

*Pension*  
ANALYST

# Compliance Bulletin

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## Plan Documents Required for 403(b) Arrangements

Final IRS regulations require an employer offering a 403(b) arrangement to adopt a written plan by January 1, 2009. This requirement applies to both ERISA 403(b) plans and non-ERISA 403(b) programs.

### Basic Guidance for Sponsors of Non-ERISA Programs

In [Field Assistance Bulletin \(FAB\) 2007-02](#), the Department of Labor (DOL) provided guidance to enable a non-governmental non-ERISA 403(b) program to comply with the written plan requirement without jeopardizing its non-ERISA status. According to this guidance, the written plan would consist of:

- The separate contracts and related documents supplied by the annuity providers, account trustees and custodians; and
- A separate “wrapper” document that coordinates administration among the different issuers and addresses applicable tax matters, such as the universal availability requirement.

### Model Plan Language for Public School Plans

On November 27, 2007, the IRS published [model plan language](#) for public schools to use to either adopt a written 403(b) plan or amend an existing plan document when their program limits contributions to pre-tax elective deferrals. Public school plan sponsors that adopt the entire model plan will have assurance that the written plan satisfies the 403(b) requirements, without having to request a formal IRS private letter ruling.

### Immediate Action Required

If Prudential currently provides document services for your ERISA 403(b) plan, we will contact you regarding required amendments. If you do not currently use Prudential’s document services but are interested in doing so, please contact your Prudential Retirement representative.

Sponsors of non-ERISA 403(b) programs need to begin collecting the existing documents that must be incorporated in their written plans, and identifying additional documentation needed to make those written plans complete. If you are interested in using Prudential’s document services to comply with the new requirements by January 1, 2009, please contact your Prudential Retirement representative.

If you do not use Prudential’s document services, you must provide us with a copy of the plan and a summary of the applicable administrative provisions that will take effect on January 1, 2009. If you do not provide this information in a timely manner, Prudential may be unable to process certain transactions on a timely basis.

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