Dealing with Employee Benefit Issues in Mergers & Acquisitions

Human resource professionals and their professional advisors must consider a number of issues in connection with the buying and selling of businesses. The purpose of this article is to discuss the issues relating to employee benefit plans that must be considered when businesses are purchased or sold. It is crucial that the human resource professionals involved have an understanding of the acquisition process in order for them to assist the principles responsible for completing the transaction. This is the case regardless of which side of the transaction the human resource professionals find themselves on.

This article will first describe the acquisition process and define the normal documentation involved in the acquisition process. We will then discuss the federal laws relating to employee benefit plans. We will then turn our attention to the due diligence process by which the potential buyer of the business investigates the benefit plans of the seller in order to determine whether there are any liabilities which would impact the operation of the acquiring company after the acquisition and how the seller's benefit plans integrate with its own. Some of the common issues and considerations which occur in acquisitions will be discussed in connection with the discussion of the due diligence process.

Acquisition Process

How the Process Unfolds

At the point in which two parties are seriously interested in discussing the possibility of a business transaction, usually a legal document is signed, allowing the potential buyer to examine the potential seller's business. The agreement outlines the information that the potential buyer will have access to, provides the time frame for the review of information and includes provisions for confidentiality in the event that the prospective buyer elects not to move forward with the purchase. Certainly, the potential seller is better off if such an agreement is put in place prior to allowing the potential buyer to review non-public information about its business. Often these agreements will provide that the seller is not permitted to contact other potential buyers during the period the potential buyer is reviewing the business records of the potential seller. Sometimes this legal document outlines the terms under which the potential buyer will complete the acquisition. If so, it is called a letter of intent. It is not unusual for a potential buyer to request to review information about the potential seller and then seek to enter into a letter of intent after the review is completed.

Assuming the acquisition moves forward, it usually occurs through either the purchase of assets, the acquisition of stock or via a merger of the buyer or one of its subsidiaries with the seller. In an asset transaction, the acquiring entity purchases certain of the selling company's assets but does not purchase all liabilities. In a stock acquisition or merger, the acquiring entity acquires both the assets and the liabilities and other contracts of the selling company. There are tax and corporate law reasons for structuring the transaction as either an asset transaction or a stock purchase or merger. In either case, the structure of the transaction and all the terms and conditions of the business deal are set forth in a legal document called an acquisition agreement. Depending on the time frame involved in completing the acquisition, as well as other factors, the acquisition agreement may be signed by the parties well in advance of the date the transaction is to be completed or signed on the date the transaction is to be completed.

The Acquisition Agreement

Depending on a number of factors, the acquisition agreement could be drafted before, during or
after completion of the due diligence process described below. The acquisition agreement usually contains at least two sections of interest to human resource professionals. In the first section of interest the buyer and seller make various representations and warranties. In this section, the seller makes specific representations concerning its business. The size and complexity of the transaction will dictate the degree of specificity in the representations and warranties and the number of different areas of the business for which representations are made. Usually, except in very small transactions, employee benefit plan representations and warranties are made. Normally all benefit plans are listed on the disclosure schedule to the acquisition agreement. The seller represents that its benefit plans are in conformity with the federal laws described below; all appropriate tax returns have been filed; all contributions have been made; there have been no prohibited transactions or fiduciary violations; and there are not outstanding liabilities relating to the plans.

In the event that the seller is aware of issues that make it unable to make the required representations, the seller discloses this information on the disclosure schedule to the acquisition agreement. Disclosure can also be requested by the buyer following the due diligence process. In the event that either the due diligence process or the seller's own admissions reveal that there are issues involving any of the benefit plans, the buyer and seller will negotiate over how the issues are to be handled. For tax-qualified plans, the Internal Revenue Service has formalized correction programs that can be utilized to correct either form or operational defects in plans. Issues that involve welfare plans or tax-qualified plans that cannot be addressed through a formal IRS correction program will often result in specific indemnity language being added to the acquisition agreement, a purchase price reduction or correction by the seller prior to the completion of the transaction.

The second section of the acquisition agreement which is of interest to human resource professionals addresses the disposition of the seller's benefit plans. Sometimes this is in the section of the acquisition agreement which provides for certain conditions to the acquisition being finalized. If the seller's employee benefit plans are to be terminated, as often occurs in an asset acquisition, it is usually specified in this section. The responsibility for health care continuation coverage under either federal law or state law is often allocated between the parties in this section. Any other understanding or agreement that the parties have concerning the seller's benefit plans should be documented in this section of the acquisition agreement.

