

**Carruth Compliance Consulting, Inc.**  
**Answers to ASBO Questions for Third Party Administrators**

**For Prospective CCC Clients:**

In February of 2007, ASBO released a series of educational tools to assist school district administrators in choosing a course of action to meet their 403(b) plan administration needs. One of the tools provided by ASBO was the following list of questions for potential Third Party Administrators. We felt that having our answers to these questions readily available to our potential clients would be helpful in the decision making process. We encourage prospective clients to contact us with any questions via telephone (503) 968-8961 or toll-free at (877) 222-3090, or via email at [cccinfo@ncompliance.com](mailto:cccinfo@ncompliance.com). We thank you for your interest in CCC and we look forward to addressing your 403(b) plan administration needs.

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- 1. Can you provide a sample 403(b) plan document for review by the school and its legal counsel? If yes, to what extent does it reflect (and differ from) the IRS model plan language in IRS Revenue Procedure 2007-71?**

**Yes, CCC has created appropriate 403(b) plan documents for our Client Districts, making use of the model language published by the IRS in Revenue Procedure 2007-71 and the recently released ASBO International guidance. These Plan Documents incorporate information specific to the School District/ESD. The plan documents will be reviewed and updated as needed and will be maintained on the CCC website.**

- 2. Will you assist the school in the process of obtaining service agreements, information sharing agreements, hold harmless agreements, or other similar agreements from 403(b) investment providers? If yes, please describe your procedures.**

**Yes, CCC will contact all vendors associated with the Plan and secure Hold Harmless Agreements (HHAs), Information Sharing Agreements (ISAs), and employer-specific vendor information for inclusion on the employer's dedicated section of the CCC website. Basically, in the CCC model Vendors enter into HHAs and ISAs with CCC on behalf of all CCC Client Districts. Mutual indemnification is established between CCC and the Vendor, whereas CCC's contract with the District establishes indemnification protection between CCC and the District. If a vendor fails to comply with the 403(b) regulations, then it fails to comply with its HHA and/or ISA. Consequently, CCC and the District are held harmless and the vendor assumes responsibility.**

- 3. Will you assist the school in determining employee eligibility for the 403(b) plan, notifying eligible employees of their eligibility to participate, and reviewing and identifying any eligibility determination errors? If so, please describe your procedures.**

**CCC requires that ALL of all our district clients maintain a policy of universal eligibility to participate in 403(b) programs, eliminating any possibility of potentially discriminatory policies and eliminating administrative concerns associated with eligibility requirements.**

CCC provides annual announcements to client Districts in November for two purposes: 1) To satisfy the “meaningful notice of eligibility to participate,” including satisfaction of the “universal eligibility” nondiscrimination requirement; and 2) To inform employees about new contribution limits for the upcoming calendar year. CCC also offers educational information on the CCC website, including a step-by-step guide for participant enrollment.

4. Will you agree to impose reasonable privacy limitations on the release of information provided at the plan-level and to not share such data with an investment provider (or its agents or representatives) with whom the employee does not have a relationship? Please describe your procedures for such restrictions.

Client data is strictly protected using the storage and transmittal security practices available. Client data is only used for the purposes of plan administration and compliance testing; CCC does not maintain or distribute data for any other use. CCC upholds a strict policy against conflicts of interest such as marketing relationships with vendors. That policy works in unison with our security procedure protects our clients and their employees from privacy breaches. All sensitive plan participant information is maintained only in the CCC office and is safeguarded through a variety of information security measures, such as AES-256 data encryption, secured BSD-Unix login credentials requiring lengthy complex passwords, motion-sensing alarm systems, and more. No sensitive information is placed on the CCC website.

5. Describe your administrative process for annual employee plan enrollment and deferral changes in a 403(b) plan.

CCC provides annual announcements to Client Districts in November for two purposes: 1) To satisfy the “meaningful notice of eligibility to participate,” including satisfaction of the “universal eligibility” nondiscrimination requirement; and 2) To inform employees about new contribution limits for the upcoming calendar year. The CCC website (<http://www.ncompliance.com>) has been designed to provide easy access to needed information by employers and participants, including enrollment and changes in deferrals. ALL forms and documents are available on the website and each one can be filled in online, then printed and submitted as appropriate. This enables employers and participants easy access to forms, along with completion and submission instructions. One purpose of the website is to empower participants to take ownership of personal transactions and relieve the District from excessive expectations of assistance from staff. Procedures for employee enrollment and salary deferral changes are located within the District's dedicated area of the CCC website.

