THE PENSION SOURCE

Plan Administration & Outsourced Fiduciary Services

TO:	[Client Name] | [Plan Name]
FROM:	The Pension Source
RE:	Your Retirement Plan Has Entered Audit Status: Obligations, Considerations, and Options
DATE:	[Date]
NOTE:	This memorandum is confidential and intended solely for the named recipient. It is for informational purposes only and does not constitute legal or tax advice.

I. The Audit Requirement Under ERISA

Under the Employee Retirement Income Security Act of 1974, as amended (ERISA), a qualified retirement plan is classified as a large plan filer once it has 100 or more participants with account balances at the beginning of the plan year. This threshold for defined contribution plans is now measured by account balances rather than mere eligibility following regulatory amendments effective January 1, 2023. This classification triggers a mandatory annual independent audit of the plan's financial statements, conducted by an independent qualified public accountant (IQPA), the opinion of which must be attached to the plan's Form 5500 annual report filed with the Department of Labor. However, if your plan is between 80 and 120 participants with account balances, the 80–120 rule may permit continued small-plan filing for an additional year. We can assess both your current status and eligibility for transitional relief.

A critical note on how participants are counted under current law: effective for plan years beginning on or after January 1, 2023, the DOL amended the large plan filing rules so that defined contribution plans count only participants who had account balances at the beginning of the plan year. This is a material departure from the prior rule, which counted all employees who were eligible to participate regardless of whether they had actually contributed. Under the current rule, an employee who is eligible but has never made a contribution, and has no employer contributions allocated, does not count toward the 100-participant threshold. Similarly, former employees with zero balances are excluded. Your plan's audit status is therefore determined by your actual account balance holders, not your total eligible population.

What the Audit Entails

The annual plan audit provides an independent examination and opinion on whether the plan's financial statements are presented fairly in accordance with generally accepted accounting principles, and whether plan operations conform to the plan document and applicable law. Plan sponsors should expect the following:

- An annual records and documentation request from your auditor, typically covering contribution transmittals, distribution approvals, loan activity, eligibility records, and plan document amendments. However, in the first year of an audit, the auditor will require multiple years of records.
- Internal staff time to respond to auditor inquiries, typically ranging from a few hours to a few days depending on the quality of records maintained.

- Annual audit fees generally ranging from $10,000 to $25,000 or more, depending on plan size, complexity, and the firm engaged.
- A somewhat extended Form 5500 filing timeline, as the audit opinion must be finalized before the annual report can be submitted. Most audit-level plans utilize the available 2.5-month extension, moving the calendar-year deadline to October 15.

The audit process need not be disruptive. Plans that maintain organized records throughout the year, particularly regarding timely contribution remittance and participant transactions, typically experience straightforward audit cycles. We are available to recommend experienced, cost-competitive audit firms that regularly work with plans of your size and complexity.

II. Fiduciary Responsibility at Audit Size

The transition to large-plan status does not merely add a compliance obligation. It also increases the visibility and scrutiny of your role as a plan fiduciary. Under ERISA, any person who exercises discretionary authority or control over the management or administration of a plan, or who renders investment advice for compensation, is a plan fiduciary. Fiduciaries are held to the prudent expert standard: they must act with the care, skill, prudence, and diligence that a prudent person familiar with such matters would exercise under the circumstances.

Fiduciaries are personally liable for losses to the plan resulting from a breach of fiduciary duty, and are subject to civil enforcement action by the Department of Labor and by plan participants. Larger plans attract greater DOL scrutiny, are more likely to face participant complaints, and present higher aggregate exposure in the event of a compliance failure. The fiduciary obligations applicable to all plan sponsors do not change at audit scale, but the consequences of gaps in fiduciary process become more significant.

That said, fiduciary risk exists on a spectrum. For example, crossing the audit threshold does not place a plan sponsor in the same risk category as the administrator of a Fortune 500 retirement plan. What it does mean is that the stakes are meaningfully higher than they were at small-plan scale, and that having the right processes and protections in place becomes even more important.

These fiduciary obligations include, among others:

- Prudent selection and ongoing monitoring of plan service providers, including the recordkeeper, investment advisor, and third-party administrator, as well as the fees and expenses charged for their services.
- Oversight of the plan's investment menu to ensure options remain appropriate for the participant population and are reviewed regularly.
- Ensuring plan documents, including the Adoption Agreement and Summary Plan Description, are maintained and kept current with applicable law.
- Timely remittance of participant contributions and loan repayments, which the DOL treats as plan assets from the earliest date they can reasonably be segregated from the employer's general assets.
- Proper administration of participant notices, disclosures, and required minimum distributions.

