

## Application for Approval of Master or Prototype Defined Benefit Plan

This Form Is Open to Public Inspection

**For IRS Use Only**

**File This Form With Internal Revenue Service**

Section references are to the Internal Revenue Code unless otherwise noted.

**Complete every applicable item on this form. You may only answer "not applicable" (N/A) where an N/A answer is indicated as one of your options.**

**Part I All Filers Complete This Part. See instructions before completing this form.**

1 Enter amount of user fee submitted \$ _____		
2a Approval requested: <input type="checkbox"/> Initial application <input type="checkbox"/> Amendment—Enter file folder number and date of last letter issued ▶	2b File folder number _____	2c Date of last letter issued _____
3a Name of applicant _____ Address (number, street, room or suite no.) (If a P.O. box, see instructions) _____ City _____ State _____ ZIP code _____		3b Employer identification number of applicant _____
3d Type of applicant (see Definitions in the instructions): <input type="checkbox"/> Sponsor <input type="checkbox"/> Mass Submitter <input type="checkbox"/> National sponsor		3c Applicant's telephone no. ( ) _____
4a Name of person to be contacted _____		4b Telephone number ( ) _____
4c If a power of attorney is attached, check box . . . ▶ <input type="checkbox"/>		
5a Basic plan document number _____		5b Adoption agreement number _____
6 Form of plan: <input type="checkbox"/> Prototype plan <input type="checkbox"/> Master plan <b>Note:</b> A master plan has only one trust or custodial account for all adopting employers.		
7 Does the plan provide for permitted disparity in accordance with section 401(l)? . . . <input type="checkbox"/> Yes <input type="checkbox"/> No		
8 Filing status of plan: <input type="checkbox"/> Standardized plan not paired <input type="checkbox"/> Standardized paired plan (identify plan(s) paired with this plan by plan name and number on an attached sheet) <input type="checkbox"/> Nonstandardized plan <input type="checkbox"/> Nonstandardized safe harbor plan		

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct and complete.

Signature ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_ Date ▶ \_\_\_\_\_

		Yes	No
<b>9</b>	Procedural requirements:		
<b>a</b>	If this is an initial request, have the following been submitted as required by instructions—		
	(1) Adoption agreement? . . . . .		
	(2) Copy of plan? . . . . .		
	(3) Copy of trust indenture or custodial agreement? . . . . .		
<b>b</b>	Amended or restated plans:		
	(1) If the amendment is not incorporated into the plan document, have the following been submitted?		
	<b>(a)</b> A copy of the amendment? . . . . .		
	<b>(b)</b> A description of the amendment and its effect on the plan? . . . . .		
	<b>(c)</b> A working copy of the plan currently in effect? . . . . .		
	(2) If the amendment is incorporated into the plan document, has a copy of the restated plan with amendments highlighted been submitted? . . . . .		
	(3) Will you advise those employers who cannot or do not adopt the amended or restated plan that they may not continue to participate under the master or prototype plan? . . . . .		
<b>c</b>	Is the plan and trust (or custodial agreement) patterned after and substantially the same as another plan and trust (or custodial agreement) on which a favorable letter has been received? (If "Yes," see specific instructions.) . . . . .		
<b>d</b>	Sponsor (non-mass submitter) request:		
	(1) Do you have at least 30 employer-clients which are reasonably expected to adopt this plan's basic plan document and one or more of the adoption agreements associated with this basic plan document? If "No," complete <b>(2)</b> . . . . .		
	(2) If "No" to <b>(1)</b> , enter the file folder number of the basic plan document for which the requisite number of adopting employer-clients requirement is met: _____		
<b>e</b>	Mass submitter or national sponsor request (mass submitter complete <b>(1)</b> , <b>(2)</b> and <b>(3)</b> ; national sponsor complete <b>(4)</b> ):		
	(1) Are applications on behalf of the requisite number of sponsors who are adopting the same basic plan document on a word-for-word identical basis included? If "No," complete <b>(2)</b> . . . . .		
	(2) If "No," to <b>(1)</b> , enter the file folder number of the basic plan document for which the requisite number of adopting sponsors requirement is met: _____		
	(3) If this is a flexible plan, answer <b>(a)</b> and <b>(b)</b> :		
	<b>(a)</b> Have you bracketed and identified the optional provisions of the plan? . . . . .		
	<b>(b)</b> Have you included a copy of the written representation describing the choices available to sponsoring organizations and the coordination of optional provisions? . . . . .		
	(4) If this is a national sponsoring organization request, do you maintain a list of: <b>(a)</b> 30 or more adopting employers in each of 30 or more states, or <b>(b)</b> 3,000 or more adopting employers that have adopted any master or prototype plan of the sponsoring organization which has a TRA '86 opinion or notification letter? (The determination as to whether there are 30 or more adopting employers or 3,000 or more adopting employers may be made on any one date during the 12-month period ending April 7, 2000) .		

