

for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4–2010 (75 FR 55355).

Signed at Washington, DC, on November 1, 2010.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2010–27946 Filed 11–4–10; 8:45 am]

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### Hearing on Reasonable Contracts or Arrangements for Welfare Benefit Plans Under Section 408(b)(2)—Welfare Plan Fee Disclosure

**AGENCY:** Employee Benefits Security Administration, U.S. Department of Labor.

**ACTION:** Notice of hearing.

**SUMMARY:** Notice is hereby given that the Employee Benefits Security Administration will hold a hearing to consider issues relating to the disclosure of fee, conflict of interest and other information by service providers to group health, disability, severance and other employee welfare benefit plans under section 408(b)(2) of the Employee Retirement Income Security Act.

**DATES:** The hearing will be held on December 7, 2010, beginning at 9 a.m., EST.

**ADDRESSES:** The hearing will be held at the U.S. Department of Labor, Room S–4215 (A–C), 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Fil Williams, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, at (202) 693–8500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Section 408(b)(2) of the Employee Retirement Income Security Act, as amended (ERISA), provides relief from the prohibited transaction rules of section 406 for service contracts or arrangements between a plan and a party in interest, as defined in ERISA section 3(14), if the contract or arrangement is reasonable, the services are necessary for the establishment or operation of the plan, and no more than reasonable compensation is paid for the services. Regulations, at 29 CFR 2550.408b–2, clarify the conditions of the exemption. On July 16, 2010, the Department published an interim final

regulation amending paragraph (c) of § 2550.408b–2 to require certain service providers to employee pension benefit plans to disclose information to assist plan fiduciaries in assessing the reasonableness of contracts or arrangements, including the reasonableness of the service providers' compensation and potential conflicts of interest that may affect the service providers' performance. As proposed, paragraph (c) of § 2550.408b–2 would have applied to all pension and welfare benefit plans. However, in response to the invitation for comments on the proposal, the Department received a number of comments arguing that the Department's rationales for the proposed rule apply to pension plans, but not to welfare benefit plans. Other commenters argued that if the Department creates a disclosure regime for welfare benefit plan service providers, it should be promulgated separately.

Specific concerns raised by commenters relating to welfare benefit plans included the potential for negative effects on the insurance industry, which, they assert, is highly regulated by State laws. In this regard, commenters asserted that, considering the high level of State regulation, subjecting welfare benefit plans to the disclosure regulation would be unnecessary and redundant because the disclosures contemplated in the regulation are already made available to plan fiduciaries through State regulatory processes. Other commenters noted that most State insurance laws do not require the types of disclosures addressed under the proposed rule and even where such State laws exist, they are loosely enforced. Certain commenters asserted that there are “transparency problems” in general in the health and welfare industry, and that these problems should be addressed to the extent they affect employee welfare benefit plans. At least one commenter addressed specific concerns of pharmacy benefit managers (PBMs), which are intermediaries between drug manufacturers and health insurance plans. This commenter stated that PBMs believe that the reasons for disclosure discussed in the preamble to the proposed rule are inapplicable to them. Other commenters disputed the idea that PBMs should not be subject to the regulation, arguing that the discounts and rebates they receive from drug companies are examples of undisclosed indirect compensation.

As explained in the preamble to the interim final regulation, the Department continues to believe that fiduciaries and service providers to welfare benefit

plans would benefit from regulatory guidance regarding fees and conflicts of interest for the same reasons that apply to fiduciaries and service providers to pension plans. The Department acknowledged in the preamble, however, that, taking into account the public comments on the proposal, there may be sufficient differences between welfare and pension plan arrangements to justify separate consideration of welfare plan-related disclosures.<sup>1</sup> In this regard, the Department has decided to begin its consideration of welfare plan-related disclosures by holding a public hearing on December 7, 2010. The purpose of this hearing is to obtain information, related data and views from interested persons regarding the application of the standards set forth in interim-final regulation § 2550.408b–2(c) to welfare benefit plans. Specifically, the Department is interested in exploring what particular provisions of the interim-final regulation should not apply to welfare plans and why. The Department also is interested in exploring whether, or to what extent, disclosure rules under section 408(b)(2) should apply to all welfare benefit plans, e.g., group health plans, severance plans, vacation plans, apprenticeship and training plans, etc., or to only a subset, or whether different disclosure standards are needed for different types of welfare benefit plans.<sup>2</sup>

The hearing will be held on December 7, 2010, beginning at 9 a.m. at the Department of Labor, Francis Perkins Building, Room S–4215 (A–C), 200 Constitution Avenue, NW., Washington, DC 20210.

Persons interested in presenting testimony and answering questions at this public hearing must submit, by 3:30 p.m., EST, November 17, 2010, the following information: (1) A written request to be heard; and (2) An outline of the topics to be discussed, indicating the time allocated to each topic. To facilitate the receipt and processing of responses, EBSA encourages interested

<sup>1</sup> See 75 FR 41600, at 41603, July 16, 2010.

