FIDELITY BONDS FOR YOUR RETIREMENT PLAN

Under Department of Labor (DOL) regulations, your retirement plan will need to maintain a fidelity bond. A fidelity bond protects the assets in the plan from misuse or misappropriation by the plan fiduciaries. Plan fiduciaries include the plan trustees and any person who has:

- Physical contact with case, checks, or other plan property.
- Power to transfer or negotiate plan property for a price.
- Power to disburse funds, sign checks or produce negotiable instruments from the plan assets.
- Decision making authority over any individual described above.

REQUIRED FIDELITY BOND AMOUNT

At the very least, the bond must equal 10% of the value of the total plan assets, with a minimum bond value of $1,000 and a maximum bond value of $500,000. For the first year, the bond amount will be based on the estimated amount of assets that will be handled by the plan for the year. If you have non-qualifying plan assets as described below, the required bond amount may be higher.

Plan assets that “qualify” for a 10% bond include employer securities; participant loans; assets held by financial institutions such as banks, insurance companies, broker-dealers, or other organization authorized to hold IRA assets; mutual funds; investment and annuity contracts issued by an insurance company; and self-directed individual account plans in which the participant gets a statement of assets at least once a year. All other assets are considered non-qualifying plan assets. However, if more than 5% of the plan assets are in limited partnerships, artwork, collectibles, mortgages, real estate or securities of "closely-held" companies and are held outside of regulated institutions such as a bank; an insurance company; a registered broker-dealer or other organization authorized to act as trustee for individual retirement accounts under Internal Revenue Code §408, the plan sponsors need to do one of two things – 1) make certain that the bond amount is equal to 100% of the value of these “non-qualified” assets or 2) arrange for an annual full-scope audit, where the CPA physically confirms the existence of the assets at the start and end of the plan year.

WHY DO I NEED A FIDELITY BOND?

There are serious consequences for not purchasing and maintaining a sufficient ERISA fidelity bond. For one thing, it can be a red flag to the DOL that they need to take a closer look at the plan. In addition, in cases where a plan has more than 5% in non-qualified assets, a serious underwriting risk may arise if the non-qualified assets are not properly listed on the bond application. This is because non-qualifying assets carry a higher level of risk for loss. If the non-qualified assets are not listed on the bond, the underwriter would have cause to deny coverage if there was a loss due to misuse or misappropriation by a plan fiduciary. Under those circumstances, the loss may be denied and the trustees could be liable for the losses to the plan.

HOW TO GET A FIDELITY BOND

Many of our clients obtain a fidelity bond from their property and casualty agent. For some clients, Nova will/can purchase a fidelity bond from Travelers Insurance on your behalf. Please refer to your plan’s Service Agreement for additional information on this available program. You may also reach out to your Nova account manager for assistance.

Wherever you decide to obtain your bond, be certain that you are purchasing an ERISA/Fidelity Bond, NOT an employee dishonesty bond or a fiduciary bond. These other bonds do not fulfill the DOL requirements for ERISA compliance. Additionally, the bond should be in the name of the plan, not in the name of a person. Please be sure to provide a copy of the fidelity bond to your Nova account manager.