

# Instructions for Form 4461-C

(Rev. October 2024)



## Application for Approval of Standardized or Nonstandardized Pre-Approved 403(b) Plan

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Future Developments

For the latest information about developments related to Form 4461-C, such as legislation enacted after the form was published, go to [www.irs.gov/formspubs/about-form-4461-c-application-for-approval-of-standardized-or-nonstandardized-403b-pre-approved-plans](http://www.irs.gov/formspubs/about-form-4461-c-application-for-approval-of-standardized-or-nonstandardized-403b-pre-approved-plans).

### Purpose of Form

Form 4461-C is used to apply for approval of a standardized or nonstandardized 403(b) pre-approved plan.

Be sure to submit a complete and accurate application, including Form 4461-C, and any attachment or other document required (see [www.irs.gov/retirement-plans/preapproved-403b-planproviders-apply-for-an-opinion-letter-cycle-2-or-Rev.-Proc.-2021-37,-2021-38-I.R.B.-385](http://www.irs.gov/retirement-plans/preapproved-403b-planproviders-apply-for-an-opinion-letter-cycle-2-or-Rev.-Proc.-2021-37,-2021-38-I.R.B.-385)). Complete every applicable line on the application. If your application isn't complete, we will return it without processing it. Unless otherwise noted, the questions on Form 4461-C apply to both standardized and nonstandardized 403(b) pre-approved plans.

**Requests for additional information.** If a letter requesting additional information or changes to plan documents is sent to the pre-approved plan provider or an authorized representative, such information and/or changes must be received no later than 30 days from the date of the letter. Failure to respond timely may result in the application being considered withdrawn. An extension of the 30-day time limit will only be granted for good cause.

**Inadequate submissions.** We will return, without further action, plans that aren't in substantial compliance with the 403(b) requirements or plans that are so deficient that they can't be reviewed in a reasonable amount of time.

### Who May File

A provider or mass submitter of a 403(b) pre-approved plan may file a Form 4461-C. See *Definitions*, later.

### What To File

Submit one copy of Form 4461-C for each separate adoption agreement or for each single document plan where no adoption agreement is used. For approval, file this application and each applicable document listed in line 12(a). A mass submitter should also file a separate Form 4461-C for each word-for-word identical adopter or minor modifier adopter of the plan.

#### Multiple adoption agreement plans.

A provider may use one basic plan document for several plans. A provider may, for example, use one basic plan document for a governmental plan, a plan of a church or qualified church controlled organization (QCCO), and a plan of a non-QCCO that use separate adoption agreements. In addition, a single adoption agreement may be drafted to cover multiple types of eligible employers. However, the same basic plan document may not be used for a 403(b) plan intended to be a Retirement Income Account and a 403(b) plan not intended to be Retirement Income Account. See section 4 of Rev. Proc. 2021-37 for the definitions of governmental plan, church, QCCO, non-QCCO, Retirement Income Account, and eligible employer. In the case of a simultaneous submission of plans using the same basic plan document, submit only one copy of the basic plan document. If the requests aren't simultaneous, submit separate basic plan documents and include a cover letter identifying the original submission. The number assigned to the basic plan document must remain the same as in the prior submission. Standardized and Nonstandardized plans may not be set forth in a single adoption agreement.

#### Two or more single document plans.

A single document plan may be used by more than one type of eligible employer; however, a Retirement Income Account plan must always be filed as a separate single document plan. Standardized and Nonstandardized plans may not be combined in one single document plan.

### Where To File

As of August 1, 2024, Form 4461-C applications must be submitted electronically through Pay.gov.

To submit Form 4461-C, you must:

Register for an account on Pay.gov. Enter "4461-C" in the search box, select Form 4461-C and Complete the form.