<sup>2</sup> Section 3(1) of ERISA defines the term “employee welfare plan” and “welfare plan” to mean any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services, or (B) any benefit described in section 302(c) of the Labor Management Relations, 1947 (other than pensions on retirement or death, and insurance to provide such pensions).

persons to submit their requests and outlines electronically by e-mail to [e-ORI@dol.gov](mailto:e-ORI@dol.gov). Persons submitting requests and outlines electronically are encouraged not to submit paper copies. It should be noted that, while reasonable efforts will be made to accommodate requests to testify on the specified issues, it may be necessary to limit the number of those testifying in order to adhere to the hearing's format. Any persons not afforded an opportunity to testify will nonetheless have an opportunity to submit a written statement on the specified issues for the record. The hearing will be open to the general public.

Persons submitting requests and outlines on paper should send or deliver their requests and outlines to the Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: 408(b)(2) Hearing on Fee Disclosures to Welfare Benefit Plans, Rooms N-5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All requests and outlines submitted to the Department will be available to the public, without charge, online at <http://www.dol.gov/ebsa> and at the Public Disclosure Room, N-1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

The Department will prepare an agenda indicating the order of presentation of oral comments and testimony. In the absence of special circumstances, each presenter will be allotted ten (10) minutes in which to complete his or her presentation. Any individuals with disabilities who may need special accommodations should notify Fil Williams on or before November 17, 2010.

Information about the agenda will be posted on <http://www.dol.gov/ebsa> on or after November 17, 2010, or may be obtained by contacting Fil Williams, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8500 (this is not a toll-free number). Those individuals who make oral comments and testimonies at the hearing should be prepared to answer questions regarding their information and/or comments. The hearing will be transcribed.

#### Notice of Public Hearing

Notice is hereby given that a public hearing will be held on December 7, 2010, concerning issues related to the transparency of service provider compensation and potential conflicts of

interest in the welfare benefit plan industry. The hearing will be held beginning at 9 a.m. at the U.S. Department of Labor, Frances Perkins Building, Room S-4215 (A-C), 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 1st day of November 2010.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 2010-27994 Filed 11-4-10; 8:45 am]

**BILLING CODE 4510-29-P**

#### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

##### Nixon Presidential Historical Materials: Opening of Materials

**AGENCY:** National Archives and Records Administration.

**ACTION:** Notice of Opening of Additional Materials.

**SUMMARY:** This notice announces the opening of additional Nixon Presidential Historical Materials by the Richard Nixon Presidential Library and Museum, a division of the National Archives and Records Administration. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR part 1275), the Agency has identified, inventoried, and prepared for public access approximately 265 hours of Nixon White House tape recordings and additional textual materials from among the Nixon Presidential Historical Materials.

**DATES:** The Richard Nixon Presidential Library and Museum intends to make the materials described in this notice available to the public on Thursday, December 9, 2010 at the Richard Nixon Presidential Library and Museum's primary location in Yorba Linda, CA, beginning at 9 a.m. (PDT). The newly released Nixon White House tapes will also be available on the Web at <http://www.nixonlibrary.gov> at the same time (9 a.m. PDT; Noon, EDT). In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials must notify the Archivist of the United States in writing of the claimed right, privilege, or defense within 30 days of the publication of this notice. These claims should be sent to the Office of the Archivist of the United States, National

Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001.

#### FOR FURTHER INFORMATION CONTACT:

Timothy Naftali, Director, Richard Nixon Presidential Library and Museum, 714-983-9120.

**SUPPLEMENTARY INFORMATION:** The following materials will be made available in accordance with this notice:

1. NARA's Nixon Library is proposing to open approximately 1,802 conversations which were recorded between February and early April 1973. These conversations total approximately 265 hours of listening time. This is the fourteenth opening of Nixon White House tapes since 1980. There are no transcripts for these tapes. Tape subject logs, prepared by the Nixon Library, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each conversation. Each tape log entry includes the names of participants; date and inclusive times of each conversation; location of the conversation; and an outline of the content of the conversation. Listening stations will be available on a first come, first served basis at the Library in Yorba Linda. The newly released tapes will also be available on December 9 on the Web at <http://www.nixonlibrary.gov>. The Nixon Library reserves the right to limit listening time in response to heavy demand.

2. Previously restricted textual materials. Volume: 0.8 cubic foot. A number of textual materials previously withheld from public access have been reviewed for release and/or declassified under the systematic declassification review provisions and under the mandatory review provisions of Executive Order 13526, the Freedom of Information Act (5 U.S.C. 552), or in accordance with 36 CFR 1275.56 (Public Access regulations). The materials are from integral file segments for the White House Special Files, Staff Member and Office Files; National Security Council (NSC Files); National Security Council Institutional Files; and the Henry A. Kissinger (HAK) Office Files, including HAK telephone conversation transcripts.

3. White House Central Files, Staff Member and Office Files. Volume: 56 cubic feet. The White House Central Files Unit was a permanent organization within the White House complex that maintained a central filing and retrieval system for the records of the President and his staff. The Staff Member and Office Files consist of materials that were transferred to the Central Files but were not incorporated into the Subject Files. The following file groups will be