6. Describe if and how you will educate employees about the 403(b) plan.

CCC provides extensive educational resources on our website for employees to learn more about investment options through dedicated Employee Information areas linked to the Employer's CCC Homepage. This enables CCC to provide information that is up-to-the-minute, appropriate for the Employer's investment offerings, and geared to a wide variety of investors from the beginner to the seasoned plan participant. CCC encourages both participants and employees that don't yet participate to go to the CCC website for all information about the plan. We receive numerous email messages (preferred) and

telephone calls from employees, participants, and administrators related to the plans of Client Districts. We return nearly all email messages and telephone calls the same day they are received, often within minutes, and no later than the following business day except in the rarest of circumstances.

**7. Do you offer consolidated billing and common remitting services?**

At this time, CCC does not provide common remitter services.

**8. Describe how you will monitor employees participating in the 403(b) plan to confirm that they are staying within annual contribution limits.**

CCC monitors contribution limits, including the catch-up contributions and ordering rules. Monitoring is done on a monthly basis to keep a close watch on accounts that may be at risk for excess contributions. CCC generates what we call an IRS Short List that includes all participants projected to exceed the standard elective deferral limit, and each case is evaluated to see if the participant is eligible for additional contributions. These cases are individually tracked and any cases that require action such as reducing or stopping contributions are communicated to the appropriate CCC contact at the District.

CCC maintains contribution guides and information on Maximum Allowable Contributions in the Employee Information sections of our Client District's section of the CCC site. We also welcome district employees to contact us directly via email or telephone regarding their contributions. CCC Employee Information can be found linked to any of our active Current CCC Clients (Plan Sponsors) located at <http://www.ncompliance.com/employers.aspx>.

**9. How will you obtain information needed for compliance monitoring from investment providers working with the school? Please describe when and how you would propose to obtain such information.**

Information is to be transmitted either directly over two-way wire or via symmetric key encryption at levels commensurate with or surpassing standards accepted as safe for sensitive banking and other financial transactions. Currently, CCC recommends sending password protected zip files to CCC or submitting data via password secured FTP sites. CCC is in the process of developing an FTP transmittal area for our website to ensure even greater data security in the future. The data needed for CCC to perform compliance testing and plan administration takes the form of monthly payroll data, monthly vendor remittance summaries, and periodic HR data updates. The payroll information is used to track contributions to 403(b) accounts (also 457(b) or Roth accounts, depending on the District's selected service). This allows us to monitor and project employee deferrals to see if participants are compliant with current limitations. The HR data is vital for determining eligibility for distributions and certain IRS provisions allowing additional contributions, as well as contacting employees if the need arises. Monthly vendor remittance reports offer important details on which vendors are receiving contributions, offering an additional way to track excess contributions and assist employees. CCC does not use District information for any purposes other than those associated plan administration and compliance testing.

10. For 403(b) plans with multiple investment providers, including deselected providers that are incorporated into the plan's procedures, describe your administrative procedures for review and approval of: (a) distributions, (b) participant loans, (c) hardship withdrawals, (d) contract exchanges, and (e) plan-to-plan transfers.

CCC has monitored contract exchanges and plan-to-plan transfers for its clients since September 25, 2007, using an innovative proprietary umbrella Information Sharing Agreement system. CCC will begin monitoring distributions, participant loans, and hardship distributions beginning January 1, 2009. CCC will be responsible for approval or denial of these transactions, but will confer with the District regarding dates of birth and employment status and will obtain information necessary for proper administration of the plan from vendors (under Information Sharing Agreements). These policies comply with the final 403(b) Regulations and the model language of Rev. Proc. 2007-71. CCC has a series of Implementation Steps to gather information from our District Clients concerning both current and historic vendors involved in the District Plan back to January 1, 2005, in order for CCC to make the IRS required "good faith" effort to obtain Information Sharing Agreements with those vendors. Since CCC generally enters into umbrella information sharing agreements with vendors that cover ALL of our district clients with few exceptions, the process of obtaining an ISA may already be covered for some vendors. CCC's proactive approach to the obtaining ISA's has allowed us begin these information sharing relationships in advance of our administration of plan features such as loans and hardship agreements. For transactions CCC currently administers, we provide fillable pdf documents and detailed instructions on the CCC website (see exchanges and transfers).

