participant loan activity? 			
	<ul style="list-style-type: none"> Can you provide plan-level reports upon request (within a reasonable timeframe)? 			
<p>Why Important? Various Code requirements require Employer oversight at a plan level. In addition, such data may be of valuable assistance in your evaluation of the effectiveness of the retirement program as a whole. In the event of an IRS audit, data may be requested at a plan level. For these reasons and others, it is important for you to have access to plan level information.</p>				
Q19	Can your system separately track employer contributions? (If "no", go to Q20)			
	Can your system separately track non-vested employer contributions?			
<p>Why Important? For those employers that offer employer matching or base contributions, the employer contributions need to be tracked separately in order to properly monitor the contribution limits.</p>				
Q20	Do you provide on-site enrollment and employee education meetings? (If "no", go to Q21)			
	<ul style="list-style-type: none"> Group meetings are available 			
	<ul style="list-style-type: none"> One-on-one meetings are available 			
	<ul style="list-style-type: none"> Retirement planning seminars on various topics are made available 			
	<ul style="list-style-type: none"> Our firm provides a dedicated enrollment/education team to present at the meetings 			
	<ul style="list-style-type: none"> A local broker presents at the meetings 			
Q21	Will you provide a sample 403(b) plan document for review by the plan sponsor and its legal counsel?			
Q22	Does your company maintain detailed procedures to protect the confidentiality of all records maintained on your cross-vendor compliance (and common remitter) system, if applicable?			
	<p>Why Important? The confidentiality of data on the plan level and the participant level is critical. A wide variety of data is necessary in order to maintain a compliant and effective retirement program. You as plan sponsor are responsible for confidentiality of employee information, and your vendors must protect this data as well. Such protections should be within the single vendor's processes, as well as cross-vendor. Your vendors should be willing to sign a written agreement protecting the confidentiality of your plan and participant information.</p>			

Vendor Name: _____

Q23	Do you offer a common remitting system (to allocate ongoing contributions among multiple vendors)?			
<p>Why Important? If a plan sponsor chooses to utilize a common remitter for purposes of facilitating compliance across multiple vendors, sponsors will want to be sure that vendors have the ability to interface with the program of their choosing.</p>				
Q24	Does your company provide vendor-neutral common remitting systems and/or cross-vendor remitting systems to share information at the plan-sponsor level pertaining to both active and inactive vendor data necessary to facilitate compliance? (Vendor-neutrality should include not providing preferential access or preferential marketing treatment to an affiliated provider or other business partner or associate.)			
<p>Why Important? If you have chosen or intend to choose more than one vendor, you will retain responsibility for the plan as a whole. Depending on the number of approved vendors, the review of multiple data sources may be time consuming and require additional data manipulation on your part to monitor the plan. The ability to access data at an aggregate level can ease the administrative burden on you and your staff. You may want to identify vendors that can provide vendor-neutral plan level reporting electronically.</p>				
Q25	Will your company provide reasonable support to the employer in the event of an IRS audit of the 403(b) plan?			
<p>Why Important? Support from providers can assist a plan sponsor in needed steps to maintain the tax-favored status of the plan and the underlying contracts and accounts. The IRS maintains an active examination of retirement plans, including 403(b) plans of educational institutions. A provider's commitment of support to your plan, especially in the event of an audit, can help you in being responsive to IRS requests while reducing the administrative burden of an audit on your staff.</p>				
Q26	Will your company enter into a reasonable Information Sharing Agreement and Service Provider Agreement with the plan sponsor (documents prepared by the plan sponsor) to facilitate compliance with the requirements of the final 403(b) regulations, either as a product provider for future contributions or as a provider of contracts outside the plan receiving transfers?			
<p>Why Important? As the sponsor of a 403(b) plan, it is important that you have the information and data to effectively monitor your program, while at the same time protecting participant privacy. Information Sharing Agreements are also required in order to allow transfers from one participating 403(b) Plan to another.</p>				

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