



**MJM**401k  
Superior Risk Management

## Selecting, Monitoring and Replacing 401(k) Plan Providers: Essential Considerations for Plan Committees

December 12, 2013

- From the Department of Labor:

The Employee Retirement Income Security Act (ERISA) requires plan fiduciaries, when selecting and monitoring service providers and plan investments, to act prudently and solely in the interest of the plan's participants and beneficiaries. Responsible plan fiduciaries also must ensure that arrangements with their service providers are "reasonable" and that only "reasonable" compensation is paid for services. Fundamental to the ability of fiduciaries to discharge these obligations is obtaining information sufficient to enable them to make informed decisions about an employee benefit plan's services, the costs of such services, and the service providers.

- While the ERISA §408(b)(2) regulations have led many plan sponsors to look more closely at the fees being paid by their 401(k) plans, there has not been as much attention paid to the quality or depth of the services being provided in return for these fees.
- Even if fees appear to be “reasonable”, it may be necessary for a plan committee to replace an existing provider if their services are not commensurate with the fees they are receiving or if they are lacking in significant respects when compared to other providers who deliver similar services.



Service Providers

Recordkeepers

Consultants, Investment Advisors and Brokers

Investment Managers

Education and Communication Firms

Attorneys

Accountants

Appraisers for hard to value assets (i.e., company stock)

## A wide range of companies serve as 401(k) recordkeepers

Mutual Fund Companies	Insurance Companies	Banks	Payroll Companies	National Consulting Firms	Third Party Administrators
Charles Schwab Fidelity Putnam T Rowe Price Vanguard	Great West ING John Hancock Lincoln Mass Mutual Nationwide Principal Prudential	Bank of America/ Merrill Lynch BMO City National Bank JP Morgan Wells Fargo	ADP Paychex	Aon Hewitt Mercer Milliman	A number of national, regional and local firms

- Most 401(k) recordkeepers will not accept responsibility as a plan fiduciary though those with trust companies will serve as a directed trustee
- Recent trend is that some 401(k) recordkeepers are accepting fiduciary responsibility under ERISA §3(16) for the administrative duties they perform on behalf of the plan sponsor

## Evaluation Elements

Recordkeeping systems

Processing of plan transactions

Outsourcing capabilities

Plan sponsor and participant websites

Call centers

Plan sponsor support

Employee education/communications

Client relationship team

Compliance testing/Form 5500 preparation

Drafting and distribution of required participant notices, including fee disclosures

Investment platform

Managed account services

Self-directed brokerage accounts

Transition services

Consulting and benchmarking services

Fees

### Various Types or Categories

Consultants and investment advisors who charge flat or hourly fees

Consultants and investment advisors who charge asset-based fees

Brokers who are paid commissions, 12b-1 fees, etc. on plan assets

Many consultants and investment advisors will accept fiduciary responsibility for the services they perform on behalf of their clients under either ERISA §3(21) or §3(38)

Most brokers will not accept fiduciary responsibility for the services they perform

## Evaluation Elements

Background and experience of client relationship team

Acceptance of fiduciary responsibility

Development of plan architecture

Development of Investment Policy Statement

Philosophy/outlook on selecting appropriate QDIA

Criteria/method for selecting core fund line-up

Quarterly reports/meetings

Vendor management

Vendor search

Knowledge of vendors

Capabilities with plan design/technical issues

Reporting on trends in 401(k) marketplace

Legislative and regulatory updates

Benchmarking services

Fees

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**These are not good reasons to select or retain a 401(k) provider:**

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- x** Company is receiving a discount or favorable consideration on other services/products sold by the provider

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- x** Company has officers/executives who have an ownership interest in the service provider

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- x** Company has officers/executives who are related to personnel at the service provider