**Note:** This application is designed to be used in conjunction with Rev. Proc. 2000-20. A list of required modifications is also recommended for use and may be obtained by writing to the Internal Revenue Service, Employee Plans Rulings and Agreements, P.O. Box 27063 McPherson Station, Washington, DC 20038, Attention T:EP:RA:T:ICU; or faxing a request to 202-283-9554.

In items 10 through 13 indicate the article or section and page number of the plan or trust where the following provisions are contained. All questions must be answered. If not applicable, check "N/A" column; otherwise complete the "Article or Section and Page Number" column.	N/A	Article or Section and Page Number	Change	For IRS Use Only
<b>10</b> Provisions applicable to all plans:				
<b>a</b> Definitions:				
Where does the plan define the following terms—				
(1) Year of service? . . . . .				(1)
(2) Break in service? . . . . .				(2)
(3) Hour of service under Department of Labor Regulations, including service with all employers aggregated under section 414(b), (c), (m), or (o), and service of any individual considered an employee for purposes of this plan under section 414(n) or (o)? . . . . .				(3)
(4) Elapsed time? . . . . .				(4)
(5) Plan year? . . . . .				(5)
(6) Compensation as defined in section 414(s) or limited by section 401(a)(17)?				(6)
(7) Average annual compensation? . . . . .				(7)
(8) Earned income as defined in section 401(c)(2)? . . . . .				(8)
(9) Employee as described in section 414(b), (c), (m), (n), or (o)? . . . . .				(9)
(10) Leased employee as described in section 414(n) or (o)? . . . . .				(10)
(11) Highly compensated employee as defined in section 414(q)? . . . . .				(11)
(12) Owner-employee? . . . . .				(12)
(13) Self-employed individual? . . . . .				(13)
(14) Normal retirement age? . . . . .				(14)
(15) Straight life annuity? . . . . .				(15)
<b>b</b> Minimum participation standards:				
(1) Are the requirements for participation under the plan determined without regard to maximum age? . . . . .				(16)
(2) Will a new employee, otherwise eligible, participate on the earlier of the first day of the first plan year after meeting the minimum age and service requirements of section 410(a)(1) or 6 months after satisfying such requirements? . . . . .				(17)
(3) Does the initial eligibility computation period begin with the date on which the employee first performs an hour of service, and do subsequent eligibility computation periods: (1) begin with the anniversary of such date, or (2) shift to the plan year in accordance with section 2530.202-2(b) of the DOL Regulations? . . . . .				(18)
(4) Is the computation period for determining a break in service the same as is used to compute a year of service for eligibility after the initial computation period? . . . . .				(19)
(5) If all years of service are not counted for participation purposes, is the service not counted excludable under sections 410(a)(5)(B), (C), or (D)?				(20) (21)
(6) Will an employee otherwise eligible, who is in an ineligible class of employees, immediately participate on becoming a member of an eligible class? . . . . .				(22)
<b>c</b> Accrual of benefits:				
(1) Does the benefit formula provide for wear-away and fresh-start rules?				(23)
(2) Does the plan provide for the determination of a participant's frozen accrued benefit? . . . . .				(24)
(3) Does the plan provide for adjustments to frozen accrued benefits? . . . . .				(25)
(4) Does the current benefit formula provide for no permitted disparity and does it use the fractional accrual rule? . . . . .				(26)
(5) Does the current benefit formula provide for permitted disparity? . . . . .				(27)
(6) Does the plan define covered compensation, final average compensation, and taxable wage base? . . . . .				(27A)
(7) Does the plan provide adjustments for benefits beginning at a time other than normal retirement age? . . . . .				(27B)