_Involvement of Human Resource Professionals in the Acquisition Process_

There is no "usual" time when human resource professionals become involved in the acquisition process. During the buyer's initial review of the business before an offer to purchase is made, the seller's benefits professionals may be asked to provide copies of benefit plans and insurance documents without being told the reason why. At this stage in the process, human resource professionals often become involved because documents within their control are needed to conduct the initial review of the business. Certainly, at some point during the negotiation of the acquisition agreement and the due diligence process, the seller's human resource and benefits team will become heavily involved. They will be asked to provide information to the seller's management and its legal counsel relating to the employee plans as well as to the buyer and its due diligence team.

It is important for the seller's human resource professionals to use care in providing information to the buyer's due diligence team. It's best for seller's counsel to review materials that are provided to the buyer to make sure disclosure is appropriate. In addition, if there are problems with the seller's benefit plans which the seller's counsel is unaware, it's best that he or she be told before that information is provided to the buyer. If there are problems, seller's counsel can work with the seller's human resource
professionals to formulate the appropriate method of disclosure as well as putting together a plan to correct the defects. Obviously, the seller's acquisition team will need to coordinate with human resource professionals concerning the representations and warranties and the possible termination of employee benefit plans and contracts with insurance organizations. Often these decisions need to be made quickly and it is not unusual for the benefits professionals to be brought into the acquisition at the last moment. If the human resource professional is on the buyer's side, it is crucial to provide feedback on the buyer's plans as quickly as possible so that any problems or concerns can be evaluated in the overall context of the acquisition.

During the due diligence process, the buyer's human resource professionals are often involved with buyer's legal counsel in carefully reviewing the seller's benefit plans. Since the buyer's human resource professionals are the people most familiar with the buyer's benefit plans, their input is critical in order to determine how the benefit programs of the seller will be handled after the acquisition is completed. As the acquisition process proceeds, the buyer's human resource professionals will begin discussing transition issues with their counterparts at the seller. The type of transaction will dictate the extent of the transition issues initially. Certainly, one of the most important transition issues is the communication to the seller's employees concerning the acquisition and the treatment of benefit issues after the acquisition. It is appropriate for benefit professionals of both the buyer and the seller to ask when the employees can be notified of the acquisition and how benefits will be handled after the acquisition is completed. There is no "normal" time when this information is provided to employees of the seller. However, as time goes by and the likelihood that the acquisition will be completed increases, more employees become aware of the transaction and human resource professionals receive more and more questions. Accordingly, it is not a bad idea to have a game plan formulated early to decide when, what and who will provide information to the seller's employees.

Federal Laws

ERISA and the IRS Code of 1986, as amended (the "Code") are the two principal federal laws governing employee benefit plans. Although the complexity of ERISA, the Code and the associated regulations relating to benefit plans precludes a complete discussion of all the possible issues, in the next two sections we will highlight some of the important considerations relating to employee benefit plans.

The Employee Retirement Income Security Act of 1974 (ERISA)

Employee benefit plans subject to ERISA include Section 401(k) plans, savings plans, annuity plans, defined benefit plans, pension plans, profit sharing plans, money purchase plans and employee stock ownership plans. These types of plans are referred to in ERISA as pension plans. Plans established to provide medical, surgical, hospital care or benefits in the event of sickness, accident, disability, death, or unemployment, or vacation benefits, or daycare benefits and, in many instances, severance benefit plans are also subject to ERISA. These plans are referred to in ERISA as welfare plans. The United States Department of Labor and the Pension Benefit Guarantee Corporation have promulgated numerous regulations describing the rules relating to the structure, operation, funding and vesting of retirement plans.

ERISA requires annual reporting to the government by plan sponsors, disclosure of plan information to participants and beneficiaries through summary plan descriptions and summary annual reports and the provision of plan documents to participants upon request. The fiduciary responsibility rules of ERISA govern the actions of individuals and entities with control of benefit plans and plan assets. The administrative and enforcement provisions of ERISA provide participants and beneficiaries
with the ability to sue employee benefit plans and fiduciaries for benefits and other relief when their rights are violated. There are also extensive rules relating to the funding and termination of defined benefit pension plans.