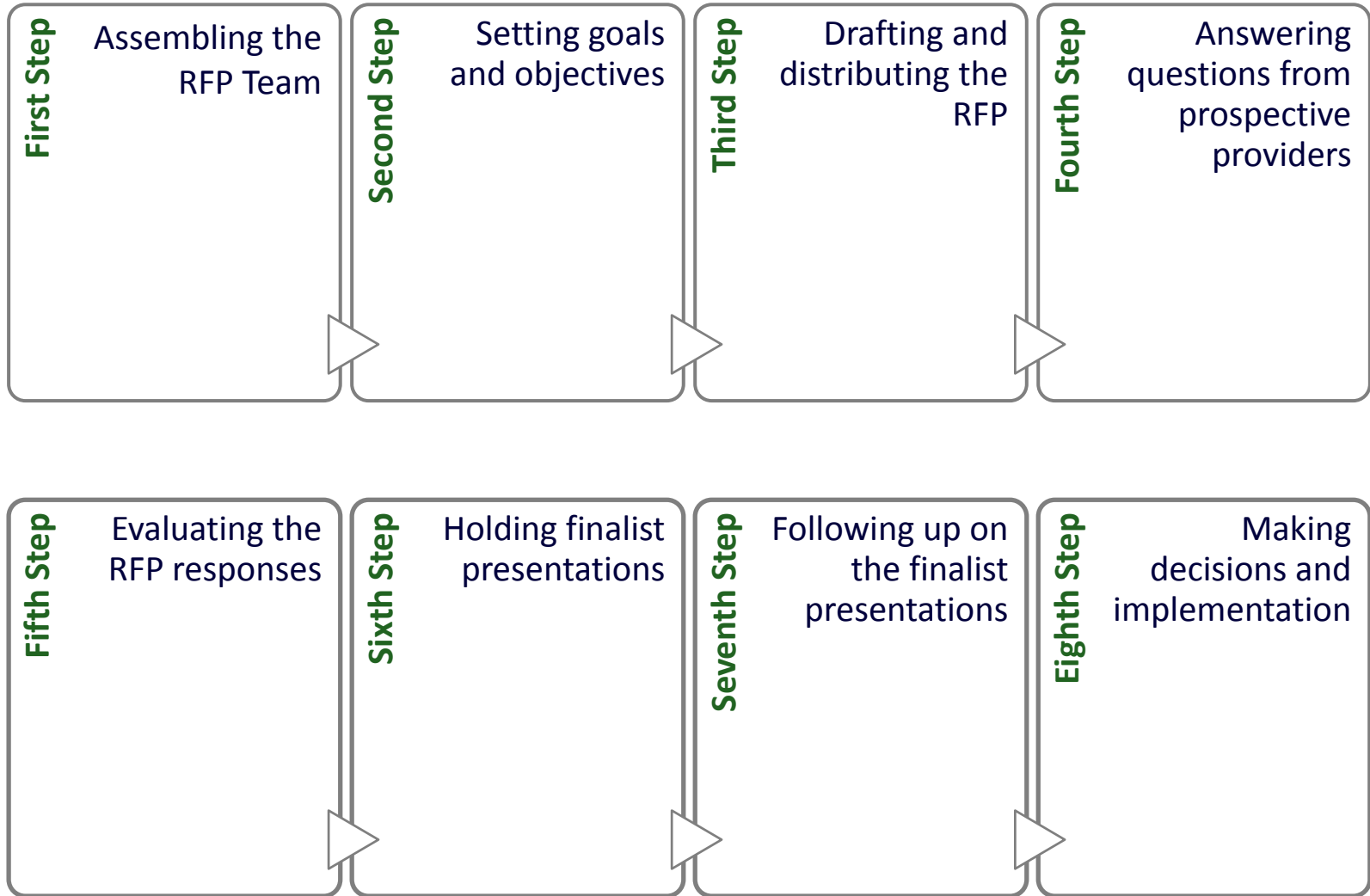
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- x** Company has officers/executives who have a personal relationship with personnel at the service provider (may be a factor in making the decision but relationship alone is not sufficient)

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- x** Company has officers/executives who have worked with the service provider previously at other employers or individually (may be a factor in making the decision but other providers should be considered as well)