	N/A	Article or Section and Page Number	Change	For IRS Use Only
<b>10</b> Provisions applicable to all plans <i>(continued)</i> :				
<b>c</b> Accrual of benefits <i>(continued)</i> :				
<b>(8)</b> If the plan provides for permitted disparity, must mandatory employee contributions be allocated to a separate account? . . . . .				(27C)
<b>(9)</b> If fully insured, does the plan provide for permitted disparity with respect to employer-provided benefits? . . . . .				(27D)
<b>(10)</b> If the plan is integrated, is the employer-provided benefit limited in accordance with section 401(a)(5)(d)? . . . . .				(27E)
<b>(11)</b> If the plan has permitted disparity under an offset benefit formula, do retroactive amendments comply with the Social Security Act of 1983? . . . . .				(27F)
<b>d</b> Benefits increases:				
For a fully insured plan, or a plan that provides an insured death benefit, is there a provision for purchasing additional contracts due to increases in compensation? . . . . .				(28)
<b>e</b> <b>(1)</b> Does the plan define an accrual computation period? . . . . .				(29)
<b>(2)</b> Does the plan define a year of credited service? . . . . .				(30)
<b>(3)</b> Does the rate of accrual under each benefit formula satisfy one of the following tests at all times:				
<b>(a)</b> 3 percent rule—section 411(b)(1)(A)? . . . . .				(31)
<b>(b)</b> 133½ percent rule—section 411(b)(1)(B)? . . . . .				(31)
<b>(c)</b> Fractional rule—section 411(b)(1)(C)? . . . . .				(31)
<b>(d)</b> Fully insured plan rule—section 411(b)(1)(F)? . . . . .				(32)
<b>(4)</b> Does the plan provide for pre-ERISA accruals? . . . . .				(33)
<b>(5)</b> For purposes of determining accrued benefits, is the normal retirement benefit equal to the greater of the early retirement benefit under the plan or the benefit beginning at normal retirement age? . . . . .				(34)
<b>(6)</b> Do plan participants continue to accrue benefits without reduction in the rate of accruals solely on account of the attainment of any specified age? . . . . .				(35)
<b>f</b> Employee contributions:				
<b>(1)</b> If the plan permits employee contributions which are allocated to a separate account, does the plan comply with section 401(m)? . . . . .				(36)
<b>(2)</b> Does the plan provide a separate account for the portion of each employee's accrued benefit derived from voluntary employee contributions? . . . . .				(37)
<b>(3)</b> Are employee contributions (adjusted for investment experience) nonforfeitable at all times? . . . . .				(38)
<b>(4)</b> Does the plan require that deductible voluntary employee contributions will be maintained in a separate account? . . . . .				(39)
<b>g</b> Section 415 limitations:				
Are annual benefits limited as required by section 415? . . . . .				(40)

10 Provisions applicable to all plans (continued):	N/A	Article or Section and Page Number	Change	For IRS Use Only
<b>h</b> Distribution provisions:				
(1) Does the plan state the normal form in which benefits will be paid (life annuity, 10 years certain and life thereafter, etc.)? . . . . .				(41)
(2) Does the plan specify the actuarial assumptions to be used in determining actuarial equivalence which comply with Regulations section 1.417(e)-1? . . . . .				(42)
(3) Are the optional forms of benefits stated in the plan? . . . . .				(43)
(4) If the plan disregards service attributable to a distribution in computing the employer-derived accrued benefit, does the plan contain provisions that satisfy Regulations section 1.411(a)-7(d)(4)? . . . . .				(44)
(5) If the present value of the accrued benefit is greater than \$5,000, is consent of the participant and spouse (if applicable) required when benefits are immediately distributable within the meaning of Regulations section 1.417(e)-1? . . . . .				(45)
(6) (a) Does a married participant automatically receive a qualified joint and survivor annuity (QJSA), and an unmarried participant the normal form of life annuity? . . . . .				(46)
(b) Is the participant given an opportunity to make a qualified election to waive the automatic form of payment in a manner which satisfies section 417(a)(2) during the election period described in section 417(a)(6)(A)? . . . . .				(46)
(7) (a) Does the plan provide that the spouse of a deceased participant will receive a qualified preretirement survivor annuity (QPSA) that requires payments not less than the amount specified in section 417(c)(1) in the event of death before the annuity starting date? . . . . .				(46)
(b) Is the participant given an opportunity to make a qualified election to waive the QPSA in a manner which satisfies section 417(a)(2) during the election period described in section 417(a)(6)(B)? . . . . .				(46)
(8) Does the plan designate or enable the employer to elect the percentage (not less than 50%, nor more than 100%) of the survivor annuity provided under the QJSA? . . . . .				(46)
(9) (a) Does the plan provide for a written explanation of the automatic form of payment in a manner which satisfies section 417(a)(3)(A)? . . . . .				(46)
(b) Does the plan provide for a written explanation of the QPSA in a manner which satisfies section 417(a)(3)(B)? . . . . .				(46)
(10) Do benefits under the plan begin, unless otherwise elected in writing, no later than the 60th day after the latest of the close of the plan year in which: (i) the participant attains the earlier of age 65 or the plan's normal retirement age, (ii) the 10th anniversary of the year in which the participant began participation under the plan occurs, or (iii) the participant terminates his or her service with the employer? . . . . .				(47)
(11) If the plan contains an early retirement provision which requires or could require both a minimum age and service for eligibility, does a participant who meets the service requirement but separates from service before meeting the age requirement begin to receive benefits (unless otherwise elected) upon meeting the age requirement? . . . . .				(48)
(12) Does the plan provide that the terms of any annuity contract purchased and distributed by the plan to a participant or spouse shall comply with the requirements of the plan? . . . . .				(49)
(13) Are annuity contracts nontransferable when distributed? . . . . .				(50)