There are special ERISA rules relating to pension benefit plans sponsored jointly by a union and several employers. The ERISA provisions relating to these multi-employer or Taft-Hartley plans impose liability in certain instances when employers stop contributing to such a plan. This is referred to as withdrawal liability. Withdrawal liability can be asserted by the multi-employer plan in the event that the plan does not have sufficient assets to cover future liabilities. In an asset sale, the seller typically ceases to make contributions to the plan and can be subject to withdrawal liability. If the transaction is structured as a stock sale or merger, there is no withdrawal liability triggered, but the buyer needs to be aware of the potential for the liability in the event that contributions to the plan cease due to a business closure or restructuring. As a result of the withdrawal liability concept, it is extremely important for the buyer to review the potential withdrawal liability if the seller's employees are participants in a multi-employer or Taft-Hartley plan.

ERISA also contains provisions relating to health insurance portability which were enacted as part of the comprehensive Health Insurance Portability and Accountability Act of 1996. These rules relate to limitations on preexisting conditions, issuance of certificates of creditable coverage and other rules relating to health benefit plans. These rules are also found in the Code. ERISA also contains provisions relating to employee benefit plans providing mental health coverage which were passed as part of the Mental Health Parity Act of 1996 and rules relating to hospital stays of mothers with newborn children enacted as the Newborns' and Mothers' Protection Act of 1996.

In certain instances, ERISA also applies to severance plans or arrangements offered by an employer. It is important in connection with the due diligence process that the buyer determine whether the seller has any severance practices, whether a format written plan or an informal arrangement has been adopted. The buyer should inquire whether the seller has filed annual reports in connection with the severance plan or whether an initial "top hat" informational filing was made with the United States Department of Labor.

*The Internal Revenue Code*

As noted above, the Code along with ERISA are the principal federal laws governing employee benefit plans.

The Code and the associated regulations contain hundreds of requirements that must be satisfied in order for a retirement plan to qualify as a tax-exempt entity. In order to enjoy tax-exempt status, both the form of the plan document and the operation of the plan must comply with the Code and the regulations. If even one requirement is not satisfied, then technically the retirement plan will no longer enjoy tax-qualified status. As a result, there is the potential that liability could result to the employer and the employees. As noted above, in recent years, however, the IRS has implemented correction programs that allow both form and operational issues to be corrected even during an audit. One aspect of this program even allows employers to self-correct defects without informing the IRS so long as the appropriate criteria are met.

Although a discussion of all the tax rules relating to employee benefit plans is beyond the scope of this section, there are some issues that deserve attention. One issue that has received considerable attention in recent years is the treatment of independent contractors or "contract employees" in benefit
plans. If the seller is treating any workers as anything other than normal employees, the relationships of the worker to the employer needs to be examined by the buyer to determine if the workers meet the standards to be treated as true independent contractors. In many instances, all employees are eligible for the benefit plans if the employee meets the eligibility criteria. The Code does allow employers to exclude groups of employees from the plan by virtue of the eligibility rules so long as the plan passes the non-discrimination and coverage rules. If an employer is trying to exclude groups of employees, the exclusions need to be stated in the plan document. However, when independent contractors are reclassified as employees either by the IRS or by judicial decision and they are not excluded under the plan document, they become eligible under the terms of the plan and employers must fund their benefits.

The Code contains specific limits on the amount of money that a participant can defer to a Section 401(k) plan as well as an overall limitation on the amount of contributions and benefits that the employee can receive from all plans of the seller. The Code contains the rules governing when employees must begin taking distributions from the plan as well as how the distributions must be calculated. In addition, the Code provides that the standard method of paying benefits must be in the form of qualified annuities for certain types of plans. Accompanying these rules are the rules relating to spousal consent to waive these benefits and the time and method for obtaining the spouse's consent. The Code also contains specific rules relating to loans and hardship distributions from plans.

