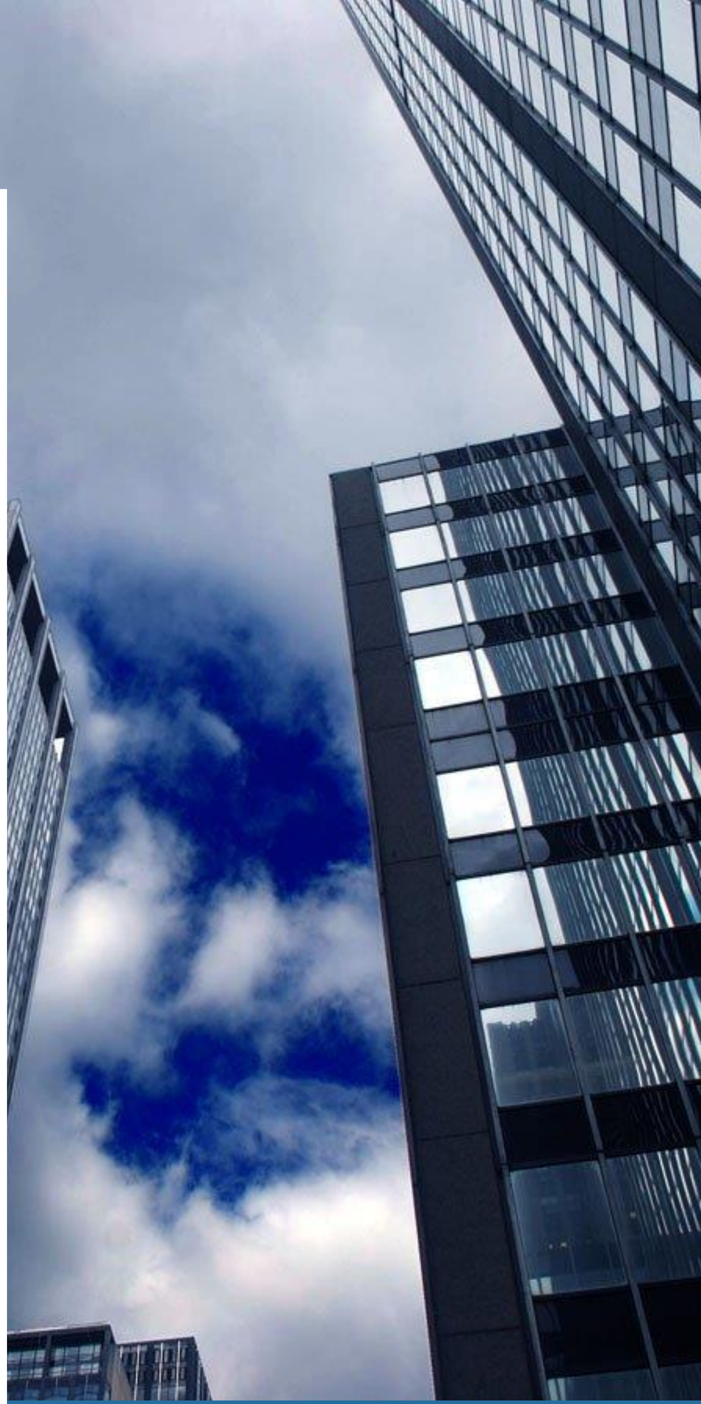
Top 10 Mistakes

In conducting an ERISA Plan Advisor RFP and how to avoid them.



RFP 401k Advisor
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Top 10 Mistakes

in conducting an ERISA Plan Advisor RFP and how to avoid them.

Mistake #1: Not doing an advisor RFP because it's too much time, effort and money

Let's face it, a 401(k) advisor search is about as enjoyable as finding a new cell phone plan, a new cable TV provider or even buying a new car. There comes a time when you know it's necessary, but it's easy to rationalize procrastination. The facts are, your fiduciary duty demands it. An even better reason, you and your employees deserve it!

Solution: Schedule it and get it done. If you need help, get some.

> ***"Let's face it, a 401(k) advisor search is about as enjoyable as finding a new cell phone plan, a new cable TV provider or even buying a new car."***

Mistake #2: Asking questions that do not differentiate advisors

Once you narrow down your list of potential qualified, experienced and capable ERISA fiduciary advisors, it can be quite challenging to evaluate their differences. Yes, your RFP needs to include baseline questions to cover fiduciary issues such as identifying conflicts of interest, uncovering any potential litigation involving the advisor, etc.

Solution: Include questions in your RFP that reveal if there is a cultural fit. Don't spend too much effort on questions and response that are merely "table stakes." These are questions related to fees, funds and fiduciary. Yes, you need to ask those questions, but be sure to thoroughly explore service and cultural fit as a major priority.

Ask deeper probing questions surrounding potential conflicts of interest.

Mistake #3: Not adequately exploring or addressing conflicts of interest or potential conflicts of interest

While this may sound like a contradiction to Mistake #2, it's important to explore this topic. Just about every ERISA advisor will say "We're independent, unbiased and free from conflict." But are they? If an advisor uses only two different recordkeepers across their entire book of client business, are they really unbiased? If a fund company is a major sponsor at the advisor's annual sales meeting, are they truly free from conflict? These two examples are not necessarily disqualifiers. Also, it does not automatically imply a conflict exists.