**10** Provisions applicable to all plans *(continued)*:

**h** Distribution provisions *(continued)*:

- (14) Does the plan require that, in accordance with section 401(a)(9):
  - (a) Distributions be made beginning not later than the required beginning date? . . . . .
  - (b) Payment of the participant's interest be made at least as rapidly as under the method used prior to death, when the participant dies after distribution has started? . . . . .
  - (c) Payment of the participant's interest be made within 5 years of the participant's death, unless one of the exceptions in section 401(a)(9)(B)(iii) or (iv) applies, when payment of the participant's interest has not begun prior to death? . . . . .
  - (d) Distributions, if not made in a single sum, will satisfy the minimum distribution rules of section 401(a)(9) and the regulations thereunder, including the minimum distribution incidental benefit requirement of Regulations section 1.401(a)(9)-2? . . . . .
- (15) Does the plan provide that any preretirement death benefits are incidental?
- (16) Does the plan permit distributions only at normal retirement age, plan termination, termination of employment, death, or disability? . . . . .
- (17) Does the plan provide for the direct rollover of an eligible rollover distribution to an eligible retirement plan? . . . . .
- (18) If the plan provides for suspension of benefits upon reemployment with the employer or continued employment beyond normal retirement age, does this provision comply with Department of Labor regulations? . . . . .
- (19) Does the plan contain early termination provisions required by Regulations section 1.401-4(c)? . . . . .
- (20) Does the plan contain pre-termination restrictions? . . . . .

**i** Vesting provisions:

- (1) Is a computation period for vesting purposes specified in the plan? . . . . .
- (2) Is the computation period for determining a break in service the same period which is used to compute a year of service for vesting? . . . . .
- (3) Does the plan provide that an employee will be fully vested on reaching normal retirement age? . . . . .
- (4) Are vesting options limited so that at all times they will provide a percentage of nonforfeitable rights which is not less than the percentage that would be provided under one of the options under section 411(a)(2)? . . . . .
- (5) If all years of service are not counted for vesting purposes, is the service not counted excludable under section 411(a)(4)? . . . . .
- (6) Does the plan contain the vesting break in service one year holdout provision? . . . . .
- (7) Does the plan contain the vesting break in service rule of parity? . . . . .
- (8) Does a participant who has at least 3 years of service have a reasonable period of time after the adoption of an amendment which directly or indirectly affects the calculation of his or her nonforfeitable percentage (including a change to or from a top-heavy vesting schedule) to elect to have his or her nonforfeitable percentage computed without regard to the amendment? . . . . .
- (9) Does the plan provide protection against cut back of vested rights or rights to accrued benefits under sections 411(a)(10)(A) and 411(d)(6)? . . . . .
- (10) If participants may withdraw their contributions or earnings on them, may the withdrawal be made without forfeiting vested benefits based on employer contributions? . . . . .
- (11) If benefits under the plan are forfeited when a participant or beneficiary cannot be located, does the plan provide for a reinstatement of the benefit if a claim is made? . . . . .

N/A	Article or Section and Page Number	Change	For IRS Use Only
			(51)
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			(67)
			(68)

**10 Provisions applicable to all plans (continued):**

	N/A	Article or Section and Page Number	Change	For IRS Use Only
<b>j Top-heavy:</b>				
(1) If this plan does not fulfill the basic top-heavy plan requirements at all times, does the plan define the following terms—				
(a) Key employee? . . . . .				(69)
(b) Top-heavy plan? . . . . .				(69)
(c) Top-heavy ratio (as defined in section 416(g))? . . . . .				(69)
(d) Permissive aggregation group? . . . . .				(69)
(e) Required aggregation group? . . . . .				(69)
(f) Determination date? . . . . .				(69)
(g) Valuation date? . . . . .				(69)
(h) Present value? . . . . .				(69)
(2) Does the adoption agreement provide a section for the employer to specify the interest rate and mortality table used in determining the top-heavy ratio because of the required aggregation of multiple plans?				(69)
(3) Does the plan provide that for the purpose of determining the top-heavy ratio, the accrual rate used will be that used to accrue benefits under all defined benefit plans of the employer, or where there is no such uniform rate, the lowest accrual rate permitted under section 411(b)(1)(C)? . . .				(69)
(4) Does the plan provide an accrued benefit (determined without regard to social security) which is at all times not less than 2% of the highest 5 consecutive years' average compensation for each year of service (service may be limited to service while the plan is top-heavy and to a maximum of 10 years of service) for each nonkey employee participant who has completed 1,000 hours of service including a nonkey employee who:				
(a) fails to make mandatory contributions to the plan? . . . . .				(70)
(b) is excluded from the plan because compensation is less than a stated amount? . . . . .				(70)
(c) is not employed on the last day of the accrual computation period? . . . . .				(70)
(d) has his or her accrued benefit reduced in any way because of permitted disparity? . . . . .				(70)
(5) If the minimum accrued benefit in (4) is in a form other than a life annuity at normal retirement age, is such minimum accrued benefit at least equal to the actuarial equivalent of the required minimum accrued benefit?				(71)
(6) Are forfeitures of the minimum accrued benefit prohibited in the event a participant:				
(a) works beyond the normal retirement age? . . . . .				(72)
(b) withdraws mandatory employee contributions? . . . . .				(72)
(7) Does the plan provide for vesting not less favorable than the vesting described in section 416(b)? . . . . .				(73)
<b>k Amendment and termination:</b>				
(1) Is there a provision for the sponsor to amend the plan? . . . . .				(74)
(2) Does the plan prohibit adopting employers from amending other than elective provisions (except to the extent necessary to satisfy section 415 or 416 because of the required aggregation of multiple plans or as permitted by section 5.11 of Rev. Proc. 2000-20 or under model amendments published by the IRS) unless the employer wants to cease participation in the master or prototype plan? . . . . .				(75)
(3) Is there a provision for the employer to amend the plan to satisfy sections 415 and 416 because of the required aggregation of multiple plans?				(75)
(4) Are accrued benefits nonforfeitable upon termination or partial termination of the plan to the extent then funded? . . . . .				(76)
(5) Does the plan provide that after merger or consolidation with any other plan or the transfer of assets or liabilities to any other plan, benefits on a termination basis will be no less than before the merger, consolidation, or transfer? . . . . .				(77)