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- Most plan sponsors have a fairly good understanding of how their current service providers are performing. However, it is difficult for them to compare their current service providers with other alternatives that may be available in the marketplace.
- Most efficient method of monitoring 401(k) service providers is to issue a Request for Proposal (“RFP”) in which other firms/individuals are asked to respond to a series of questions regarding their services and capabilities.
- Incumbent provider can be requested to respond to the full RFP or given a more limited number of questions to answer (assuming decision has not already been made to replace incumbent).
- While a Request for Information (“RFI”) can serve a useful purpose in benchmarking fees or a particular aspect of a 401(k) plan, responses to an RFI usually do not provide a sufficient basis as to whether or not to replace a provider.
- While fee benchmarking should be performed at least every 3 years, most likely it is sufficient to issue a full RFP every 5 years.



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Important to form internal committee to oversee the RFP Process

- Plan committee can be used for this purpose
  - Perhaps better to form a sub-committee which includes members of plan committee as well as additional personnel that may have day to day responsibilities for plan administration as well as others who may be able to give feedback/comments from a participant's perspective
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While a formal charter for the RFP committee is not necessary, it is a good idea to name a chairman and decide on a tentative timeline for the project

- May also be useful to outline in advance how decisions will be made
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MJM401k's recommendation (which of course is biased) is to hire an independent consultant to conduct the RFP process

- Depending on size of plan and options available, may wish to conduct a separate RFP to select the independent consultant
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### **What you should look for when hiring a consultant to assist with an RFP:**

- ✓ Detailed experience working with every major plan provider
  - ✓ Access to top-tier providers
  - ✓ A short list of providers who understand your unique requirements
  - ✓ Full support from selection to implementation
  - ✓ Competitive fees and services
  - ✓ A smooth transition
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### Essential to determine goals and objectives of RFP Process

- Requires “deep dive” into the services of current provider
- Important to pinpoint specific strengths and weaknesses of current provider and focus on areas where significant improvements are sought
- If a recordkeeper search, important to discuss in depth how plan transactions are currently being processed (i.e., contributions, distributions, loans, QDROs, hardship withdrawals, beneficiary designations)

### Gather all necessary documents/records that may be beneficial to prospective providers

- Plan Documents (adoption agreements, basic plan document, amendments)
- Summary Plan Description
- Form 5500 Filings
- Plan Summary/Reports

