

5:37-10

MUNICIPAL, COUNTY AND AUTHORITY EMPLOYEES DEFERRED  
COMPENSATION PLANS - ACCOUNTING PROCEDURES

**5:37-10.1 Pooling of funds**

Except for individual annuities and life insurance contracts, the plan shall provide for investments in authorized investment options by pooling the amounts deferred. The return on investments shall be apportioned on a prorated basis among all participants in the plan after deductions for reasonable administrative costs.

**5:37-10.2 (Reserved)**

Repealed by R.1999 d.58, effective March 1, 1999.

**5:37-10.3 Compliance requirement--prototypical plan**

- (a) The contractor shall transmit to the employer a summary of financial data in statement form providing a full accounting of all plan transactions occurring during the employer's fiscal year, including beginning transactions and ending fund balance. The accounting for these transactions must reflect the amount and date of each contribution received, the beginning fund balance by investment option, earnings or losses incurred, administrative charges and fees assessed, any transfers made among funds, all deposits and withdrawals, and the ending fund balance, including any and all adjustments made to such plan.
- (b) At the request of the employer, the contractor shall make available details of all transactions for each employee. The employer in receipt of this information shall retain it in accordance with the State of New Jersey record retention requirements as found in N.J.A.C. 15:3.
- (c) The contractor shall retain the transaction information in accordance with the State of New Jersey record retention requirements found in N.J.A.C. 15:3.
- (d) The contractor shall furnish annually to the Director and to the local plan administrator of each local governmental unit for which it serves as contractor, a copy of the contractor's Statement on Accounting Standards (SAS) 70 Report, as defined by the American Institute of Certified Public Accountants (AICPA).
- (e) The contractor shall certify to the Director that the annual accounting data supplied to the employer is accurate and complete.
- (f) The independent auditor of the employer shall then evaluate the employer payroll records and joinder agreements against the information transmitted by the contractor.
- (g) The Director may establish disclosure requirements to be included in the annual audit of the local government in accordance with N.J.S.A. 40A:5-4 or 40A:5A-15.

Amended by R.1999 d.58, effective March 1, 1999.

#### **5:37-10.4 Audit of a self-administered plan**

If the plan is self-administered, the employer shall conduct an audit of all plan funds. The audit shall be performed pursuant to N.J.S.A. 40A:5-4 or N.J.S.A. 40A:5A-15. A copy of each audit report shall be transmitted to the Director in accordance with N.J.A.C. 5:37-10.2.

#### **5:37-10.5 Deferrals**

- (a) The amount of compensation deferral specified by each participant in the joinder agreement shall be deferred by the employer at the end of each pay period. Amounts withheld from the employees shall be turned over to the contractor for investment within 72 hours, exclusive of Sundays and holidays from the time the funds are withheld from the employee.
- (b) The amount deferred shall not be treated as compensation subject to Federal income tax withholding, but shall be treated as compensation subject to withholding for New Jersey Gross Income Tax, pensions, social security, insurance, and other fringe benefits, except to the extent that applicable law may provide.

Amended by R.1999 d.58, effective March 1, 1999.

#### **5:37-10.6 (Reserved)**

Repealed by R.1999 d.58, effective March 1, 1999.

#### **5:37-10.7 Return to participants**

- (a) Plan funds, less administrative expenses, including all amounts deferred and any and all return on investment of the plan funds shall be credited to the participants' accounts. Such credit shall be made in a manner that is prorated in a non-discriminatory manner. After the first year of program operation, the contractor or plan manager shall not permit the cumulative plan balance to be less than the total cumulative sum of all amounts deferred by all participants, or any participant's account to have a balance less than the cumulative sum of all the individual participant's deferrals since participation in the plan commenced. The only exceptions to this last statement shall be:

1. Variable annuities which guarantee that during the first three years of fund accumulation a participant will have distributed, upon withdrawal from the plan, an amount equal to the amount deferred;
2. A variable annuity with no such guarantee which is offered as part of a fixed and variable product line; and
3. Life insurance contracts.

Amended by R.1999 d.58, effective March 1, 1999.

### **5:37-10.8 Participant records confidential**

All records regarding participation, amounts deferred, account balances, withdrawals, and any other information regarding a participant's account shall be held confidential by the local plan administrator, plan manager and the contractor.

Amended by R.1999 d.58, effective March 1, 1999.

### **5:37-10.9 Plan records**

The local plan administrator, the plan manager and the contractor shall make available upon a written request from a participant or the Director, all records, reports or other information relating to the plan as a whole, including, but not limited to, cash flow analysis, investment reports, audits and quarterly reports.

Amended by R.1999 d.58, effective March 1, 1999.