	N/A	Article or Section and Page Number	Change	For IRS Use Only
<b>10</b> Provisions applicable to all plans <i>(continued)</i> :				
I Miscellaneous plan provisions:				
(1) Does the plan prohibit the assignment or alienation of benefits except as provided by sections 401(a)(13) and 414(p)? . . . . .				(78)
(2) Do loans to plan participants satisfy the requirements of section 4975(d)(1) and the joint and survivor annuity requirements? . . . . .				(79)
(3) Does the plan provide that corpus or income may not be diverted for purposes other than the exclusive benefit of employees or their beneficiaries? . . . . .				(80)
(4) Does the plan provide that if it does not attain or retain qualification, the employer can no longer participate under the master or prototype plan?				(81)
(5) If this is a master plan:				
(a) Is only a single funding medium available for use by all adopting employers? . . . . .				(82)
(b) Does the plan provide that funds held in the master trust on behalf of an adopting employer will be removed as soon as administratively feasible if the employer's plan does not attain or retain qualified status?				(83)
(6) If the employer maintains a plan of a predecessor employer, does the plan provide that service with the predecessor employer will be counted as service with the employer? . . . . .				(84)
(7) Does the plan provide that in the event of any conflict between provisions of the plan and the terms of any policy or contract issued under the plan, the provisions of the plan will control? . . . . .				(86)
(8) If the plan provides for investment in insurance contracts, does it provide for the disposition of dividends and other credits? . . . . .				(87)
(9) Does the adoption agreement contain the sponsor or representative's name, address, and telephone number for the purpose of adopting employer's inquiries? . . . . .				(88)
(10) Does the adoption agreement contain a cautionary statement to the effect that the failure to properly fill out the adoption agreement may result in disqualification of the plan? . . . . .				(88)
(11) Does the adoption agreement contain a statement which provides that the sponsor will inform the adopting employer of any amendments made to the plan or of the discontinuance or abandonment of the plan? . . . . .				(88)
(12) Does the plan contain a provision that incorporates the requirements of section 414(u) of the Code (USERRA) (see instructions)? . . . . .				(89)
<b>Part II Complete This Part If You Are Filing for a Standardized Plan</b>				
<b>11</b> With respect to this standardized plan:				
a Does the plan cover all employees (including individuals required to be considered employees according to section 414(n) or (o) and employees of other members of groups aggregated under sections 414(b), (c), (m) or (o) other than employees who may be excluded under section 410(a)(1) or (b)(3)? . . . . .				(90)
b Are the eligibility requirements not more favorable for highly compensated employees, as defined in section 414(q), than for other employees? . . . . .				(91)
c Does the adoption agreement contain in close proximity to the employer's signature line a statement that the employer in order to obtain or retain reliance must obtain a determination letter if the employer ever has maintained any other plan (including a welfare benefit plan) other than a specifically designated paired plan? . . . . .				(92)
<b>Part III Complete This Part If You Are Filing for a Paired Plan</b>				
<b>12</b> With respect to the paired plans:				
a For limitation years beginning before 1/1/2000, does the defined benefit plan reduce benefits to reflect section 415(e) by multiplying the otherwise applicable limit by 1.0 minus the defined contribution fraction? . . . . .				(93)
b Does the plan provide that only one of the paired plans may provide permitted disparity? . . . . .				(93)



**12** With respect to the paired plans (*continued*):

**c Complete either Option A or Option B** (For limitation years beginning before 1/1/2000)

**Option A**—If full top-heavy minimums are provided in each paired plan (select Method 1 or Method 2):

**(1) Method 1**—If the section 415(e) limit is reduced to 1.0 when the top-heavy requirements exceed 60%:

**(a)** Does the plan provide adjustments in defined contribution and defined benefit plan fractions when top-heavy ratio exceeds 60%? . . . . .