The Code contains requirements relating to cafeteria or Section 125 plans, flexible spending accounts, dependent care assistance plans, disability and life insurance protection and numerous other employee benefit plans. The requirements of the Consolidated Omnibus Budget Reconciliation Act ("COBRA") are also contained in the Code. COBRA requires employers to offer employees and covered dependents continued group health plan coverage, at the employee's expense, upon termination of employment and other specified "qualified events" for a period of eighteen to thirty-six months, or longer depending on the type of qualifying event. These rules are also contained in ERISA. In 1999, the IRS and the Treasury Department issued proposed regulations addressing the liability of buyers and sellers in corporate transactions with respect to COBRA. The regulations assign primary COBRA liability and responsibility to the buyer or seller depending on the type of transaction but allow the parties to allocate responsibility among themselves in the acquisition agreement. These regulations must be consulted in any transaction to determine the COBRA responsibility for both former employees and their dependents currently receiving COBRA as well as employees who lose their employment in connection with the transaction.

**The Due Diligence Process**

At some point in the acquisition process, the prospective buyer usually undertakes a thorough investigation of the seller or the portion of the seller's business that it seeks to purchase. This is called the due diligence process and it is usually done even if the buyer is purchasing the assets of the company and seeking to exclude liabilities. In connection with this due diligence process, the prospective buyer normally reviews the seller's employee benefit plans and all related documentation. It is important for the buyer to conduct a thorough investigation of the seller's employee benefit plans in order to understand the types of plans, determine how they fit with the buyer's employee benefit programs and to determine whether there are any defects or liabilities associated with the plans. If there are any issues that need to be addressed, the buyer will analyze how correction can be made and seek to have it addressed before the acquisition is completed. If this is not possible, the buyer will seek to make appropriate reductions in the purchase price and draft specific indemnification language into the acquisition agreement.
The assistance of outside counsel with expertise in ERISA and the Code is necessary in connection with this review. Notwithstanding that it is extremely important to review employee benefit plans early in the acquisition process, sometimes ERISA counsel is not consulted until the acquisition is near completion. In such cases, the buyer may not have the opportunity to insert appropriate indemnities in the acquisition agreement, terminate insurance contracts without financial penalties or amend the seller's benefit plans to reduce liabilities.

The employee benefits due diligence process starts when the buyer requests copies of employee benefit plan documentation for the last three to five years. A sample due diligence checklist follows on page 7. Although the seller's human resource professionals will often respond that the buyer cannot be serious in wanting to review all of this documentation, a careful buyer will invest the time and resources necessary for this review. Once the buyer has a complete list of the employee benefit plans that the seller sponsors, the tax returns and plan documentation can be reviewed, in addition to the review of the plans. All supporting documentation, including insurance contracts, annuity contracts and third party service agreements must be reviewed as well. Any existing litigation or potential litigation involving employee benefit plans must be analyzed to determine potential liability and whether any insurance coverage exists. Obviously, input from counsel representing the seller in this matter must be obtained.

The review of employee benefit plans in mergers and acquisitions involves the consideration of numerous issues. A key factor is whether the transaction will be structured as a purchase of assets or the purchase or exchange of stock. As discussed above, if the transaction is structured as an asset acquisition, then the employee benefit plans of the seller will only be assumed if set forth in the acquisition agreement. Nevertheless, there could be contractual obligations relating to the plans that need to be addressed to avoid potential future problems with the seller's vendors and service providers. If the transaction is a purchase or exchange of stock via a merger, then the employee benefit plans and the liabilities will be automatically assumed by the buyer. In such a case, the due diligence process becomes much more important.

The first objective of the due diligence process is to determine what liabilities may have been incurred or accrued in connection with the buyer's operation of the plans. If the plans are assumed by the buyer, what liabilities will the buyer incur? The vast complexities of ERISA and the Code make it possible that even the most seasoned human resource professionals have overlooked something in the administration of the seller's benefit plans. It is also not unheard of for third party administrators, benefits consulting firms and other outside service providers to make errors impacting the seller's benefit programs. Sometimes other individuals working for the seller may unknowingly compromise the benefit plans by allowing independent contractors to participate in the plan, waiving eligibility requirements or taking other action to further business goals at the expense of plan compliance. Sometimes the benefits professionals are not even aware of all of the seller's benefit plans. In the author's experience, it is not unheard of for a separate division of a larger company to adopt benefit plans unknown to the corporate human resources department.

