

# Voluntary Fiduciary Correction Program Application Form



U.S. Department of Labor  
Employee Benefits Security Administration  
January 2009

*This application form provides a recommended format for your Voluntary Fiduciary Correction Program (VFCP) application. Please make sure you include the required **VFCP Checklist** and all supporting documents identified on the checklist (for example, proof of payment). Submit your application to the appropriate **EBSA field office**. For full application procedures, consult [www.dol.gov/ebsa](http://www.dol.gov/ebsa).*

## List separately

Applicant Name	Address
Applicant Name	Address
Applicant Name	Address

## Transactions Corrected

Check which transactions listed in the VFCP you have corrected:

- Delinquent Participant Contributions and Participant Loan Repayments to Pension Plans
- Delinquent Participant Contributions to Insured Welfare Plans
- Delinquent Participant Contributions to Welfare Plan Trusts
- Loan at Fair Market Interest Rate to a Party in Interest
- Loan at Below-Market Interest Rate to a Party in Interest
- Loan at Below-Market Interest Rate to a Non-Party in Interest
- Loan at Below-Market Interest Rate Due to Delay in Perfecting Plan's Security Interest
- Loans Failing to Comply with Plan Provisions for Amount, Duration or Level Amortization
- Default Loans
- Purchase of an Asset by a Plan from a Party in Interest
- Sale of an Asset by a Plan to a Party in Interest
- Sale and Leaseback of Real Property to Employer
- Purchase of Asset by a Plan from a Non-Party in Interest at More Than Fair Market Value
- Sale of an Asset by a Plan to a Non-Party in Interest at Less Than Fair Market Value
- Holding of an Illiquid Asset Previously Purchased by a Plan
- Payment of Benefits Without Properly Valuing Plan Assets on Which Payment is Based
- Duplicative, Excessive, or Unnecessary Compensation Paid by a Plan
- Expenses Improperly Paid by a Plan
- Payment of Dual Compensation to a Plan Fiduciary

## Correction Amount

Principal Amount: \$

Date Paid

Lost Earnings/Restoration of Profit: \$

Date Paid

## Narrative And Calculations

1. List all persons materially involved in the Breach and its correction (e.g., fiduciaries, service providers):

2. Explain the Breach, including the date(s) it occurred (attach separate sheets if necessary):

3. Explain how the Breach was corrected, by whom, and when (attach separate sheets if necessary):

4. For correction of Delinquent Remittance of Participant Funds, provide a statement from a Plan Official identifying the earliest date on which participant contributions/loan repayments reasonably could have been segregated from the employer's general assets (attach supporting documentation on which Plan Official relied):

- a. Number of days used to determine the date on which participant contributions/loan repayments withheld from employees' pay could reasonably have been segregated from the employer's general assets:
  
- b. Description of how this was determined:

5. For correction of Delinquent Remittance of Participant Funds, provide a narrative describing the applicant's contribution and/or repayment remittance practices before and after the period of unpaid or late contributions and/or repayments: (attach separate sheets if necessary)

6. Specific calculations demonstrating how Principal Amount and Lost Earnings or Restoration of Profits was calculated: (if the Online Calculator was used, you only need to indicate this and attach a copy of the "Printable Results" page, attach separate sheets if necessary)

Online Calculator ("Printable Results" page attached)  Manual calculation (see attached calculations)

### Supplemental Information

Plan Sponsor Name:	EIN:	Address:
Plan Name:	Plan Number:	
Plan Administrator Name:	EIN:	Address:
Name of Authorized Representative: (submit written authorization signed by the Plan Official)	Address:	Telephone:
Name of Contact Person:	Address:	Telephone:
Date of Most Recent Annual Report Form 5500 Filing:	For Plan Year Ending:	

Is Applicant Seeking Relief Under PTE 2002-51? PTE 2002-51 provides an exemption from the payment of excise taxes to the Internal Revenue Service for engaging in certain prohibited transactions. For more information on PTE 2002-51, see [VFCP Class Exemption FAQs](#). If the transaction in this application is not covered by PTE 2002-51, you may want to contact your accountant or ERISA advisor to determine if the excise tax is applicable in your transaction. Please note that if you take advantage of PTE 2002-51, you do not need to submit any information or documents to the IRS.

Yes - Either:

Submit a copy of the notice to interested parties within 60 calendar days of this application and indicate date of the notice if not on the notice itself;  
or

If you are relying on the exception to the notice to interested parties requirement contained in section IV.C. of PTE 2002-51 covering delinquent participant contributions and participant loan repayments to pension plans, you may pay the amount of the excise tax otherwise due directly to the Plan if the amount is less than or equal to \$100. If the amount of the excise tax is less than or equal to \$100 and is paid to the Plan, you do not need to provide a notice to interested parties. However, you must provide a copy of a completed IRS Form 5330 or other written documentation showing the calculation of the excise tax amount and proof of payment of this amount to the Plan with your VFCP submission if you elect to pay the excise tax amount (again only an option if less than or equal to \$100) to the Plan.

No

I will pay any applicable excise tax to the IRS

I have filed a Form 5330 and paid excise tax

This transaction is not covered by Section 4975 of the Internal Revenue Code

Proof of Payment

Signed, dated receipt from the recipient of funds transferred to the plan (such as a financial institution)

Canceled check

Executed wire transfer

Bank statements for the plan's account

Other:

Disclosure of a current investigation or examination of the plan by an agency, to comply with Section 3(b)(3)(v):

PBGC

Any state attorney general

State:

Any state insurance commissioner

State:

Contact person for the agency identified:

In order to help us improve our service, please indicate how you learned about the VFCP:

### Authorization Of Preparer

I have authorized (name of authorized representative) to represent me concerning this VFCP application.

Name of Plan Official

Signature of Plan Official

**Penalty of Perjury Statement** - The following statement must be signed and dated by a plan fiduciary with knowledge of the transaction that is the subject of the application and by the authorized representative, if any. Each plan official applying under the VFCP must also sign and date the statement, which must accompany any subsequent additions to the application.

Under penalties of perjury I certify that I am not under investigation (as defined in VFCP Section 3(b)(3)) and that I have reviewed this application, including all supporting documentation, and to the best of my knowledge and belief the contents are true, correct, and complete.

Name and Title	Signature	Date
Name and Title	Signature	Date

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**Paperwork Reduction Act Notice**

The information identified on this form is required for a valid application for the Voluntary Fiduciary Correction Program of the U.S. Department of Labor’s Employee Benefits Security Administration (EBSA). You are not required to use this form; however, you must supply the information identified in order to receive the relief offered under the Program with respect to a breach of fiduciary responsibility under Part 4 of Title I of ERISA. EBSA will use this information to determine whether you have satisfied the requirements of the Program. EBSA estimates that assembling and submitting this information will require an average of 6 to 8 hours. This collection of information is currently approved under OMB Control Number 1210-0118. You are not required to respond to a collection of information unless it displays a currently valid OMB Control Number.