**(b)** Does the plan provide minimum top-heavy contributions and benefits for defined contribution plans paired with a defined benefit plan? . . . . .

**(2) Method 2**—If the section 415(e) limit is reduced to 1.0 when the top-heavy ratio exceeds 90%:

**(a)** Does the plan provide adjustments in the defined contribution and defined benefit fractions when the top-heavy ratio exceeds 90%? . . . . .

**(b)** Does the plan provide minimum top-heavy contributions and benefits for defined contribution plans paired with a defined benefit plan? . . . . .

**Option B**—If the paired plans benefit the same participants (select Method 1 or Method 2):

**(3) Method 1**—If the section 415(e) limit is reduced to 1.0 when the top-heavy ratio exceeds 60%:

**(a)** Does the plan provide adjustments in the defined contribution and defined benefit fractions when the top-heavy ratio exceeds 90%? . . . . .

**(b)** Does the plan provide minimum top-heavy contributions and benefits for defined contribution plans paired with a defined benefit plan? . . . . .

**(4) Method 2**—If the section 415(e) limit is reduced to 1.0 when the top-heavy ratio exceeds 90%:

**(a)** Does the plan provide adjustments in the defined contributions and defined benefit fraction when the top-heavy ratio exceeds 90%? . . . . .

**(b)** Does the plan provide minimum top-heavy contributions and benefits for defined contribution plans paired with a defined benefit plan? . . . . .

N/A	Article or Section and Page Number	Change	For IRS Use Only
			(94)
			(95)
			(96)
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			(98)
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			(101)
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			(103)
			(104)
			(105)
			(105)
			(106)
			(107)
			(108)

**Part IV Complete This Part If You Are Filing for a Nonstandardized Plan**

**13** With respect to this nonstandardized plan:

**a** If the plan provides for mandatory contributions, does the adoption agreement provide an election for the adopting employer to specify the level of these contributions? . . . . .

**b** Does the plan define the accrued benefit derived from employer contributions as the total accrued benefit, less the accrued benefit derived from mandatory employee contributions as provided in Regulations section 1.411(c)-1? . . . . .

**c** Is the accrued benefit attributable to mandatory employee contributions nonforfeitable at all times? . . . . .

**d** Does the plan meet the minimum age and service requirements of section 410(a)(1)? . . . . .

**e** Does the plan exclude categories of employees participation in addition to those who may be excluded under section 410(a)(1) or section 410(b)(3)? . . . . .

**f** Does the plan give the employer the option to satisfy one of the nondiscrimination design-based safe harbors? . . . . .

**g** Does the adoption agreement contain, in close proximity to the employer's signature line, a statement that adopting employers may not rely on an opinion letter issued by EP Rulings and Agreements with respect to the qualification of this plan unless they apply to EP Determinations for a determination letter? . . . . .

**h** Does the plan give the employer the option to select total compensation? . . . . .

## General Instructions

### Purpose of Form

Use Form 4461-A to apply for initial approval of, or for approval of an amendment to a master or prototype defined benefit plan.

Be sure to submit a complete and accurate application. Complete every applicable line on the application. If an item does not apply, check the "N/A" box or enter "N/A" on the line. If your application is not complete, we will return it without processing it.

The questions are designed so that, unless they are not applicable, the article or section and page numbers indicating the location in the plan of the provision should be entered in the appropriate column.

**Inadequate submissions.** The IRS will return, without further action, plans which are not in substantial compliance with the qualification requirements or plans that are so deficient that they cannot be reviewed in a reasonable amount of time.

### Who May File

**Master or prototype plans.** Sponsors and Mass Submitters (see **Definitions** on this page).

### What To File

One copy of Form 4461-A should be submitted for each different adoption agreement.

For initial approval, file this application and each applicable document listed in item 9a. For approval of an amendment, file this application and a copy of each applicable document listed in item 9b.

Different parts of this form must be completed depending on the type of plan for which you want approval.

**Standardized plans.** If you want to receive an opinion letter on a standardized plan, complete Parts I and II.

**Paired plans.** If you want to receive an opinion letter on a paired plan, complete Parts I, II, and III.

**Nonstandardized plans.** If you want to receive an opinion letter on a plan other than a standardized or paired plan, complete Parts I and IV. A nonstandardized safe harbor plan must meet the requirements of section 4.14 of Rev. Proc. 2000-20, 2000-6 I.R.B. 553.

**Multiple plans.** A sponsor may utilize one basic plan document for several plans. A sponsor may, for example, submit four applications for a given defined benefit basic plan document (an integrated standardized plan, a

nonintegrated standardized plan, an integrated nonstandardized plan, and a nonintegrated nonstandardized plan). A separate adoption agreement and completed application must be provided for each such defined benefit plan. In the case of a simultaneous submission, only one basic plan document need be submitted. If the request is not simultaneous, separate basic plan documents must be submitted (but the number assigned to the basic plan document of a master or prototype plan remains the same).