Solution: Ask deeper probing questions surrounding potential conflicts of interest. Work to gain an additional understanding of any potential conflicts that may exist.

Mistake #4: Not asking questions that focus on results

Measuring results in a defined contribution plan can be quite nebulous. But like any other worthwhile goal in life, it should be part of the process. Your plan should have goals for your employees such as a projected income replacement ratio. Financial wellness is also an emerging trend. Without meaningful goals, it's just a buzz word.

Solution: Your RFP for a 401k advisor should explore how the advisor measures results.

Mistake #5: Not doing RFI screening interviews

We've all had an occasion to back away from a buying decision because we simply did not like the person on the other end of the transaction. Sometimes, there are personality conflicts and cultural differences between 401k plan committees and ERISA advisors. Why spend hours and hours of RFP review then more time in a finals presentation to discover a personality clash.

Solution: Prior to issuing your formal RFP, a 30-minute screening RFI meeting can help you narrow your list of advisor candidates to those that feel like a good cultural fit. In today's climate of more widely accepted virtual meetings, its even easier now than in the past.

Mistake #6: Not having pricing submitted as a separate attachment

What if the advisor that submits an RFP response with the very best service, has the very best cultural fit, and the very best value for your plan turns out to be the highest cost? It's easy to hypothesize that your committee would truly select that advisor. In reality, once an advisor is tagged as the highest cost it becomes nearly impossible for a committee to choose that advisor. In light of the landscape of ERISA class action lawsuits, it's a tough decision. If, as part of the RFP process, a 401k committee evaluates and ranks all advisors based on service and cultural fit independent of cost, then it's easier to justify hiring the "RIGHT," advisor even if cost is higher.

Solution: Have all advisors respond to your RFP with pricing as a separate attachment. You must then, have the discipline to review pricing information only after all other aspects have been evaluated.

Mistake #7: Not adequately documenting the process

It's one thing to save all of the RFP submissions. Yes, an important step. Like everything else with ERISA, you need to properly document the process, including any notes from the RFI, and finals presentations. Best practice would be to have an employee that is not a committee member attend finals presentation with the primary responsibility of recording meeting notes and meeting minutes. Collect committee member notes.

How to fix: Collect committee member notes. Collect meeting minutes and RFI notes. Document the process to the degree that someone unfamiliar with your RFP could review documentation a year later and be able to clearly see evidence of a prudent decision-making process.

> ***All committee members should understand the difference between an ERISA 3(21) investment advisor and an ERISA 3(38) advisor. Additionally, you should know the advantages and disadvantages of each approach. Finally, understand that you still have a responsibility to monitor the fiduciary no matter what their role.***

Mistake #8: Not understanding ERISA 3(21) and 3(38) status

Few 401k plan committee members understand the real difference between an ERISA 3(38) advisor and an ERISA 3(21) investment advisor. Of course, there are varied levels of understanding. What is typically lacking is an understanding of the best fit for your committee and the advantages and disadvantages of each approach. Additionally, there is typically poor understanding of the requirement to monitor the 3(21) or 3(38) fiduciary, how to do so and how to hold the advisor accountable to assist in this effort.

Solution: It's best practice for your committee to have annual fiduciary training. All committee members should understand the difference between an ERISA 3(21) investment advisor and an ERISA 3(38) advisor. Additionally, you should know the advantages and disadvantages of each approach. Finally, understand that you still have a responsibility to monitor the fiduciary no matter what their role.

Mistake #9: The major decision makers do the least amount of due diligence and review

Let's face it, CEO's, CFO's and committee members with similar titles are busy people. Unfortunately, other responsibilities and busy schedules do not relieve ***anyone*** of their fiduciary obligations. Ideally, when evaluating new 401k advisors, all committee members would spend sufficient time in reviewing all RFP submissions, be fully engaged and prepared for finals presentations. It's a mistake to have the HR and Benefits team focus on RFP responses that provide the very best service and benefit to employees, only to have a CEO helicopter into the final's presentations and demand that the lowest cost advisor finalist be selected "so that we don't get sued based on cost." Unfortunately, it happens.

Solution: Be sure all committee members have a say in the process. Be sure that all committee members spend ample time reviewing RFP responses and attending finals presentations. Having a consultant involved to point out key elements of each proposal response can be incredibly useful to the decision-making process. If someone is regularly unable to fulfill their 401k committee obligations, then come to an agreement that they need to be replaced as a committee member.

Mistake #10: Not getting help

If you conduct an advisor search every 3 - 4 years as suggested by fiduciary best practices, you don't exactly become an expert. It's difficult to discern what is different among most top ERISA Advisors. Additionally, it's even harder to evaluate cultural fit as a result of the RFP process. But where do plan sponsors turn for help in conducting an RFP for an ERISA Fiduciary Advisor?

Solution: If you need some help, get it. We provide independent consulting for ERISA Advisor RFPs. There are national consulting firms that may be appropriate for mega size plans. They are very capable and have extensive resources. But there is also a higher price for those services.

If you are comfortable conducting your own ERISA Advisor RFP, by all means do so. We hope that our Top 10 List equips you to do it a little better and more effectively.

If on the other hand you feel you need some experienced help, we'd be happy to have a brief conversation with you. Please contact us at:

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