It is also common for not all of the entities in the seller's controlled group of corporations to be participating in the plan. If the seller has a close ownership relationship to other entities, it needs to be determined whether a controlled group or an affiliated service group exists and whether all entities in the controlled or affiliated service group are participating in the benefit plans. If they are not participating in the seller's retirement plans and the seller cannot pass the coverage test under Section 410(b) of the Code, it needs to be determined whether the separate line of business test is met to allow exclusion of the related entities. In circumstances where a controlled group does exist, the terms of all benefit plans need to be carefully reviewed to determine how participation by the other entities is handled in the
documents. Both the buyer and the seller also need to be aware that Code Section 410(b) requires that a
certain percentage of non-highly compensated employees participate in a tax-qualified retirement plan.
The impact of Section 410(b) needs to be considered by both the buyer and the seller even though
section 410(b) provides for a transition period.

The seller's health benefit plans need to be reviewed to determine what health plans are
maintained and whether the plans are insured or self-insured. The buyer will need to determine whether
the seller provides or promised to provide retiree medical benefits. If so, the buyer will want to know
what has been promised and whether the plan document and the summary plan description reserve the
right to amend or terminate the retiree benefits. The buyer will also want to verify that the seller has met
all the requirements of COBRA or the applicable state law health care continuation requirements.

There are any number of potential problems or defects that can be found during the due diligence
process. ERISA and the Code impose substantial penalties if IRS Form 5500 Annual Reports are not
filed in a timely manner. In addition, there are substantial fines for willful violation of reporting
requirements and knowingly making false statements on IRS Form 5500s. There are many reasons why
5500s are not filed. In some cases, sellers may be unaware of the filing requirement and its application
to welfare as well as pension plans. They may have thought that an exemption applied or assumed a
service provider had taken care of the filing.

Other potential problem areas in ERISA plans include liability for unpaid premiums to the
Pension Benefit Guarantee Corporation; penalties or excise taxes for failing to contribute the appropriate
amounts to the plan or violating the applicable discrimination tests or prohibited transaction rules; the
potential loss of tax deduction; taxation of plan income or unfavorable tax treatment of distributions
arising from the potential disqualification of a tax-qualified plan; and excise taxes for failing to make
timely distributions. Buyers need to carefully review the eligibility rules of the various plans to
determine if the terms of the plans have been followed. It is important that the terms of the plan are
consistent with federal law in order to be sure that there is no potential liability for failing to include
certain employees in the plan as required by the plan document or by law. Health plan records should be
reviewed to verify that continuation coverage has been offered as required by applicable federal and/or
state law.

Another area of concern is potential fiduciary violations under Section 409 of ERISA. Since
there is personal liability for fiduciary violations, it is possible that the plan fiduciaries could seek
indemnification from the seller in the event such liability is incurred. In the event that such
indemnification survives the transaction, the purchaser could be liable for indemnification. Closely
related to fiduciary violations are violations of the prohibited transaction rules of ERISA and the Code.
These rules prohibit loans and other transactions between benefit plans and closely related parties called
disqualified persons. In general, if there are any plan assets that have been directed to a closely related
party to the plan, whether it be the employer sponsoring the plan or a shareholder, the transaction should
be examined to make sure that a prohibited transaction has not occurred. In summary, there are any
number of potential problems that can be found with benefit plans that can be discovered during due
diligence.

In addition to an analysis of potential liabilities, the buyer also needs to evaluate the future costs
of continuing the seller's benefit programs. The purchaser needs to determine what fringe benefit
programs are offered to employees and how long the buyer will be contractually obligated to maintain
these benefits. The buyer needs to examine the seller's obligations under unfunded plans, especially any
unfunded obligations to provide retirees with medical benefits. Any tax-qualified defined benefit plans
need careful review to determine the funding status and a careful review of the actual assumptions.

It is also necessary as part of the due diligence investigation to determine whether the seller's retirement plans can be terminated and the costs of terminating them. The buyer needs to be aware that in the event a substantial reduction in the seller's workforce occurs, a plan can suffer a partial termination event which has the same implications as the formal termination of the seller's plan. If the seller's retirement plan has section 401(k) salary deferrals, there are also special rules contained in Section 401(k) of the Code that limit the distribution of these accounts. Depending on a number of factors, it may not be legally permissible for employees to take distributions of their Section 401(k) plan accounts if their employment ends when the seller completes the transaction. Because of these rules, some ERISA experts require the seller's plan to be terminated before an asset sale acquisition is completed in order to allow distribution to be made to employees and rollovers to be made to the buyer's plan. This is yet another reason why these benefit issues need to be examined early on in the acquisition process.