A sponsor in pairing a defined benefit plan with a defined contribution plan may provide an integrated defined benefit plan, and a nonintegrated defined benefit plan as part of the paired plan arrangement only if both the integrated defined benefit plan and the nonintegrated defined benefit plan share the identical basic plan document.

Paired plans must be submitted simultaneously. Paired plans are paired by the basic plan documents.

### Where To File

**Master or prototype plan.** File Form 4461-A with Internal Revenue Service, Employee Plans Rulings and Agreements, T:EP:RA:T:ICU P.O. Box 27063, McPherson Station, Washington, DC 20038.

**Signature.** Form 4461-A must be signed by a partner or officer of the applicant who is authorized to sign, or other person authorized by a power of attorney. The power of attorney should be filed with the application.

**Disclosure requested by taxpayer.** A taxpayer may request the Service to disclose and discuss the return or return information with any person(s) the taxpayer designates in a written request. If you want to designate a person(s) to assist in an application for approval, you must provide the IRS office of jurisdiction with a written request that contains:

- The taxpayer's name, address, employer identification number, and plan number(s).
- The name, address, social security number, and telephone number(s) of the person or persons whom you are authorizing to receive return information.
- A paragraph that clearly describes the return or return information that you authorize the IRS to disclose.
- An authorized signature.

As an alternative to providing the above statement, you may submit **Form 2848**, Power of Attorney and Declaration of Representative.

## Definitions

**Adoption agreement.** The portion of the plan containing all the options that the adopting employer may select. Each separate adoption agreement is treated as a separate plan and will receive its own opinion letter.

**Basic plan document.** The portion of the plan containing all the nonelective provisions applicable to all adopting employers. No options (including blanks to be completed) may be provided in the basic plan document except for options in flexible plans.

**Flexible plan.** A plan submitted by a mass submitter which contains certain optional provisions as allowed by section 16.03 of Rev. Proc. 2000-20. Sponsors that adopt a flexible plan may include or delete any optional provision designated as such in the mass submitter's plan. A flexible plan adopted by a sponsor which differs from the mass submitter plan only because of the deletion of certain optional provisions will be treated as a word-for-word identical plan to the mass submitter plan.

**Mass submitter.** As set forth in Rev. Proc. 2000-20, 2000-6 I.R.B. 553, any entity that submits applications on behalf of at least 30 unaffiliated sponsors each of which is sponsoring, on a word-for-word identical basis, the same basic plan document and one or more of the adoption agreements associated with that basic plan document. Once the mass submitter has submitted applications on behalf of 30 unaffiliated sponsors with respect to any basic plan document, it will be treated as a mass submitter with respect to all the other basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of identical adopters of such other plans. Notwithstanding the above, any entity that received a favorable TRA '86 opinion letter for a plan as a mass submitter under Rev. Proc. 89-9, 1989-1 C.B. 780, will continue to be treated as a mass submitter if it submits applications on behalf of at least 10 sponsors (regardless of affiliation) each of which is sponsoring, on a word-for-word identical basis, the same basic plan document and one or more of the adoption agreements associated with that basic plan document. Once the mass submitter has submitted applications on behalf of 10 sponsors with respect to any basic plan document, it will be treated as a mass submitter with respect to all the other basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of identical adopters of such other plans. Affiliation is determined

under sections 414(b) and (c) of the Code. Additionally, the following will be considered to be affiliated: any law, accounting, consulting firm, etc. with its partners, members, associates, etc.

**Master plan.** A form of plan that is made available by a sponsor for adoption by employers for which a single funding medium (e.g., a trust or custodial account, see section 4.05 of Rev. Proc. 2000-20) is established, as part of the plan, for the joint use of all adopting employers. A master plan consists of a basic plan document, an adoption agreement, and, unless included in the basic plan document, a trust or custodial account document.

**Paired plans.** A combination of either two or more defined contribution standardized plans or one or more defined contribution standardized plans and one defined benefit standardized plans, so designed that if any single plan or combination of plans is adopted by an employer, each plan in itself, or the plans together, will meet the anti-discrimination rules set forth in section 401(a)(4), the contribution and benefit limitations set forth in section 415, and the top-heavy provision set forth in section 416. Paired plans must have the same sponsor and they must be submitted for initial approval at the same time. Each set of paired plans must be limited to two different basic plan documents: one for a defined benefit plan and one for a defined contribution plan. Only one of the paired plans an employer adopts may be integrated.

**Prototype plan.** A form of plan that is made available by a sponsor for adoption by employers under which a separate funding medium is established for each adopting employer. A prototype plan consists of a basic plan document, an adoption agreement, and unless the basic plan document incorporates a trust or custodial account agreement the provisions of which are applicable to all adopting employers, a trust or custodial account document.

