KB PENSION SERVICES, INC.

ERISA Bonding Requirements

ERISA requires that every "plan official" who "handles" plan funds or other property of the plan be adequately bonded to the plan against loss by reason of acts of fraud or dishonesty. This is accomplished by procuring a fidelity bond, also known as a surety bond.

Fiduciary liability insurance – a fidelity bond is not the same as fiduciary liability insurance. Coverage under the bond can extend to fraud or dishonesty by any person handling plan funds, regardless of whether such person is a fiduciary. Fiduciary liability insurance generally insures only for breaches of fiduciary duties under ERISA. ERISA requires only a fidelity bond, not the procuring of fiduciary liability insurance.

A person is generally deemed to be "handling" funds or other property if 1) there is physical contact with cash, checks or similar property, 2) the person has the power to transfer funds or other property from the plan to oneself or to a third party, or to negotiate such property for value, 3) the person has authority to direct disbursement or, 4) the person signs checks. ***Generally, it is the trustees of the plan that must be bonded.***

The amount of the bond must be an amount that is not less than 10% of the amount of funds being handled, but no less than $1,000. The bond need not be greater than $500,000, even if assets are greater than $5 million.

An exception to the 10% rule applies to 'non-qualifying plan assets" which represent more than 5% of the plan's total assets. Qualifying plan assets include any assets held by certain regulated financial institutions (such as banks, trust companies, loan associations, credit unions); assets held in mutual funds; assets held by insurance companies and participant loans. ***Assets that are not qualifying plan assets are non-qualifying plan assets. Examples of non-qualifying assets are non-participant loans, property, real estate and limited partnerships.***

The amount of the bond with respect to non-qualifying plan assets must be an amount equal to 100% of the value of the non-qualifying plan assets.

If the non-qualifying plan assets are more than 5% of the total assets and the fidelity bond is not at least equal to their value, then the plan is required to obtain an audited examination and report of the plan's financial statements from an Independent Qualified Public Accountant.

You should contact your commercial insurance agent with regard to obtaining a fidelity bond. Or you can contact your KB Pension Services Administrator for a referral to a professional organization specializing on issuing fidelity bonds and fiduciary liability insurance (not required).

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