Lastly, in the analysis of continuing the seller's benefit programs, consider the impact on employee morale. If the seller's benefit plans are terminated and not replaced with comparable plans, employees of the seller may be dissatisfied and choose not to remain in the employment of the buyer after the acquisition. If, on the other hand, the seller's plans are either continued or replaced by more generous plans, the seller's employees are likely to remain. On the other hand, if the seller's plans are pre-served and are more generous than the plans the buyer already has in place for its own employees, there could easily be dissatisfaction among the ranks of the buyer's employees. Depending on the type of transaction, the degree of workforce interaction and corporate consolidation that will occur, it is entirely possible that both the buyer and seller's plans may be altered or merged to provide the same benefits following the acquisition.

**Summary and Conclusion**

An acquisition or business sale can be a somewhat threatening and mysterious process for human resource professionals who are not familiar with the process. Even for those that have been through one or more acquisitions, each is somewhat different depending on the buyer, the type of acquisition and the time frames involved. At some point in the process, human resource professionals will make a valuable contribution regardless of whether they are on the side of the buyer or the seller. Human resource professionals will likely be involved in assisting in the preparation and the review of seller's representations and warranties. They will be involved in the due diligence process when the prospective buyer reviews documentation relating to the seller's employee benefit plans. This review is designed to make sure that the seller's plans are in conformity with the complex rules of ERISA and the Code. In connection with the due diligence process, human resource professionals will assist the buyer and seller to formulate a plan to handle the seller's employee benefit plans after the acquisition. Depending on the type of acquisition and the buyer's plans for the business, the seller's benefit plans could remain intact or be terminated or merged with the buyer's plans.

*SHRM Legal Report, March-April 2000*
Documentary Due Diligence Checklist Regarding Employee Benefit Plans During Mergers and Acquisitions

The following is a general due diligence checklist to use in the review of employee benefit plans during a merger and acquisition. Depending on the type of transaction, more extensive documentation could/should be requested and reviewed as well as documentation requested for earlier years.

____ 1. All plan and trust documents, including amendments for any pension, retirement, severance, incentive, profit sharing, executive compensation, deferred compensation, bonus, stock or option plans, and other employee benefit plans for plans in effect currently or at any time during the last six years.

____ 2. All health, medical, dental, vision, disability or other welfare plans (funded or unfunded), and insurance policies of the target company and any related entity for active employees and retirees as well as the annual cost of premiums and percentage of premiums paid by employee for the most recent 5 years.

____ 3. All summary plan descriptions and summary plan description material modifications for any employee benefit plan (personal welfare plans) for at least the last 3 years.

____ 4. The latest IRS determination letter for any retirement, profit sharing or pension plan or any 501 (c)(9) trust.

____ 5. All Forms 5500 annual reports (with all related schedules and exhibits) for the preceding 5 years for all employee benefit plans.

____ 6. All Forms 990 for any 501 (c)(9) trust.

____ 7. A copy of all audit or actuarial reports concerning pension and retirement plans for the most recent two plan years.

____ 8. All standard COBRA forms and disclosure notices as well as a list of all former employees and qualified beneficiaries currently receiving continuation coverage under COBRA or comparable state continuation coverage.

____ 9. A list of any promises of employee benefits or any employee-benefit policies or practices, such as retiree medical benefits or severance pay benefits, to the extent not otherwise provided under this due diligence checklist.

____ 10. A list of any "reportable events," or "prohibited transactions" with respect to all pension plans for the past 5 years.

____ 11. All written inquiries or complaints as to ERISA compliance or compliance with trust instruments, plans and summary plan descriptions for the past 5 years.

____ 12. Any documentation relating to any IRS or DOL employee benefit audit in the last 5 years.
13. For each multi-employer pension plan, all information on a company's withdrawal liability, in the event of a current withdrawal.

14. A copy of all collective bargaining agreements to which the target company or any subsidiary is a party, and the number of employees covered by each such agreement.

15. All Forms PBGC-1 relating to Pension Benefit Guarantee Corporation (PBGC) premium payments for defined benefit pension plans.

16. All fidelity bond and fiduciary liability insurance policies.

17. All investment management contracts and group annuity/Guaranteed Investment Contracts (GIC) for pension benefit plans.

18. All administrative service contracts for all employee benefit plans.

19. A list of vacation plans/policies as well as of all employee fringe benefits including without limitation moving expense policies, travel/entertainment policy, and company auto and car allowances.