**Sponsor.** Any person that has an established place of business in the United States where it is accessible during every business day and represents to the Service that it has at least 30 employer-clients each of which is reasonably expected to adopt the sponsor's basic plan document and one or more of the adoption agreements associated with that basic plan document within the 12-month period following issuance of an opinion letter under Rev. Proc. 2000-20. Once a person represents to the Service that at least 30 employers are reasonably expected to adopt its basic plan document, it will be treated as a sponsor

with respect to all the basic plan documents and associated adoption agreements for which it requests opinion letters, regardless of the number of employers that are expected to adopt such other plans. Notwithstanding the above, any person that has an established place of business in the United States where it is accessible during every business day and is a word-for-word identical adopter or minor modifier adopter of an M&P plan of a mass submitter will be treated as a sponsor with respect to such plan, regardless of the number of employers that are expected to adopt such plan.

**National Sponsor.** A sponsor which has either: (a) 30 or more adopting employers in each of 30 or more states, or (b) 3,000 or more adopting employers on any one date during the 12-month period ending on April 7, 2000. For this purpose, an adopting employer is any employer that has adopted any plan of the sponsor which has a TRA '86 opinion or notification letter.

**Standardized plan.** A plan that meets the specific requirements of Part II of this form.

## Specific Instructions

**Line 1.** All applications must be accompanied by the appropriate user fee from the schedule set forth in Rev. Proc. 2003-8, 2003-1 I.R.B. 236, when filing Form 4461-A. Applications submitted without the proper user fee will not be processed and will be returned to the applicant.

**Line 3a.** Enter the name and address of the applicant. If the Post Office does not deliver mail to the street address and the sponsor has a P.O. box number, show the box number instead of the street address.

**Line 4a.** If the person to be contacted is other than an employee of the applicant, please enclose an authorized power of attorney. See **Disclosure requested by taxpayer** on page 10.

**Line 5a.** Enter the two-digit basic plan document number you have assigned to the basic plan document designed to accompany the adoption agreement for which you are requesting approval. All basic plan documents from one sponsor which are the same (word-for-word) should use the same two-digit number on all applications. The first basic plan document submitted should be numbered "01," the second, "02," etc.

**Line 5b.** Enter the three-digit number you have assigned to the adoption agreement for which this application is submitted. Each different adoption agreement designed to accompany a single basic plan document should be given a different three-digit number

beginning with "001." For example, if the first basic plan document of a sponsor has four different adoption agreements, they should be numbered "001" through "004," and four different Forms 4461-A should be submitted. Adoption agreements submitted with the second or any subsequent basic plan documents (that are not word-for-word identical to a previously submitted basic plan document) should be similarly numbered beginning with "001."

**Line 7.** Indicate if this plan provides for permitted disparity in accordance with sections 401(a)(5) and 401(l).

**Line 8. Paired plans.** Attach a list showing the name(s) and three-digit adoption agreement number(s) of the plan or plans designed to be paired with this plan. Initial requests for approval of paired plans must be submitted together.

**Line 9. Procedural requirements.** A separate application must be submitted for each different plan/adoption agreement combination.

**Line 9b.** The applicant must submit, along with this application, either: (a) a copy of the amendment, a description of the amendment and its effect on the plan, and a working copy of the plan currently in effect, or (b) a copy of the amended plan in restated form with areas of change highlighted (a restated plan). If a restated plan is being submitted with this application, a copy of the amendment and a description of the amendment need not be submitted. The Internal Revenue Service may, at its discretion, require plan restatement any time it deems necessary.

**Line 9c.** If you checked "Yes," submit a copy of such plan with language differences highlighted. Attach a cover letter which provides the name and file folder number of the plan (including the name and EIN of the sponsor), a list of all plans written by the plan drafter which are substantially identical to the lead plan (including the information described above), a description of each place where the plan for which the application is being submitted is not word-for-word identical to the language of the lead plan (including an explanation of the purpose and effect of each difference), and a certification, made under penalty of perjury by the plan drafter, that the information describing where the plan language is not word-for-word identical is true and complete.

**Line 9e.** The mass submitter should use **Form 4461-B, Application for Approval of Master or Prototype Plan, Mass Submitter Adopting Sponsor**, when submitting applications on behalf of its adopting sponsors.

**Line 10I.** A plan sponsor will be treated as satisfying the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and section 414(u) if the terms of the plan provide that an employee reemployed after qualified military service is not treated as incurring a break in service, for purposes of vesting and benefit accruals, solely because of an absence due to qualified military service.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information. We need it to determine whether you meet the legal requirements for plan approval.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records

relating to a form or its instructions must be retained as long as their content may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on the individual circumstances. The estimated average time is:

- Recordkeeping** . . . . . 42 hr., 34 min.
- Learning about the law or the form** . . . . . 6 hr., 1 min.
- Preparing the form.** . . . . . 7 hr., 55 min.
- Copying, assembling, and sending the form to the IRS** . . . . . 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send this form to this address. Instead, see **Where To File** on page 10.