Pay.gov can accommodate only one uploaded file. Consolidate your attachments into a single PDF file, which cannot exceed 15MB. Remove any item(s) that cause the PDF file to exceed 15MB. You may fax additional documents that exceed the 15MB limit to 844-255-4818. **Be sure the pay.gov tracking ID number is listed on the fax coversheet along with the EIN and applicant name.** Faxes sent to IRS are converted into attachments delivered via email to an Outlook mailbox. If the size of the fax creates an attachment that exceeds 150MB it will not be delivered due to network protections. No notification is issued if it occurs. To avoid the problem, split up a large fax by sending separate, smaller faxes. Fax the EP Customer Service line at 855-224-1311 if you want the IRS to confirm your fax or faxes have been delivered.

**Signature.** The application must be signed by a partner or officer of the applicant who is authorized to sign on behalf of the applicant, or other person authorized by a power of attorney. The power of attorney should be filed with the application.

#### Disclosure requested by taxpayer.

A taxpayer may request the IRS to disclose and discuss the return or return information with any person the taxpayer designates in a written request. If you want to designate a person or persons to assist in an application for approval, you must provide the IRS office of jurisdiction with a written request that contains:

- The taxpayer's name, address, employer identification number, and plan number(s).
- The name, address, Social Security number, and telephone number of the person or persons whom you are authorizing to receive return information.
- A paragraph that clearly describes the return or return information that you authorize the IRS to disclose.
- An authorized signature (see above).

As an alternative to providing the above statement, you may submit Form 2848, Power of Attorney and Declaration of Representative.

## Definitions

**Adoption agreement.** The portion of the plan containing all the options the adopting employer may select. The adoption agreement may include blanks or fill-in provisions for the employer to complete if it also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the 403(b) requirements. Each separate adoption agreement is treated as a separate plan and will receive its own opinion letter.

**Basic plan document.** The portion of the plan containing all the nonelective provisions applicable to all adopting employers. No options (including blanks to be completed) may be provided in the basic plan document except for options in flexible plans.

**Single document plan.** A single document plan consists of a single plan document without an adoption agreement. A single document plan may contain alternate paragraphs and options that may be selected by an adopting employer. A single document plan may include blanks or fill-in provisions for the employer to complete only if the plan also includes parameters on these provisions that preclude an employer from completing them in a manner that could violate the 403(b) requirements.

**Flexible plan.** A plan submitted by a mass submitter which contains certain optional provisions as allowed by section 11.03(1) of Revenue Procedure (Rev. Proc.) 2021-37. Providers who adopt a flexible plan may include or delete any optional provision designated as such in the mass submitter's plan. A flexible plan adopted by a provider that differs from the mass submitter plan only because of the deletion of certain optional provisions will be treated as a plan that is word-for-word identical to the mass submitter plan.

**Mass submitter.** As set forth in Rev. Proc. 2021-37, any entity that submits applications on behalf of at least 15 unaffiliated providers each of which is sponsoring, on a word-for-word identical basis, the same plan. A mass submitter is treated as a mass submitter with respect to all its plans, provided the 15-unaffiliated-provider requirement is met with respect to at least one plan.

Affiliation is determined under Sections 414(b) and (c). Any law firm, accounting firm, consulting firm, or similar organization, will be considered to be affiliated with its partners, members, associates, or similar affiliated persons. For purposes of determining whether 15 unaffiliated providers offer, on a word-for-word identical basis, the same 403(b) pre-approved plan, a mass submitter that is also a provider is treated as an unaffiliated provider.

**Opinion letter.** An opinion letter is a written statement issued by the IRS to a provider or mass submitter that the form of a 403(b) pre-approved plan satisfies the 403(b) requirements.

**403(b) Pre-approved plan.** A 403(b) pre-approved plan is a plan (including a plan covering self-employed individuals) that is made available by a provider for adoption by eligible employers. The term 403(b) pre-approved plan includes both standardized and nonstandardized plans. A 403(b) pre-approved plan may be an adoption agreement plan or a single document plan. An adoption agreement plan consists of a basic plan document and an adoption agreement. A single document plan consists of a single plan document offered by a provider without an adoption agreement.