A sample loan policy and CCC Loan Form are available on the CCC website at <http://www.ncompliance.com/tsaloans.aspx>. A sample hardship policy and CCC Hardship Form, which is also available on the CCC website at <http://www.ncompliance.com/tsahardships.aspx>. CCC's Draft Contract is linked under the heading "Full Service Program" on our Prospective Client Information Page at the following URL: <http://www.ncompliance.com/prospective.aspx>. Procedures for processing exchanges and transfers are also available on the CCC website at: [http://www.ncompliance.com/isa\\_list.aspx](http://www.ncompliance.com/isa_list.aspx).

11. Describe the types and frequency of reports that you provide to the school.

CCC drafts Plan Documents for Client Districts using a dynamic html format that allows CCC to readily update, modify, and make the Plan Document immediately available on the CCC website. Client Districts receive announcements to print and distribute regarding 403(b) plan enrollment a minimum of once a year. On the CCC website, we provide up-to-the-minute information regarding IRS rule changes, changes to CCC Client District policies regarding 403(b) plans, and changes in vendor offerings within District Plans. CCC provides Districts with contribution monitoring reports called IRS Short Lists on a continuing basis throughout the year. The IRS Short List tracks contributors that are projected to exceed the maximum allowable contribution for the tax year and alerts Districts to reduce or stop employee contributions before they over-contribute. In rare cases that a participant exceeds his or her elective deferral limit, CCC prepares and processes Corrective Distribution Documents for the District and the participant.

**12. Describe how plan errors are identified to the school and corrected.**

Errors concerning the District Plan Document are identified by careful review of the current IRS regulations, District policies, collective bargaining agreements and vendor documents. If a conflict or error is found in the District's Plan, CCC's Plan Document system allows for flexibility and immediate revision. CCC monitors the contributions of plan participants throughout the year, and in the rare event that an error is made and a participant exceeds the maximum allowable contributions for the year, CCC prepares and processes the necessary corrective distribution documents.

**13. What are the fees that your organization would charge for the plan services described in your response? Identify who would be expected to pay these fees (e.g., the school, participants, etc.).**

The initial fee structure at CCC is based on the student population of a School District. Initial Educational Service District fees are based on the total number of employees. Fees in subsequent years are determined based on the complexity, time, and technology demands of drafting, monitoring and administering the District's plan. Changes in the regulatory environment may require re-evaluation of fee structures. Fees are assessed to Districts only, not to participants or vendors. A fee schedule is linked under the heading "Full Service Program" on our Prospective Client Information Page at the following URL: <http://www.ncompliance.com/prospective.aspx>

**14. Describe any ownership or affiliation relationship or agreement that you have with any 403(b) investment provider. If there is such a relationship, please describe the measures in place to ensure that plan administrative services information is not shared with the investment provider other than on a "need to know" basis for effective plan administration.**

CCC has no marketing relationships with any investment providers and has a strict policy against developing any such relationships, avoiding any possible perception of a conflict of interest regarding administration and participation in the Plan.

**15. Describe any fees, commissions, or other types of payments that you receive from any 403(b) investment provider.**

Not applicable, see the response to Question 14.

**16. How many years have you been providing schools nationwide with 403(b) plan administration, including some or all of the services described in your previous responses?**

CCC's president and founder, Dr. J. Harvey Carruth, is nationally recognized as a 403(b) and 457(b) plans expert with over 25 years experience in the plan administration, monitoring, and regulatory compliance. Dr. Carruth directed the Individualized Retirement Financial Planning Project at The University of Tennessee from 1980 through 1997. In 1997, Harvey founded Carruth Compliance Consulting, Inc. (CCC), an Oregon Corporation. During the period since 1997, CCC has developed solid consultant-client relationships with numerous Oregon Public School Districts and ESDs. Carruth

Compliance Consulting's client base has grown rapidly since 2007, requiring Dr. Carruth to hire new staff. CCC's staff is composed of an Executive Assistant to Dr. Carruth, a Director of Technology, and a Director of Compliance and Data Analysis. CCC's new staff additions have brought an additional 20 years of IT and data security knowledge, 13 years managerial and business analytics experience, and decades of customer service expertise to the company.

