**Developing a Successful TPA/Investment Provider Relationship for a School's 403(b) Plan**

K-12 public school administrators whose plans include multiple investment providers or who must include the orphan accounts of deselected providers in their compliance activities have several options in addressing the obligation to coordinate compliance across those respective providers, including:

1. Self-administration
2. Requiring investment providers to coordinate with each other
3. Designating investment providers to provide a centralized compliance coordination solution
4. Designating a third party, that is not an investment provider, to provide a centralized compliance coordination solution.

The direct and indirect costs to plan sponsors and plan participants will vary among these alternatives.

The last two options are often combined into the category of third party administrator (TPA) solutions, and there can be important advantages and considerations to each of these options. It is important to remember, however, that under option 3, the investment provider is not (or is not fully) independent, although the TPA services may be provided by a separate affiliate of the investment provider. It is also important to remember that under option 4, a third party may or may not be completely independent, depending on multiple factors; their independence can be affected through ownership, affiliation, or significant contractual relationships. In both cases, one important question to consider is the extent to which the coordination services are separated from, or connected with, sales and marketing services.

The results of the recent ASBO-LIMRA survey of K-12 public school administrators indicate that many school districts will be turning to a TPA who has the expertise and/or technology to help the district's 403(b) plan comply with the new IRS rules that went into effect in January 2009.

Many school districts are looking for TPA services that are independent of the investment providers. Provider neutrality is likely to be an important consideration for employers, and as noted above, a TPA that is not affiliated or owned by a investment vendor may (but is not guaranteed to) be investment provider-neutral.

A TPA should have significant experience working specifically with 403(b) plans and have experience working with a multitude of investment providers--often in a multi-provider environment. Centralized TPA services frequently help make sponsors comfortable with the new oversight regulations and provider coordination required under the IRS 403(b) rules.

To effectively serve your school's 403(b) plan, your TPA will need to work closely with those investment providers authorized to receive ongoing contributions and those approved for accepting contract exchanges under that 403(b) plan. The following are tips to help keep your plan's key providers – your TPA and investment providers – working together to keep your 403(b) plan running smoothly and operating in accordance with the final IRS 403(b) regulations. These suggestions are not intended to serve as tax or legal advice, but are provided only to assist you in the process of selecting a new TPA or replacing a TPA with whom you are not satisfied.

## Look for a TPA with Expertise with Public School 403(b) Plans

Remember that 403(b) plans can be sponsored by public schools and by 501(c)(3) nonprofit organizations. While 403(b) plans of public schools have a statutory exemption from the Employee Retirement Income Security Act (ERISA), the same cannot automatically be said of those plans offered by 501(c)(3) organizations. You will want to select a TPA that has had significant experience with the rules for administering a public school's 403(b) plan. Such a TPA also will likely be familiar with providers that focus their retirement plan investments on the needs of public schools.

Your TPA should be committed to serving the public schools 403(b) market. Assess whether the TPA has sufficient infrastructure and personnel to be familiar with and keep up with the needs of its current and prospective 403(b) public school sponsors. You also will want to solicit information about its current staffing needs compared to projected plans for growth to be sure your plan will get an appropriate level of service.

## Assess Your TPA's Administrative System

While some school districts have sought an exclusive investment environment for their 403(b) plan, most school districts have continued to offer multiple providers. Ask your TPA if there is any limitation on the number of providers and/or contracts that it can administer on its recordkeeping system. You also will want to inquire about the TPA's ability to maintain information about any "legacy" investment providers, both those that were deselected prior to the 2009 effective date of the IRS 403(b) regulations and those that are deselected in 2009 or later. This will determine the extent to which the TPA can appropriately determine the amount available for a loan to a 403(b) plan participant or ensure that a participant hasn't already sought a hardship withdrawal from another investment provider under the school's 403(b) plan.

Since information about your plan will change constantly, your TPA should be prepared to keep up with those changes. Your investment providers, both those who are currently approved under your 403(b) plan and those legacy providers, will need to know how to interact with the TPA so that plan information is continuously refreshed. You should ask your TPA how often it expects an investment provider to supply updated information and, once that is provided, when the updated data would be reflected on the TPA's administrative system. Finally, ask the TPA to demonstrate how it protects and secures the sensitive information about your employees that it possesses.

## Value Adaptability

A TPA typically is familiar with working in a changing environment. A TPA's ability to adapt to change will be crucial to keeping your 403(b) plan running smoothly. Are the TPA's procedures flexible enough to meet your business requirements as the 403(b) plan sponsor? Can your investment providers satisfy the TPA's workflow requirements? Do you, your TPA, and your investment providers all agree to turnaround times in order to meet service expectations for your 403(b) plan?

Your TPA also will need to be able to adapt to an evolving regulatory world. You will need to assess your TPA’s ability to adjust with minimal disruption to you and your plan participants when additional IRS guidance or federal legislation is released. Part of your TPA’s nimbleness will be reflected in the extent to which it monitors legislative and regulatory initiatives for their impact on workflows and administrative systems. The extent of the TPA’s involvement in the plan administration industry, coupled with the experience and tenure of its staff, could be factors in keeping transition disruptions to a minimum.

**Establish Roles and Responsibilities**

Even if your district hires a TPA, the IRS still will expect the school district to be ultimately responsible for the operation of its 403(b) plan. The district, therefore, has a continuing responsibility to monitor its TPA’s performance. Identify the tasks that the TPA will be responsible for and the services that you are requesting from your investment providers. For example, who will develop your school’s plan document and provide subsequent plan amendments and restatements? Will the TPA provide a centralized process for authorizing participant requests for loans, hardships, and other disbursements on behalf of the plan? Who will be responsible for calculating maximum amounts that can be contributed to a participant’s account under the plan and for monitoring the actual contributions made each year? Who will communicate with participants about the new rules regarding the administration of the school’s 403(b) plan? Setting expectations of roles within your 403(b) plan will keep your plan operating smoothly and help minimize the likelihood of missed handoffs popping up if the IRS audits your school’s 403(b) plan.

- Assess Indemnification for Errors

Consider whether the TPA is insured and to what extent the TPA will indemnify the employer, the plan, and the participants for the TPA's errors.

- Seek the Input of Your Investment Provider

Of course, you will ask for references from school districts in evaluating your TPA. Don’t forget to also seek the input of your investment providers. Those investment providers that have been committed to the public schools 403(b) arena will have had experience with TPAs as well – they have seen workflows that run smoothly, those that do not, and the efforts of TPAs to resolve any glitches that may arise.