

## **403(b) Plan Final Regulations:**

### **Action Plan Checklist and Timeline for Compliance by 2009**

The 403(b) Plan final regulations are here and the IRS model plan language has been issued. What should a School do now to get itself ready to comply by January 1, 2009?

A basic Action Plan Checklist and Timeline is set out below as a guide for you to follow in getting your School ready to satisfy the new 403(b) rules by 2009. References have been included to documents or information that has been or will be provided by ASBO to assist you. To reflect a desire expressed by many of our members, the Timeline set out below has been accelerated so that it can be followed by a School that would like to have most 403(b) compliance actions completed before the beginning of the 2008 – 2009 school year. Of course, you may establish a timeline that works best for your School. Remember that many of the action items listed below can be delegated to the party(ies) who you have chosen to perform some or all of the listed functions.

**NOTE: The purpose of this Checklist is to provide you with an initial reference guide to prepare your School for compliance with the 403(b) rules. This Checklist does not list all actions that must be taken by a compliant plan and it is not intended to be a comprehensive list of all actions that your School must take for 403(b) compliance. The Checklist is provided as a general information source for our members. You are advised to consult with legal counsel and/or a tax advisor to determine the action plan and timeline that best fits your School's specific circumstances.**

### **403(b) COMPLIANCE - ACTION PLAN CHECKLIST AND TIMELINE**

#### **Feb. – March 2008:**

- \_\_\_\_\_ 1. Educate yourself about responsibilities of the School under the new 403(b) rules.  
*See ASBO 403(b) Responsibility Matrix*
- \_\_\_\_\_ 2. Identify all of the investment providers that your School currently sends contributions to under the 403(b) Plan and all of the investment providers who do not receive contributions, but do receive contract exchanges after September 24, 2007.
- \_\_\_\_\_ 3. Determine if your School will follow a centralized, decentralized, or hybrid compliance approach.  
*See ASBO 403(b) Services Reference Guide*
- \_\_\_\_\_ 4. Identify the types of 403(b) service provider(s) (e.g., investment provider, third party administrator, common or volume remitter service, investment consultant, legal counsel, etc.) with

whom your School would like to work and send out letters to request information or requests for procurement (RFPs) to obtain information and service agreement provisions of such service providers.

*See ASBO 403(b) Services Reference Guide*

**Mar. – Apr. 2008:**

- \_\_\_\_\_ 5. Identify the current features of your School's 403(b) Plan and determine how you would like the 403(b) Plan to operate going forward:

Decide which optional features you will include in your Plan. (You may want to include employee union representatives in this process if there are fewer features than previously available to their members.)

*See ASBO 403(b) Responsibility Matrix and ASBO Sample 403(b) Plan Document and Adoption Agreement*

- a. Who is eligible to participate in the 403(b) Plan (e.g., all employees, those working less than 20 hours per week, etc.)? Remember that all common law employees should be designated as eligible to participate if you wish to avoid the tracking of hours.
- b. What types of contributions will go into the 403(b) Plan (e.g., employee salary deferrals, employer contributions, post-retirement employer contributions, Roth 403(b) contributions)?
- c. Will you require automatic enrollment in the 403(b) Plan for all new employees? (Determine whether the statutes in your state will permit automatic enrollment.)
- d. Will you allow participants to roll amounts into your School's 403(b) plan from a previous employer's 403(b) Plan, from other eligible retirement plans or from IRAs?  

If yes, will you require separate accounting of those rollover amounts? Can your vendors accommodate separate accounting?
- e. Will you permit participant loans from 403(b) Plan assets?
- f. Will you permit participant hardship withdrawals from 403(b) Plan assets?

- g. Will you permit contract exchanges to investment providers who do not receive 403(b) Plan contributions?
- h. What is your 403(b) Plan year? (The IRS model plan language and the ASBO Sample Plan document designate the calendar year as the plan year.)
- i. Who will make administrative decisions about your School's 403(b) Plan?

\_\_\_\_\_ 6. Select 403(b) service provider(s) with whom your School will work and negotiate service agreements with such service provider(s).  
*See ASBO Sample Investment Provider Service Agreement as one example*

\_\_\_\_\_ 7. Consider Board adoption of policy for selection of investment providers (subject to state law requirements).

\_\_\_\_\_ 8. Review collective bargaining agreements for any provisions related to 403(b) Plan and consider re-negotiation of such provisions (if applicable).

**May – June 2008:**

\_\_\_\_\_ 9. Draft 403(b) Plan Document.  
*See ASBO Sample 403(b) Plan Document and Adoption Agreement*

\_\_\_\_\_ 10. Draft standard 403(b) Salary Reduction Agreement.  
*See ASBO Sample Salary Reduction Agreement*

\_\_\_\_\_ 11. Negotiate Service Agreement with each investment provider who receives contributions from 403(b) Plan. (Determine whether each of the providers you wish to offer to receive contributions under the 403(b) Plan will share information with the School for purposes of inclusion in your written plan.)  
*See ASBO Sample Investment Service Provider Agreement*

\_\_\_\_\_ 12. Negotiate Information Sharing Agreement with each investment

provider who does not receive contributions from 403(b) Plan, but will receive contract exchanges from 403(b) Plan. (Determine whether each of the providers you wish to offer to receive contract exchanges under 403(b) Plan will share information with the School for purposes of permitting contract exchanges under your written plan.)

*See ASBO Sample Information Sharing Agreement*

- \_\_\_\_\_ 13. Obtain copies of and review specimens of all annuity contracts and custodial account agreements offered under 403(b) Plan.

Alternatively, be sure that written plan language properly references those underlying contracts and agreements.

**June – July 2008:**

- \_\_\_\_\_ 14. Board adopts 403(b) Plan Document.

- \_\_\_\_\_ 15. Identify all employees eligible for 403(b) participation.  
*See ASBO 403(b) Responsibility Matrix*

- \_\_\_\_\_ 16. Prepare an employee communication that advises employees of the investment providers who may receive contributions and/or contract exchanges under your written plan, any limits on contract exchanges under your written plan, and your School's policy for adding or eliminating investment providers.

- \_\_\_\_\_ 17. Prepare employee 403(b) enrollment packages and annual meaningful notice of eligibility.  
*See ASBO 403(b) Responsibility Matrix*

**Aug. – Sept. 2008:**

- \_\_\_\_\_ 18. Conduct 403(b) enrollment meeting and investment provider meeting for eligible employees. During meeting, describe employee's rights and responsibilities under new 403(b) rules and educate employees about availability of 403(b) Plan.  
*See ASBO Sample Salary Reduction Agreement and Worksheet and ASBO 403(b) Primer: How a 403(b) Plan Can Help You Save*

**Sept. – Dec. 2008:**

- \_\_\_\_\_ 19. Develop 403(b) Plan Document file that includes:

- a. 403(b) Plan Document
- b. Salary Reduction Agreements
- c. Copies of annuity contracts and custodial agreements (if applicable)
- d. Investment Provider Service Agreements and Information Sharing Agreements
- e. Third Party Administrator Service Agreement and any other service provider agreements (if applicable)

- \_\_\_\_\_ 20. Implement on-going administrative procedures for reviewing and monitoring 403(b) Plan operations regarding eligibility determination, contributions, distributions, contract exchanges, etc.
- \_\_\_\_\_ 21. Implement annual process to review and amend, as needed, all documents and materials in 403(b) Plan Document file
- \_\_\_\_\_ 22. Implement process to select and deselect 403(b) investment providers subject to Board policy (if applicable).