**Provider.** A provider is any person (including a mass submitter, if applicable) that (1) has an established place of business in the United States where it is accessible during every business day; and (2) represents to the IRS that it has at least 15 eligible employers, each of which is reasonably expected to adopt one of the 403(b) pre-approved plans of the provider. A provider may apply for opinion letters for any number of 403(b) pre-approved plans.

A provider also includes any person that has an established place of business in the United States where it is accessible during every business day and offers a plan as a word-for-word identical adopter or minor modifier adopter of a plan of a mass submitter, regardless of the number of eligible employers that are expected to adopt the plan.

**Standardized plan.** A standardized plan is a 403(b) pre-approved plan that meets the requirements of section 5.18 of Rev. Proc. 2021-37.

**Nonstandardized plan.** A nonstandardized plan is a 403(b) pre-approved plan that is not a standardized plan.

## Specific Instructions

**Line 1.** All applications submitted must be accompanied by the appropriate user fee, as determined from the schedule in Rev. Proc. 2024-4 2024-1 I.R.B. 160 (or the most recent version, updated annually). Form 8717-A, User Fee for Employee Plan Opinion Letter Request, is not needed for cases submitted through Pay.gov. Applications submitted without the proper user fee won't be processed and will be returned to the applicant.

**Line 3a.** Enter the name and address of the applicant. If the post office doesn't deliver mail to the street address and the applicant has a P.O. box number, show the P.O. box number instead of the street address.

**Line 4a.** If the person to be contacted is other than an employee of the applicant, please enclose an authorized power of attorney. See *Disclosure requested by taxpayer*, earlier.

**Line 4c.** Enter a fax number to receive notice of preliminary approval of the applicable plan, subject to final approval by opinion letter.

**Line 5a.** Enter the two-digit number you have assigned to your single document plan or basic plan document that accompanies the adoption agreement for which you are requesting approval. If multiple adoption agreements are linked to the same basic plan document, use the same two-digit basic plan document number for all applications.

**Line 5b.** Enter the three-digit number you have assigned to the adoption agreement for which this application is submitted. Each different adoption agreement designed to accompany a single basic plan document should be given a different three-digit number beginning with "001." For example, if the first basic plan document of a provider has four separate adoption agreements, they should be numbered "001" through "004," and the provider should submit four separate Forms 4461-C. Adoption agreements submitted with the second or any subsequent basic plan documents (that aren't word-for-word identical to a previously submitted basic plan document) should be similarly numbered beginning with "001."

**Line 6.** If the mass submitter does not know the file folder number, letter serial number, and date of letter to use here, then instead on the file folder number line provide the plan number of the mass submitter plan for which the word-for-word

identical adopter or minor modifier adopter is basing its application for an opinion letter.

**Line 12.** Procedural requirements. Submit a separate application for each different basic plan document/adoption agreement combination or single document plan.

**Line 12c.** If you checked "Yes," submit a copy of such plan with language differences highlighted. Attach a cover letter which provides the name and file folder number of the plan (including the name and employer identification number of the provider), a list of all plans written by the plan drafter which are substantially identical to the lead plan (including the information described above), a description of each place where the plan for which the application is being submitted isn't word-for-word identical to the language of the lead plan (including an explanation of the purpose and effect of each difference), and a certification, made under penalty of perjury by the plan drafter, that the information

describing where the plan language isn't word-for-word identical is true and complete.

**Line 12e.** A mass submitter should file a separate Form 4461-C for each provider who is a word-for-word identical adopter or minor modifier adopter.

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**Paperwork Reduction Act Notice.**

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to determine whether you meet the legal requirements for plan approval.

You aren't required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their content may become material in the administration of any Internal Revenue law. Generally, tax return and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 9 hr., 34 min.

**Learning about the law or the form.** . . . . . 1 hr., 9 min.

**Preparing the form** . . . . . 2 hr., 18 min.

**Copying, assembling, and sending the form to the IRS** . . 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [www.irs.gov/FormComments](http://www.irs.gov/FormComments). Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send Form 4461-C to this address. Instead, see *Where To File*, earlier.