### Review benchmarking data to get an idea of where plan currently stands in comparison to peer and industry averages

Prepare employees for retirement

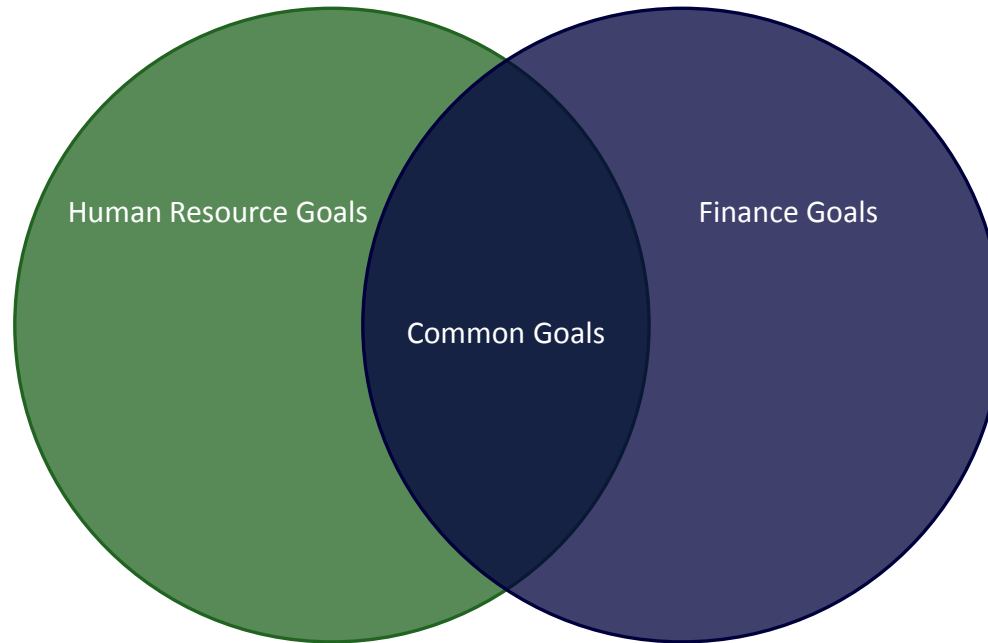
Receive timely service

Deliver quality education

Partner with providers

Reduce administrative burden

Receive meaningful reporting



Human Resource Goals

Finance Goals

Common Goals

Manage risks

Satisfy fiduciary obligations

Offer quality investments

Manage corporate balance sheet

Maximize pre-tax savings for HCE's

Provide benefit security

Comply with regulations

Offer competitive plan

Deliver investment education to participants

Manage costs

### Drafting the RFP

The majority of questions in an RFP are standard and will not vary significantly – these questions cover essential areas that are important to all plan sponsors and must be fully documented to establish a diligent and thoughtful process

Introduction to RFP should give a comprehensive overview of the plan and how it is currently being operated – should clearly identify those areas of plan administration where plan has unique requirements

RFP should be drafted so that prospective providers are fully aware of the issues that are most important to the plan sponsor

### Distributing the RFP

Research prospective providers to confirm plan meets any minimum asset or participant requirements that a prospective provider may impose

Only send to prospective providers who have a reasonably good chance of winning the business

### Frequently overlooked aspect of RFP Process

- No matter how well the RFP is drafted, most prospective providers will have additional questions in the course of preparing their responses
  - Our experience has been that the best RFP responses we receive are often from providers who have contacted us during the RFP process with additional questions
  - New issues that arise during the course of these questions should be communicated to all prospective providers
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### Conference call for prospective providers

- For larger plans with unique requirements, holding a conference call for prospective providers can be very beneficial
  - Gives prospective providers the opportunity to hear directly from the plan sponsor and to ask specific questions they may have regarding their goals and objectives
  - Calls are recorded and distributed to prospective providers
  - Usually works better if incumbent provider is not on the call
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Many excellent companies in the 401(k) marketplace – challenge becomes determining how to compare them to each other and ultimately deciding which of these companies is the best fit for your plan

- “You can get everything you want – just not in one place”
- Important to recognize that many factors in decision are subjective and cannot be easily measured

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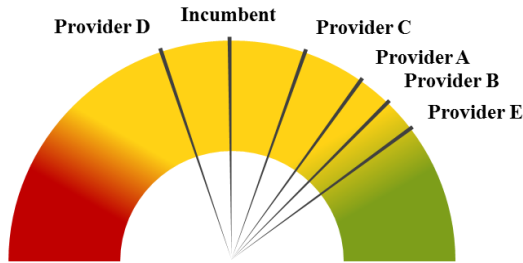
Format of analysis – sections included by MJM401k:

- Overview of RFP process and identifying the primary goals and objectives of the plan sponsor
- A summary clearly identifying the strength and weaknesses of each prospective provider in regard to the plan sponsor’s goals and objectives
- A table summarizing the proposed fee schedules submitted by the prospective providers
- Graphics comparing prospective providers versus incumbent (see next slide)
- Tables which lay out the responses of the prospective providers so that they can easily be compared to each other

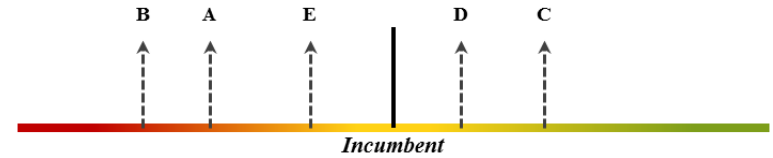
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Analysis is reviewed in detail with the committee as the basis for selecting finalists for in-person presentations