Simplifying Plan Administration: 3(16) Plan Administrator Services Through 401K Safe

For most plan sponsors, the most demanding aspects of running a 401(k) plan are not investment-related. They are the day-to-day administrative obligations that fall on the employer: eligibility determinations, participant enrollment, payroll coordination, required notices, and recordkeeper oversight, among others. These are the tasks that consume internal resources and create compliance exposure when they slip.

Under ERISA Section 3(16), a third-party service provider can be formally appointed as Plan Administrator, assuming these responsibilities on your behalf. Through our 401K Safe service line, that is exactly what we do. We take these obligations largely off your plate, accepting co-fiduciary status under the plan and allowing you to formally delegate certain fiduciary obligations. The result is a lighter administrative burden, reduced personal expense dedicated to your 401(k) plan, and lower risk. If operational burden or fiduciary liability concern applies to your situation, we would welcome a conversation about what a 3(16) engagement looks like in practice.

III. Understanding Pooled Employer Plans

As your plan reaches audit status, you may encounter proposals to consolidate into a structure known as a Pooled Employer Plan, or PEP. Authorized under the Setting Every Community Up for Retirement Enhancement Act of 2019 (the SECURE Act), a PEP is an arrangement under which multiple unrelated employers participate in a single retirement plan maintained by a Pooled Plan Provider (PPP). We believe it is important that you understand the PEP's mechanics, advantages, and limitations before drawing any conclusions.

Structure and Governance

In a PEP, the Pooled Plan Provider serves as a named fiduciary and the designated plan administrator. The PPP must register with the DOL prior to commencing operations. Adopting employers execute a participation agreement governing the terms of their participation. Importantly, adopting employers retain a residual fiduciary obligation with respect to the selection and monitoring of the PPP itself. That fiduciary obligation is not eliminated by the PEP structure; rather, it is reconfigured.

Comparative Overview

The following table summarizes the key considerations in maintaining a single employer plan versus transitioning to a PEP:

Single Employer Plan	Pooled Employer Plan (PEP)
Full control over plan design, eligibility, vesting, and matching formulas	Plan design largely standardized; limited customization within PPP's framework
Standalone annual audit required at 100+ participants (account balance count)	No standalone audit; audit conducted at the group level by the PPP and cost is spread accordingly to the adopting employers
Fiduciary liability reduced via 3(16) engagement (and/or other fiduciaries) within existing plan	Fiduciary responsibility largely shifted to the Pooled Plan Provider
Investment menu selected and monitored by plan's own advisor	Investment menu selected by PPP; plan advisor role may be limited
Direct relationship with TPA, recordkeeper, and advisor	Intermediated relationship; sponsor works through PPP structure
Compliance history entirely within employer's control	Exposure to operational failures of other adopting employers
Full flexibility to amend plan terms (subject to anti-cutback rules)	Amendments require PPP approval; exit and spin-off can be complex

One aspect of PEP participation that warrants particular attention is cross-employer risk. Because all participating employers share a single plan trust, operational failures by one adopting employer can affect the broader plan. The SECURE Act includes spin-off and termination procedures designed to limit the spread of disqualification to other participating employers, but these protections are not self-executing and require timely detection and action by the PPP. Sponsors considering a PEP should conduct careful due diligence on the PPP's operational controls and contractual protections available to adopting employers.

Our Position

We support clients in evaluating all available options and will work with you regardless of which structure best fits your organization. For employers whose primary concerns are eliminating the standalone audit cost and transferring administrative fiduciary responsibility, a PEP may warrant serious consideration, particularly where the plan design is straightforward and the employer is comfortable operating within a standardized framework.

That said, plan sponsors who value flexibility in plan design, the ability to select and directly oversee best-in-class service providers, a transparent fee structure, and a plan tailored to their specific workforce may find that a single employer plan continues to serve them better. It is also worth noting that the fiduciary liability reduction often cited as a PEP advantage is achievable within a single employer plan through the appointment of a 3(16) plan administrator and an investment fiduciary.

We believe a careful side-by-side analysis is the right starting point, and we are here to help you conduct one.

IV. Recommended Next Steps

We recommend the following as an initial framework for addressing the issues raised in this memorandum:

- Schedule a dedicated review call with our team to discuss your plan's participant count, current plan design, and the specific compliance and fiduciary considerations that apply to your situation.
- If you have not yet engaged an audit-qualified CPA firm, we can provide introductions to firms with substantial experience in ERISA plan audits at your plan's scale.
- Request a proposal for 3(16) Plan Administrator services through 401K Safe, and allow us to walk you through what a formal fiduciary appointment would look like in the context of your plan.
- If you wish to explore the PEP option further, request that we prepare a side-by-side cost and structure analysis comparing your current plan to available PEP arrangements, so that any decision is made on the basis of complete information.
- Review your current plan documents to confirm they reflect the optimal plan design as your 401(k) plan continues to evolve.