17. Describe your policy regarding the school's ownership of the 403(b) plan data. How often and in what format is plan data transferred to the school?

All school district data remain the property of the district. Since CCC does not provide common remitter services, the only data CCC might have that the District does not have would be information received from vendors under Information Sharing Agreements. Such data would be available to the District upon request, but CCC does not envision Districts being interested in having access to such data.

18. What software or systems do you maintain? Are your software or systems privately owned or do you utilize another firm's software or systems? Please describe in detail.

CCC uses a combination of off-the-shelf office software and proprietary systems. CCC currently uses Apple computers operating on the Leopard Operating System, employing a BSD variant of UNIX that offers the highest security foundations available today. In order to utilize Windows platform software such as Microsoft Office, DreamWeaver and Adobe Acrobat Professional, CCC runs virtual PC computers via VMware. This allows CCC to maintain the UNIX environment while sandboxing the PC software through a PC virtualization, CCC minimizes security risks of running a Windows-based PC while gaining the ability to use the standard formats of software employed by our business associates. CCC maintains fully licensed copies of all software programs we use.

CCC has developed proprietary systems and web content to address the needs of our Client Districts. Currently, CCC is in the process of developing a SQL database and redeveloping our site in order to streamline our current operations and allow Districts more personal control and modification of their homepage space within the CCC website. The new CCC website will have a secure FTP feature for the transmission of data. The Plan Document system used by CCC is also proprietary, utilizing an HTML document and dynamic, customizable features.

19. Describe what makes your services unique to any other 403(b) service provider in the industry.

CCC is very unique in the field of 403(b) Third Party Administrators due to our 403(b) and 457(b) expertise, experience, and specialization in public School District and ESD plans. Harvey Carruth's knowledge of TSA plan administration is unparalleled as is Carruth Compliance Consulting's reputation for excellent service to both CCC Client Districts and their employees. Harvey Carruth has over 25 years experience in TSA administration and compliance and Carruth Compliance Consulting has been providing services to school districts and ESDs in the Pacific Northwest for over a decade. This specialized knowledge of district administration and compliance needs is key, due to the complex nature of 403(b) plans, unique compensation packages offered by districts, and

the interconnected nature of collective bargaining agreements to district 403(b) plans. This level of experience in the 403(b) field has made CCC very well equipped to address the changing IRS regulations and determine the impact on plan administration in schools District and ESD environments.

CCC's strict policy of avoiding marketing relationships or cooperative business interests with product Vendors is a rare find as the field of 403(b) administrators grows. In turn, CCC clients are assured that their Plan is free of potential conflicts of interest with respect to their vendor selection processes.

CCC offers professional customized website features that take into account the unique features of our clients' plans and the needs of 403(b) plan administration, rather than a one-size-fits-all approach offered by many competitors. Plan Documents, District-specific forms, District policies, and investment educational links are maintained on the CCC website in dedicated areas. Each District homepage is linked to applicable Vendor pages on the CCC website along with procedural information and forms for plan participants. CCC's approach to conducting business is to cater to the needs of our individual districts whenever possible, working closely with districts to understand their individual needs.

In addition to CCC's knowledge of plan document creation, day-to-day plan administration, and technological support features, CCC has been instrumental in the successful guidance of two Oregon school districts through IRS audits, one an audit of both the 403(b) and the 457(b) plans by an IRS agent and the other a formal voluntary audit of the 403(b) plan under the IRS Voluntary Correction of Tax-Sheltered Annuity (VCT) program under Revenue Procedure 2001-17. Consequently, we feel very qualified to provide IRS audit support, should the need arise. It would be our goal to avoid IRS audits through the careful monitoring of all of our clients' 403(b) plans. In the event of an IRS audit, there would be no additional fees for CCC support associated with the audit.

**20. Please provide a copy of your standard 403(b) plan service agreement.**

CCC's Draft Contract is linked under the heading "Full Service Program" on our Prospective Client Information Page at the following URL:  
<http://www.ncompliance.com/prospective.aspx>

**21. Do you maintain errors and omissions or similar insurance covering the services proposed in your responses above? If so, will you provide documentation of such coverage upon request?**

CCC carries a Business Insurance Policy with The Hartford with coverage as follows:

E & O	\$2,000,000
Liability	\$2,000,000
Umbrella	\$1,000,000

We have no problem with a contractual requirement for this insurance as we deem it the only responsible way to be in business.