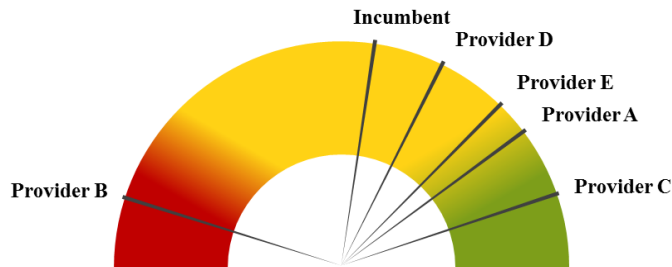
**Strength of Proposed Team**



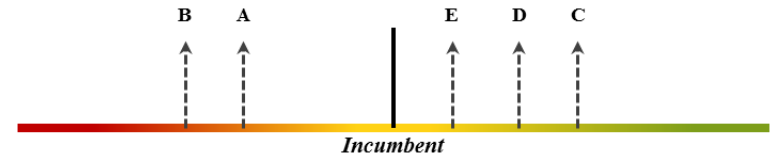
**Innovative/Strategic**



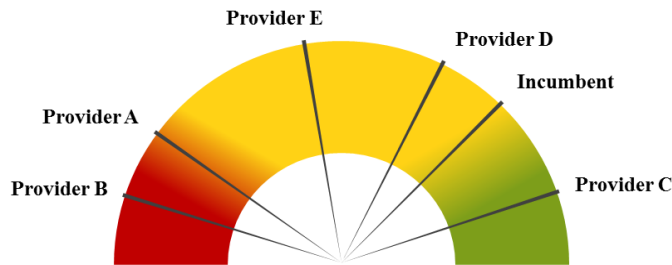
**Plan Sponsor Website**



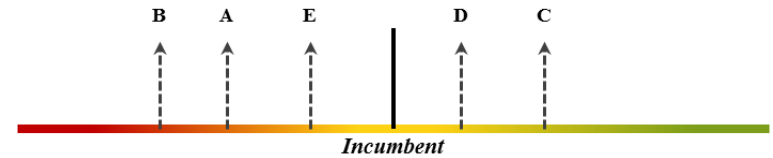
**Outsourcing/Automation**



**Mobile Applications**



**Proactive/Plan Sponsor Services**



Finalist presentations are an essential part of the RFP process

- Allows the committee to meet the proposed client relationship team in person
- Allows the committee to gain a more in-depth understanding of how each prospective provider would approach plan-related issues
- Allows the prospective providers to better understand the goals and objectives of the plan

Structure of finalist presentations

- Usually two to four prospective providers invited to present
- Given detailed agenda of topics to be covered
- Each finalist is given between 60 and 90 minutes for their presentation
- If possible, best to hold all presentations on the same day
- Important for the committee to debrief at the conclusion of finalist presentations

Most committees do not make decision the day of the finalist presentations – it is essential to clearly identify the outstanding issues that require additional information before a decision can be reached

Our experience is that going through an RFP is a learning process for most committees

- Finalist presentations will frequently bring up additional issues as committee members learn how different providers may handle the same issue

Many finalist presentations are followed up with requests for additional information on selected topics

- May even involve additional in-person presentations

Follow-up on finalist presentations may also include consideration of other benefit plans sponsored by the employer

- Defined benefit
- Non-qualified deferred comp
- Stock options
- Employee stock purchase

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Decision to select a new provider or retain current one should only be made after committee is comfortable that all issues have been fully addressed and resolved

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Decision making-process should be fully documented so that there is a written record of why a specific provider was either selected or retained

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To ensure value of RFP process, care must be taken to assure all decisions are fully implemented

- If incumbent is retained, clearly identify any changes that will be made to plan design, fees or operations
  - If new provider is selected, obtain detailed timeline that clearly identifies the transition process and the various tasks that must be accomplished during this period
  - In either case, review and update all plan documents and contracts to assure they fully reflect the fees and services negotiated during the RFP process
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Important to provide feedback to the prospective providers who participated in the process but were not selected

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*Presented by:*

Michael J. Malone, AIFA, CPC

MJM401k

(602) 224-5599

[mjmalone@mjm401k.com](mailto:mjmalone@mjm401k.com)

[www.mjm401k.com](http://www.mjm401k.com)



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