

**Information and Document Request – 401(k) Plan**

Each of the listed items has a purpose in the examination process, so all are important. If any requested information or document presents a problem for you, or is available in electronic or other form, please contact me to let me know and discuss possible alternatives.

Each request relates to the year(s) under examination unless otherwise specified.

Please have each of these items available for review during the examination. It is not necessary for you to make copies of everything. If I need copies of items for my file, I will let you know.

The initial review will be more efficient for both of us if the requested information and documents are complete and well organized. For example, it will be helpful if the information and documents are numbered to correspond to the numbered items below.

Please feel free to contact me about any questions that arise when you are getting the information and documents together.

**Please have the following items available during the examination:**

- A. To document plan provisions and ensure that the plan is qualified in form and verify filings.**
1. The plan document, the trust document, and all amendments that relate to the year(s) under examination.
  2. The most recent IRS determination letter that applies to the year(s) under examination and any special demonstrations submitted with your determination letter application.
  3. If you are using a prototype or volume submitter plan, a copy of the IRS opinion letter or advisory letter issued to the sponsor of the prototype or volume submitter plan, the plan document and adoption agreement.
  4. Forms 5500 series returns, *Annual Return/Report of Employee Benefit Plan*, for each year under examination, the preceding year and succeeding year. Please be sure to include all schedules and attachments required to be filed with the Form 5500.
  5. Forms 5500 series returns, *Annual Return/Report of Employee Benefit Plan*, for any other qualified retirement plan sponsored by the employer for the year(s) under examination.
  6. If applicable, any Forms 5330, *Return of Excise Taxes Related to Employee Benefit Plans*, for the year(s) under examination.

7. If applicable, any Form 990-T, *Exempt Organization Business Income Tax Return*, for the year(s) under examination. This return applies only if the plan had unrelated business taxable income for the year(s) under examination.
8. The summary plan description (SPD), summaries of all material modifications (SMM), and the summary annual report (SAR).
9. Other:

**B. If the plan was intended to be a SIMPLE 401(k) plan, to verify that the requirements of Internal Revenue Code (IRC) section 401(k)(11) were satisfied, please provide the following:**

1. Records for the year preceding the year under examination that identify employees and employees' compensation.
2. A copy of the required notice given to employees.

**C. If the plan was intended to be a safe harbor plan, to verify that the requirements of IRC section 401(k) (12) were satisfied, please provide:**

1. A copy of the required notice given to eligible employees.

**D. To determine if the plan satisfies the eligibility and coverage requirements of IRC section 410, please provide the following:**

1. A demonstration to establish that the IRC section 401(k) portion of the plan, by itself, met the coverage requirements of IRC section 410(b). Such demonstration should detail any exclusion by category (i.e., age, service, union employees, etc.).
2. The employer's records that were used to determine employees' eligibility to take part in the plan for the year(s) under examination; such as payroll records, time cards, personnel records, and employment contracts. Also include a copy of the Forms 940, *Employer's Annual Federal Unemployment Tax Return*; Forms 941, *Employer's Quarterly Federal Tax Return*; Forms W-2, *Wage and Tax Statement*; and related Forms W-3, *Transmittal of Income and Tax Statements*.

**These records must show the dates of hire, dates of participation and hours worked during the eligibility computation period.**

3. Participant allocation schedules, employee census reports and participant account statements.
4. A list of all plan participants for the plan year(s) ending \_\_\_\_\_, as well as a list of all employees employed during the year who are not participating in the plan and the reason why they are not in the plan.

5. A demonstration outlining how the plan satisfied the minimum coverage requirements of IRC 410(b).
6. Identification/documentation of any controlled group members or other related entities.
7. Other:

**E. To determine if the plan is in compliance with the vesting, and distribution requirements of IRC sections 401(a)(9), 401(a)(11), 401(a)(31), 411, and 417:**

1. Please provide documentation that indicates which plan participants were active participants (received an allocation) in the prior year but were not active in the year under examination. If possible, also submit a list of such participants.
2. The Form 5500, Schedule H, Part II, line 2e(1) (or Schedule I, Part I, line 2e) indicates that \$ \_\_\_\_\_ was paid to plan participants:
  - a) Please provide a list of these participants,
  - b) their dates of hire, dates of birth and dates of termination,
  - c) proof of payment and/or proof of rollover,
  - d) spousal consent forms to waive the Qualified Joint & Survivor form of benefit if required,
  - e) any Qualified Domestic Relations Order (QDRO) requests received or QDRO distributions made for the plan year under examination.
3. Forms 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, for distributions from the plan for the year(s) under examination.
4. Other:

**F. To demonstrate how the plan satisfies the deductible limits of IRC section 404:**

1. Form \_\_\_ 1120, \_\_\_ 1120S, \_\_\_ 1040, \_\_\_ 1065, \_\_\_ 990 - Tax return of the plan sponsor, which covers all or a part of the year(s) under examination.
2. Cancelled checks / fund transfers verifying contributions made to the plan and deductions taken on the tax return. Please **reconcile** the deduction taken on the return to the contributions made to the plan.
3. Other:

**G. To demonstrate that the plan is in compliance with the nondiscrimination requirements, contribution limitation and top-heavy requirements of IRC sections 401(a)(4), 415 and 416 respectively.**

1. Please provide an allocation schedule for the year(s) under examination and the prior plan year for this plan and any other defined contribution plan. The schedule should include the participants' compensation, the allocation of the employer contributions, forfeitures and income.

Note: If other than gross compensation is used, please identify those elements included and excluded from compensation.

2. Please provide the top heavy ratio calculation as defined in IRC section 416(g).
3. Provide a list of the Highly Compensated Employees as defined in IRC section 414(q).
4. Please demonstrate how the plan satisfies either a Safe Harbor (Income Tax Regulations 1.401(a)(4)-2(b)) or the General Test (Income Tax Regulations (1.401(a)(4)-2(c)).
5. A complete copy of the Average Deferral Percentage (ADP) test. (IRC section 401(k)(3)).
6. A complete copy of the Actual Contribution Percentage (ACP) test. (IRC section 401(m)(2)).
7. For items 5 and 6 above, the ADP and ACP tests should include all **eligible** employees, whether the plan is using a **current** year or **prior** year testing method, how the figures on the tests correspond to the compensation and deferrals listed on the Forms W-2 and how the compensation is nondiscriminatory per IRC section 414(s).
8. For items 5 and 6 above, if corrective measures were taken in order to satisfy the ADP or ACP tests, please provide calculations that demonstrate how correction was made.
9. Other:

**3. The following items are being requested to examine the operation of the trust including determining the ownership, existence and fair market value of trust assets, and whether the provisions of IRC sections 72, 401(a)(2), 513, 514 and 4975 are being complied with:**

1. Evidence of a fidelity bond for all people handling trust assets as required by ERISA section 412(a).
2. Supporting documents for all plan assets and liabilities, such as broker's statements, bank statements, insurance contracts, loan documents, deeds, etc, and how assets are valued at fair market.

3. Trustee or administrator reports; ledgers; journals; trustee, administrator, investment committee meeting minutes; certified audit report(s), and other financial reports for the trust. Any other financial reports including receipt and disbursement statements, a detailed income statement and a detailed balance sheet.
4. Other: