

Analysis & Perspective

IRS-Approved Voluntary Corrections Under EPCRS: 1993 - 2008

SETH H. TIEVSKY
ERNST & YOUNG LLP
WASHINGTON, D.C.

The following is a summary of 373 IRS-approved corrections obtained by the author on behalf of retirement plans under the Employee Plans Compliance Resolution System (EPCRS). The failures arose in 144 qualified plans and tax sheltered annuities under §§ 401(a) and 403(b) of the Internal Revenue Code.

Many of the corrections were individually designed to address situations or obtain outcomes that were not contemplated under the safe-harbor correction methods articulated in the appendices to the EPCRS Revenue Procedure (currently Rev. Proc. 2006-27). Accordingly, this collection may be especially helpful to plan sponsors and their advisors as they attempt to fashion corrections under EPCRS, particularly under the Self-Correction Program (SCP), but also under the Voluntary Correction Program (VCP) and the Audit Closing Agreement Program (Audit CAP).

Note: (1) IRS's approach to correcting qualification failures has been fluid; the same violation may have been corrected differently over time. **As a result, a correction approach described in the digest may no longer be permitted by the Service.** (2) Many of the corrections were approved by the Service based on the particular facts involved. Due to space and content constraints, these factors may not be readily apparent. (3) Compliance statements and closing agreements under EPCRS are considered confidential taxpayer information and are not disclosable by the Service.

This digest is reprinted from BNA's *ERISA Compliance & Enforcement Library*, which is part of the *Benefits Practice Center*. For more information, see <http://www.bna.com/products/eb/bpcw.htm>.

Category of Violation

Seth H. Tievsky is a partner in Ernst & Young LLP in Washington, D.C. He is a national leader in the firm's HR Risk Management Practice and has advised hundreds of clients on retirement plan compliance matters, including over 200 IRS filings under the Employee Plans Compliance Resolution System and its predecessors. He is chair of the EPCRS Practitioner Liaison Group and past chair of the Employee Benefits Committee, of the American Bar Association Tax Section. He serves as a member of the BNA Pension & Benefits Publications Advisory Board. He has retained the copyright to this article.

401(a) Nonamender
401(a) Plan Adoption
401(a) Drafting Error
401(a) Benefit Miscalculation
401(a) Misallocation (Deferrals)
401(a) Misallocation (Compensation)
401(a) Misallocation (Contributions)
401(a) Misallocation (Forfeitures)
401(a) Misallocation (Earnings)
401(a) Delinquent 401(k) Transfers
401(a) Delinquent Contributions
401(a) Ineligible Employees
401(a) Ineligible Rollover
401(a) Improper Suspense Account
401(a) Definite Allocation Formula
401(a) Loans
401(a) Improper Plan Expenses
401(a)(4) High-25 Rule
401(a)(4) Nondiscrimination
401(a)(9) Minimum Distributions
401(a)(11) Spousal Consent
401(a)(11) QPSA
401(a)(13) Assignment of Benefits
401(a)(14) Benefit Commencement
401(a)(17) Compensation Limit
401(a)(30), 402(g) Excess Deferrals
401(a)(31) Eligible Rollover
401(a)(31) Rollover Notice
401(k) CODA
401(k)(2) Hardship
401(k)(2) In-Service Distribution
401(k)(3), 401(m)(2) ADP/ACP Failure
403(b)(1) Employer Eligibility
410(a) Exclusion From Participation
411(a) Improper Vesting
411(a)(3) Suspension of Benefits
411(a)(11) Involuntary Cash-Out
411(a)(11) Notice
411(a)(11) In-Service Distribution
411(d)(3) Partial Termination
411(d)(6) Benefit Cutback
411(d)(6) Optional Benefits
415(c) Annual Additions
416 Top-Heavy
417(e)(3) Interest Rate

Compliance Statement Date	Code Section	Violation	Correction
2/16/07 Audit CAP (Closing Agreement - Plan A)	401(a) Nonamender	Non-timely EGTRRA amendments (§ § 4415 and 401(m) multiple use test). Additional violations: See 401(a) Definite Allocation Formula (Plan A)	Retroactive plan amendment. Sanction equal to 2% of maximum payment amount (based on combined violations).
2/16/07 Audit CAP (Closing Agreement - Plan B)	401(a) Nonamender	Non-timely EGTRRA amendments (§ § 4415 and 401(m) multiple use test). Additional violations: See 401(a) Definite Allocation Formula; 401(a) Drafting Error (Plan B)	Retroactive plan amendment. Sanction equal to 4% of maximum payment amount (based on combined violations).
2/16/07 Audit CAP (Closing Agreement - Plan C)	401(a) Nonamender	Non-timely EGTRRA amendments (§ § 4415 and 401(m) multiple use test). Additional violations: See 401(a) Definite Allocation Formula; 401(a) Drafting Error (Plan C)	Retroactive plan amendment. Sanction equal to 4% of maximum payment amount (based on combined violations).
11/3/06 VCP	401(a) Nonamender	Non-timely CRA 2000 amendment.	Retroactive plan amendment; submission of determination letter application.
11/3/06 VCP	401(a) Nonamender	Non-timely EGTRRA and required minimum distributions (401(a)(9)) amendments.	Retroactive plan amendment; submission of determination letter application.
9/15/04 VCP	401(a) Nonamender	Nontimely CRA 2000 and applicable EGTRRA amendments by pension plan.	Retroactively adopt plan amendments.
9/24/02 VCP	401(a) Nonamender	Non-timely UCA '92 and OBRA '93 amendments by profit sharing plan.	Retroactively adopt necessary plan amendments and pay monetary sanction of \$2,250.
11/6/00 Walk-In CAP	401(a) Nonamender	Non-timely TRA '86, UCA '92, and OBRA '93 amendments by 400-participant money purchase pension plan.	Retroactively adopt necessary plan amendments and pay monetary sanction of \$5,000.
5/30/97 Walk-In CAP	401(a) Nonamender	Non-timely TRA '86 amendment by 145-participant plan caused by delay in adopting vendor's prototype plan.	Retroactively adopt necessary plan amendments and pay monetary sanction of \$2,000 (covering multiple violations).
5/30/97 Walk-In CAP	401(a) Nonamender	Non-timely TRA '86, UCA '92 and OBRA '93 amendments by 150-participant plan.	Retroactively adopt necessary plan amendments and pay monetary sanction of \$5,000 (covering multiple violations).
5/15/07 VCP	401(a) Plan Adoption	Sponsor's board agreed to freeze money purchase plan accruals and add new 401(k) and profit sharing features, but failed to formally adopt plan amendments for 2 plan years. Changes were communicated to participants in advance of intended effective date and plan was operated as 401(k) with frozen money purchase features for 2 plan years before amendments were adopted.	Afford retroactive affect to amendment freezing money purchase accruals and adding 401(k) feature.
2/28/06 VCP	401(a) Plan Adoption	Acquirer failed to adopt target's 401(k) plan although deferrals, matching contributions, annual reporting, etc., continued until plan was adopted 16 months later.	Retroactive plan adoption approved.
1/13/04 VCP	401(a) Plan Adoption	Controlled group members failed to execute participant agreements until Jan. 1, 2002, but employees participated in 401(k) plan from 1999 to 2002.	Retroactively adopt supplemental participation agreements to conform with operation of plan.
6/19/02 Walk-In CAP	401(a) Plan Adoption	Operationally plan was merged with another plan in 1999. Plan amendments and resolutions were drafted but never executed.	Execute plan amendments currently but with retroactive effect. Pay monetary sanction of \$16,000 (covering multiple violations).

Compliance Statement Date	Code Section	Violation	Correction
8/9/07 VCP	401(a) Drafting Error	Plan defined 401(k) "compensation" as W-2 wages. Annual bonuses and equity compensation were excluded from deferrals for 5 plan years. (Affected 90 to 175 participants per year (7-10% were HCEs); excluded \$1 million to \$1.8 million of comp annually).	Retroactive amendment to exclude bonuses and equity compensation from "compensation" based on extrinsic evidence of (1) sponsor's intended plan design and (2) no participant expectation under plan's definition.
2/16/07 Audit Cap (Closing Agreement-Plan B)	401(a) Drafting Error	1994 amendment to 401(k) plan understated sponsor's intended formula (integrated) for HCEs. Plan operated contrary to its terms for 10 years until 2004 plan merger. Additional violations: See 401(a) Nonamender; 401(a) Definite Allocation Formula (Plan B)	Plan treated as having operated in accordance with its terms. No retroactive amendment since plan was merged before IRS exam. Sanction equal to 4% of maximum payment amount (based on combined violations).
2/16/07 Audit Cap (Closing Agreement-Plan C)	401(a) Drafting Error	1994 amendment to 401(k) plan understated sponsor's intended formula (integrated) for HCEs. Plan operated contrary to its terms for 10 years until 2004 plan merger. Additional violations: See 401(a) Nonamender; 401(a) Definite Allocation Formula (Plan C)	Plan treated as having operated in accordance with its terms. No retroactive amendment since plan was merged before IRS exam. Sanction equal to 4% of maximum payment amount (based on combined violations).
1/04 VCP	401(a) Drafting Error	Discretionary contributions were allocated based on individual compensation as a percentage of divisional compensation for 5 plan years, but the plan provided that the allocation should have been made as a percentage of total compensation.	Retroactive plan amendment to provide for divisional compensation allocation. Monetary sanction of \$15,000. (Pre-Rev. Proc. 2003-44)
1/13/04 VCP	401(a) Drafting Error	During 1999-2001 plan years, approximately 120-150 HCEs were improperly excluded from participation in 401(k) plan but did participate in 403(b) plan. During 2001 plan years, 2 HCEs who had been properly participating in 401(k) plan were improperly excluded from participation in 401(k) plan. During this year, they elected not to participate in 403(b) plan. All HCEs offered participation in 401(k) plan beginning in 2002.	Retroactive plan amendment to provide that all HCEs are not eligible to participate in 401(k) plan from 1999-2001. Transfer 2 HCEs' 401(k) deferrals (including earnings) to 403(b) plan without adverse tax consequences. Earnings calculated as described.
2/7/02 VCP	401(a) Drafting Error	Standardized prototype plan document defined Eligible Employees to include employees of employers who are members of a controlled group. Upon acquisition by plan sponsor of two entities, it failed to operate the plan in accordance with its written terms by not allowing employees of the acquired entities to participate in the plan for a five-year period.	Retroactively amend plan to provide that only employees of adopting employers are eligible to participate in the plan. Monetary sanctions of \$5,000 (covering multiple violations).
2/7/02 VCP	401(a) Drafting Error	Same violation as 2/7/02 above related to acquired entity's plan.	Same as 2/7/02 above with a monetary sanction of \$4,000.

Compliance Statement Date	Code Section	Violation	Correction
2/4/02 Walk-In CAP	401(a) Drafting Error	Plan's pre-1993 document excluded profit sharing and bonus payments from the definition of compensation. Effective 1/1/93, the plan was restated and did not specifically exclude profit sharing and bonus payments from the definition of compensation. Taxpayer clearly demonstrated that this was an unintended error in restating the prior plan version. Violated plan terms from 1993 through 1999 by excluding profit sharing and bonus payments in computing employee before-tax and after-tax contributions and matching contributions.	Retroactively amend plan to 1/1/93 to adjust the definition of compensation to exclude profit sharing and bonus payments. Monetary sanction of \$15,000.
2/22/00 Walk-In CAP	401(a) Drafting Error	Plan defined compensation for calculating deferrals and matching contributions as W-2 compensation plus certain excludable amounts (e.g., cafeteria plan contributions). Violated plan by calculating deferrals and matching contributions on compensation excluding taxable expense allowances.	Retroactively amend plan to adjust the definition of compensation to exclude taxable expense allowances. Monetary sanction of \$50,000 (covering multiple violations).
8/17/06 VCP	401(a) Benefit Miscalculation (DB)	Plan did not provide vesting and benefit accrual service credit to 65 employees for periods of service prior to becoming participants in the plan.	Adjust plan records to reflect proper vesting and accrual credit for affected participants; no benefits had been paid to affected participants so adjustment for prior payments was unnecessary.
8/17/06 VCP	401(a) Benefit Miscalculation (DB)	DB Plan included holiday and vacation as hours of service for benefit accrual and vesting service in violation of plan terms.	(1) For active participants, correct accrual and vesting service records; (2) for erroneous "deferred vested" terminated participants, notify of ineligibility to receive benefits; (3) for participants in pay status, adjust or discontinue, as necessary, and employer to request return of overpayments.
7/25/06 VCP	401(a) Benefit Miscalculation (DB)	DB plan improperly credited service for benefit accruals during periods of disability after age 65, overpaid benefit.	Return of overpayments requested; reduce future annuity payments to correct monthly payment.
7/25/06 VCP	401(a) Benefit Miscalculation (DB)	DB plan annuity payments continued without adjustment/cessation after participants' deaths where date of death was not timely reported.	For amounts in excess of \$100: (1) recovery of overpayments will be requested where no further payments are due; or (2) ongoing survivor annuities will be adjusted for overpayments.

Compliance Statement Date	Code Section	Violation	Correction
3/28/03 VCP	401(a) Benefit Miscalculation	While sponsor was correcting operational failures under a prior compliance statement, sponsor miscalculated lump sum values of 200 participants resulting in underpayments. Due to the miscalculation, 11 participants erroneously received involuntary lump sum cashouts and 64 participants erroneously elected and were paid lump sum distributions in violation of plan terms.	For participants who were properly cashed out or who properly elected and were paid a lump sum distribution, recalculate lump sum values and distribute additional benefits due. Earnings on amounts will be imputed based on plan's interest assumption. For the 11 participants who erroneously received involuntary cashouts, send letter to their last known address offering them the option of: (1) repaying the lump sum distribution and receiving a QJSA or other optional benefit under the plan or (2) retaining the original lump sum distribution and receiving the additional corrective distribution. For the 64 participants who erroneously elected and were paid lump sums, send letter to their last known address requesting that such participants repay the plan the erroneous lump sum distribution amounts. Upon repayment, the 64 participants may receive a QJSA or other optional benefit under the plan.
3/18/03 VCP	401(a) Benefit Miscalculation	Miscalculation of benefit payments of 94 participants resulting in overpayments during 1994 through 2000 (and both an overpayment and underpayment to one participant).	Request that the 84 participants who received lump sum distributions repay overpayment to the plan. Request that the 9 participants who are receiving monthly annuity payments repay the plan the cumulative overpayments to date, plus earnings (8% per annum), and decrease future annuity payments to reflect correct payment amount. Notify all participants in writing that overpayments are not eligible for favorable tax treatment as rollovers. Pay monetary sanction of \$1,250 (covering multiple violations).
3/18/03 VCP	401(a) Benefit Miscalculation	Miscalculation of benefit payments of 180 participants resulting in underpayments during 1994 through 2000 (and both an overpayment and underpayment to one participant).	Make a single sum make-up distribution, plus earnings (8% per annum), to those participants who received lump sum distributions and to those participants who are receiving monthly annuity payments (and increase their future annuity payments to reflect correct payment amount). For those participants who received a lump sum distribution but were ineligible because the correct value exceeded the maximum payable as a lump sum under the plan terms, the plan will offer a choice of (1) repaying the plan the distribution amount plus earnings and receiving an annuity based on correct benefit, or (2) receiving an incremental annuity based on the underpayment, taking into account payments that have already been made. Each participant who receives a corrective distribution will receive a Form 1099-R. Pay monetary sanction of \$1,250 (covering multiple violations).

Compliance Statement Date	Code Section	Violation	Correction
9/29/97 VCR	401(a) Benefit Miscalculation (DB)	Improperly excluded on-call, call back and overtime hours in determining hours of service for accrual of benefits.	Recalculate participant credited service, average annual earnings and accrued benefits according to revised hours of service. Employer will make corrective lump-sum payment to retired participants receiving understated accrued benefits. Notify terminated vested participants of correction in accrued benefits. No change for retired participants receiving overstated benefits because de minimis.
8/9/07 VCP	401(a) Misallocation (Deferrals)	See 401(a) Drafting Error	
11/3/06 VCP	401(a) Misallocation (Deferrals)	Increase in plan's permissible deferral percentage from 12% to 15% of compensation was implemented in operation for 4 plan years but plan was not amended.	Retroactive plan amendment to reflect increased plan deferral limit.
4/21/04 VCO	401(a) Misallocation (Deferrals)	From 1998 to 2001, plan sponsor remitted amounts to the trust in excess of the amounts withheld from participant paychecks. Errors were also made in allocating deferrals to participant accounts resulting in under- and over-allocations.	For participants with under-allocations, contribute to each participant account the amount of the under-allocation plus earnings. For participants with over-allocations, excess amounts need not be returned; advise participants that the over-allocation is not eligible for favorable tax treatment. Earnings based on average rate of return of plan's investment fund options from 1/1/98 through date of correction.
4/21/04 VCO	401(a) Misallocation (Deferrals)	Plan provided that participants could defer up to 15% of compensation. Violated plan terms by allowing one participant to defer 19% of compensation during 2000 plan year.	Distribute the excess deferral plus actual earnings.
4/21/04 VCO	401(a) Misallocation (Deferrals)	One participant was incorrectly allocated a deferral of approximately \$80 that should have been credited as a loan repayment by another participant. This amount plus earnings was subsequently distributed to the first participant on termination of employment.	For the participant who was not credited with the loan repayment, restore the principle amount plus earnings. For the participant to whom such amount was incorrectly allocated and distributed, send a letter indicating that the incorrect allocation, plus earnings, is not eligible for favorable tax treatment. Earnings based on average rate of return of plan's investment fund options from 1/1/98 through date of correction.
1/13/04 VCP	401(a) Misallocation (Deferrals)	Plan limited deferrals to 4% of compensation. In 2002 plan year, 10 HCEs made excess deferrals of \$14,424.94.	Distribute excess deferral amount plus earnings to the affected participants. Earnings calculated on aggregate plan basis (earnings reported on Form 5500 divided by trust beginning balance, adjusted to add one-half of year's contributions and subtract one-half of year's benefit payments; partial year earnings determined on aggregate plan basis through last day of month prior to correction using most recent monthly valuation).
1/13/04 VCP	401(a) Misallocation (Deferrals)	Nine employees' elective deferrals to 401(k) plan initially held in separate account outside of plan (January-May 2000) before being contributed to different, newly established 401(k) plan in May 2000.	Transfer elective deferrals plus earnings to the original 401(k) plan from newly established 401(k) plan. Earnings calculated as described immediately above.

Compliance Statement Date	Code Section	Violation	Correction
1/13/04 VCP	401(a) Misallocation (Deferrals)	Plan limited deferrals to 20% of compensation. From 1999 to 2001, violated plan terms by allowing 62 participants to make excess deferrals, none of which violated Code limits.	Retroactively amend the plan to eliminate 20% of compensation limitation on deferrals.
6/19/02 Walk-In CAP	401(a) Misallocation (Deferrals)	Enrollment forms of 13 employees were not processed within 30 days and therefore, deferrals were not withheld from payroll.	Corrective contribution in the amount of the deferrals not made due to the delay, plus earnings (based on the fund that produced the highest rate of return). Pay monetary sanction of \$16,000 (covering multiple violations).
10/30/01 Walk-In CAP	401(a) Misallocation (Deferrals)	The 464-participant plan provided that all HCEs could elect to defer up to 6% of base compensation while all NHCEs could elect to defer up to 10% of base compensation. Violated plan terms as the plan was administered to provide a two-tiered deferral limit for certain HCEs; those with base compensation (compensation before bonuses) exceeding the Section 414(q) compensation limit could defer up to 6%; those with base compensation less than the Section 414(q) compensation limit could defer up to 10%.	Retroactively amend the plan to clarify that the plan limitation on HCE's deferral rates applies only to those participants whose compensation meets Section 414(q). Monetary sanction of \$16,000 (covering multiple violations).
7/24/01 Walk-In CAP	401(a) Misallocation (Deferrals)	The 324-participant plan provided that participants may defer from 1% to 10% of compensation. Violated plan terms by allowing all participants to defer up to 15% of compensation during a three plan year period.	Retroactively amend plan to provide an increase in the salary deferral limit to 15% of compensation. Monetary sanction of \$8,000.
7/19/00 VCR	401(a) Misallocation (Deferrals)	Plan covers salaried employees. One salary employee erroneously placed in plan covering hourly employees rather than in the salaried plan. Employee has since terminated employment and received distribution.	Allocate additional contribution to participant with such amount to be offset by the distribution the individual received from the hourly plan. Earnings on the additional contribution will be calculated using the return for the investment fund with the highest rate during each period.
2/22/00 Walk-In CAP	401(a) Misallocation (Deferrals)	Plan permitted participants to modify elective deferrals on a quarterly basis. Violated plan terms by immediately honoring requests by participants to modify deferrals.	Retroactively amend plan to allow for immediate changes in deferral elections. Pay monetary sanction of \$50,000 (covering multiple violations).
12/13/99 VCR	401(a) Misallocation (Deferrals)	Participants allowed to change deferral elections more frequently than permitted by the plan.	No correction because affected participants were all non-highly compensated and employer implemented new administrative procedure to prevent future errors.
11/99 Walk-In CAP	401(a) Misallocation (Deferrals)	401(k) plan permitted once per-year annual elective deferral to be withheld on a pre-tax basis from a participant's paycheck in addition to regular salary reduction contributions. Violated plan terms by allowing participants to make the additional deferral by writing a personal check to the plan. The plan administrator treated the contribution as an additional pre-tax deferral.	Enter into closing agreement negotiated on "John Doe" basis to permit improper additional elective deferrals to be treated as employee deferrals for all purposes under §§ 401(k) and 402(g). Pay monetary sanction of \$6,000 (covering multiple violations). Treat future additional deferrals in accordance with plan terms.

Compliance Statement Date	Code Section	Violation	Correction
6/11/99 VCR	401(a) Misallocation (Deferrals)	Failed to withhold elective deferrals from manually drawn payroll checks.	Make corrective contribution equal to missing deferral plus matching contribution to plan for individuals who failed to have deferrals withheld. Amounts related to terminated participants will be deposited in plan trust and distributed. Earnings based on actual investment activity, or if not administratively feasible, the highest rate earned by plan.
10/27/98 VCR	401(a) Misallocation (Deferrals)	Elective contributions exceeded the plan limit.	No correction with respect to after-tax excess elective contributions for non-highly compensated employees. Terminated participant with fully distributed account will be informed that excess elective pre-tax contributions are ineligible for favorable tax treatment.
10/1/98 VCR	401(a) Misallocation (Deferrals)	Failed to base deferrals and matching contributions on the plan's definition of compensation. Also failed to deduct elective deferrals and matching contributions from payroll checks issued manually.	Corrective contribution equal to missed elective deferral and matching contribution plus earnings based on the rate of return for the plan as reported on the Form 5500. Employer will notify separated participants of new account balances and options for distribution (in accordance with participant consent and direct rollover requirements).
6/15/98 VCR	401(a) Misallocation (Deferrals)	Failed to take participant elective deferrals from vacation pay paid separately from the regular payroll check.	Recalculate participant deferrals based on proper compensation including vacation pay and make corrective qualified nonelective contribution. Earnings will be calculated based on an aggregate plan earnings in accordance with Rev. Proc. 94-62, Section 5.01.
9/97 VCR	401(a) Misallocation (Deferrals)	Plan provides for salary reduction contributions on a percentage of pay basis. Employer converted percentages elected by participants into fixed dollar amounts to be withheld from each paycheck. This procedure violated the terms of the plan and resulted in insufficient deferrals for participants whose rate of pay changed or who received bonuses.	Corrective QNEC equal to missing deferral plus matching contributions and interest. Earnings calculated by comparing end of year asset balance on Form 5500 to beginning balance and netting out contributions and adding back distributions during the year. Employer also made corrective distribution to terminated participants.
9/97 VCR	401(a) Misallocation (Deferrals)	Plan permitted changes to deferrals on a quarterly basis. Administrator violated plan terms by allowing participants to make changes in deferrals at any time and by honoring verbal instructions to change deferral levels.	No retroactive correction because defect existed from inception of plan and replicating elections would cause significant burden on the plan and participants. Administrator verified that election form is currently on file for each participant and the administrative procedures for monitoring elections will be corrected prospectively.
9/97 VCR	401(a) Misallocation (Deferrals)	Plan permitted participants to defer from 1% to 15% of compensation. Violated plan terms by allowing some participants to defer less than the minimum or more than the maximum percentages provided.	Corrective distribution of excess contributions plus earnings calculated on an aggregate plan basis. Excess matching contributions placed in suspense and used to reduce future employer contributions. No distribution where excess is de minimis (less than \$50). Contributions less than minimum percentage permitted to remain in plan because all affected participants are non-highly compensated.

Compliance Statement Date	Code Section	Violation	Correction
11/3/06 VCP	401(a) Misallocation (Compensation)	Bonus excluded from compensation for purposes of making deferrals and matching contributions in violation of plan terms.	QNEC equal to missed deferrals and matching contributions on bonus payments; earnings adjusted using plan's guaranteed income fund return, since plan's aggregate return was negative during years of failure.
7/25/06 VCP	401(a) Misallocation (Compensation)	401(k) plan definition of compensation excluded severance payments, but payroll error permitted some participants to defer from severance amounts.	Corrective distributions for amounts in excess of \$50; earnings based upon actual investment returns, subject to make-whole payments by sponsor for investment loss.
10/20/05 VCP	401(a) Misallocation (Compensation)	From 1999-2003, bonus payments were incorrectly included in compensation for salary deferral purposes where plan required exclusion.	Retroactively amend plan to include bonus payments in definition of "compensation" for deferral purposes.
9/30/05 VCP	401(a) Misallocation (Compensation)	From 1995-1999, bonus payments were incorrectly excluded from compensation for salary deferral and matching contribution purposes. Employer unable to locate participants' deferral percentage elections during bonus period for 1995-1998 plan years.	Make QNECs in amount of missed deferrals and matching contributions on behalf of affected participants based on their actual annual deferral ratios for 1995-1998 years and percentage election for 1999 year.
12/8/04 VCP	401(a) Misallocation (Compensation)	During 1998-2001 plan years, plan failed to take into account all forms of compensation (e.g., failed to include year-end bonuses, last checks upon termination) in determining deferrals and matching contributions.	Make QNECs on behalf of affected participants based on participant's actual deferral ratio for affected plan years. Earnings computed based on highest rate of return on plan's assets during affected plan years. Make corrective matching contribution, adjusted for earnings, based on recomputed deferral amounts.
1/04 VCP	401(a) Misallocation (Compensation)	For 4 plan years, compensation on which elective deferrals were based was calculated based on the first and last weekly pay dates falling closest to the beginning and end of the plan year without regard to whether the pay dates were before or after each affected plan year. Plan operation was nondiscriminatory.	Retroactive plan amendment to use the pay dates closest to the beginning and end of the plan year. Thereafter, amendment ceases to be effective; administer plan under current provisions based only on compensation earned during plan year. Monetary sanction of \$15,000. (Pre-Rev. Proc. 2003-44)
1/04 VCP	401(a) Misallocation (Compensation)	Compensation for purposes of ratably allocating discretionary contributions was calculated based on only the amounts paid for a 6 month period (April—September) for each plan year instead of the entire plan year as provided by the plan document. Operation was nondiscriminatory.	Retroactive plan amendment to provide for 6 month compensation reference point. Monetary sanction of \$15,000. (Pre-Rev. Proc. 2003-44)
1/04 VCP	401(a) Misallocation (Compensation)	Bonuses were excluded from the base compensation on which elective deferrals could be made for 4 plan years.	Corrective QNECs in the amount of the affected participants' bonuses multiplied by the ADP for the NHCE group for the particular year (excluding QNECs for separated participants of less than \$50). Earnings computed on aggregate plan basis: Form 5500 earnings divided by beginning balance plus one-half of year's contributions minus one-half of year's benefit payments. Monetary sanction of \$15,000. (Pre-Rev. Proc. 2003-44)

Compliance Statement Date	Code Section	Violation	Correction
3/18/03 VCP	401(a) Misallocation (Compensation)	Plan defined compensation as W-2 wages during the plan year, including elective deferrals and cafeteria plan contributions. In violation of plan terms, cap on matching contributions, elective deferrals, and nonelective contributions were based upon compensation earned once an employee became a participant and not on compensation for the full plan year. In addition, compensation was calculated based on certain pay dates without regard to whether or not compensation for those pay dates was compensation earned within the plan year in violation of plan terms.	Make a corrective contribution on behalf of each affected participant. Earnings computed on aggregate plan basis: Form 5500 earnings divided by beginning balance plus one-half of year's contributions minus one-half of year's benefit payments. Pay monetary sanction of \$1,250 (covering multiple violations).
2/26/02 VCO	401(a) Misallocation (Compensation)	Plan defined compensation for purposes of determining contributions as Code § 415 compensation. Violated plan terms by excluding certain types of compensation, including overtime, shift differential, bonuses and other supplemental compensation, in calculating discretionary matching contribution. The undermatch impacted 39 participants in 1998 and 269 participants in 1999.	Recalculate matching contributions using the correct definition of compensation. Contribute the additional matching contributions, including earnings (based on a weighted average of the percentage of trust assets invested in each available investment fund).
7/15/99 VCR	401(a) Misallocation (Compensation)	Deferrals, made as a fixed dollar amount, by employees who separated from service or reduced their work schedule exceeded the plan's percentage-of-compensation limit. No deferrals exceeded § 415 or § 402(g) and all affected participants were nonhighly compensated.	Refund excess deferrals plus earnings calculated on an aggregate plan basis.
7/15/99 VCR	401(a) Misallocation (Compensation)	Plan allocates profit-sharing contributions based on compensation earned as a participant. Violated plan terms by making profit-sharing allocations based on compensation earned prior to satisfying definition of participant (age 21).	No correction because affected participants are non-highly compensated and there will be no future employer contributions against which to apply amounts if suspended because plan has been frozen.
12/22/98 VCR	401(a) Misallocation (Compensation)	Recordkeeper credited payroll contributions to incorrect accounts.	Corrective employer contributions to restore account balances of participants who failed to receive contributions. Credit earnings participants would have received through the date of correction. For participants with overstated accounts, treat erroneous contributions as additional earnings in view of fact that all participants were NHCEs, all had been cashed out and the errors involved small amounts (\$15-\$50).
12/22/98 VCR	401(a) Misallocation (Compensation)	Incorrect calculation of matching contributions. Failed to base matching contributions on pay including § 125 plan contributions as required by the plan.	Make corrective matching contribution to accounts of affected participants. No correction for participants with de minimis amounts. Interest on the corrective contributions will be calculated based on the annual rate earned by the trust as reported on the Form 5500.

Compliance Statement Date	Code Section	Violation	Correction
9/97 VCR	401(a) Misallocation (Compensation)	Plan defines compensation as gross compensation. Violated terms by making elective deferrals from base pay.	Corrective QNEC based on deferrals using the correct definition of compensation plus earnings calculated on an aggregate plan basis. Make distribution to terminated participants. Modify payroll system prospectively to compute deferrals using the correct definition of compensation and revise participant election forms.
11/18/96 VCR	401(a) Misallocation (Compensation)	The plan is a 401(k) plan with a definition of compensation that includes bonuses. Failed to properly include bonuses.	Employer will make qualified nonelective contributions (QNECs) on behalf of the affected employees. QNECs will equal (a) the amount of deferral that was not made to the plan based on the employee deferral percentage due to the exclusion of the bonus, (b) and related match, and (c) any imputed earnings (based on plan's rate of return).
8/29/96 VCR	401(a) Misallocation (Compensation)	Contribution exceeded plan formula. Miscalculated "earned income" for determining regular contributions for self-employed participants.	Reallocate excess allocations to accounts of non-highly compensated employees in year contributions were deposited.
12/11/06 VCP	401(a) Misallocation (Contributions)	DC plan required 1,000 hours of service for initial eligibility and one hour of service to receive employer contributions in any subsequent year. Plan improperly required 1,000 hours of service in each subsequent year.	Employer make-whole contributions plus earnings calculated for latest three years using individual investment returns, for first two years based on trust's return; (due to recordkeeper change and insufficient data.)
11/27/06 VCP	401(a) Misallocation (Contributions)	Employer discretionary contributions and matching contributions allocated to participants regardless of DC plan's minimum service requirements	Retroactive plan amendment to eliminate service minimums for receipt of employer contributions.
11/27/06 VCP	401(a) Misallocation (Contributions)	Plan-imposed limit on after-tax contributions was exceeded.	Distribution of after-tax contributions in excess of plan limits plus earnings calculated using actual earnings rate of affected participants accounts.
11/27/06 VCP	401(a) Misallocation (Contributions)	Plan imposed limit on matching contributions exceeded as a result of payroll errors.	Forfeiture of matching contributions in excess of plan limits; earnings calculated using actual earnings rate of affected participants.
10/20/05 VCP	401(a) Misallocation (Contributions)	For 13 plan years, employer improperly allocated employer contribution of 5% of compensation on behalf of participants who had not completed the required 500 hours of service during plan year. Plan later amended to eliminate hours of service requirement.	Retroactively amend plan to eliminate hours of service requirement for period of violation.
10/20/05 VCP	401(a) Misallocation (Contributions)	Plan terms required participants to be employed at the end of the plan year in order to receive matching contributions for that plan year. From 1995-2002, matching contributions were made by the employer without regard to the "last day of the year" requirement.	Retroactively amend plan for period of violation to eliminate requirement that participant be employed on last day of the plan year to be entitled to matching contributions for that year.
9/30/05 VCP	401(a) Misallocation (Contributions)	From 1995-1999, matching contributions for second half of year improperly calculated using entire year's compensation, resulting in overpayments to virtually all participants.	Retroactively amend plan for 1995-1999 years to provide matching contributions for second half of year to be calculated based on entire year's compensation. Affected participants were primarily NHCEs, and some have since separated and received full distributions.

Compliance Statement Date	Code Section	Violation	Correction
5/25/05 VCP	401(a) Misallocation (Contributions)	From 2000-2002, employer contributions were under-contributed by allocating contrary to plan's allocation formula.	Contribute to affected participants' accounts amount of the under-allocation, adjusted annually for period of failure for earnings using average of earnings rates of all funds.
4/21/04 VCO	401(a) Misallocation (Contributions)	For 1998-2001 plan years, matching contributions were either under- or over-contributed, or both. Errors were also made in allocating the matching contributions to the correct participant accounts.	For participants with under-allocations, contribute to each participant account the amount of the under-allocation plus earnings. For participants with over-allocations, return of excess need not be requested but advise participants that the over-allocation is not eligible for favorable tax treatment. Earnings based on average rate of return of plan's investment fund options from 1/1/98 through date of correction.
4/21/04 VCO	401(a) Misallocation (Contributions)	For 1999 and 2000 plan years, 12 participants were allocated matching contributions that were 100% higher than under the Plan's terms as a result of incorrect payroll calculations.	The sponsor need not request return of the excess. Advise affected participants that the over-allocations are not eligible for favorable tax treatment.
4/9/01 VCR	401(a) Misallocation (Contributions)	Plan provided that the last day and 1,000 hours of service eligibility requirements for accrual of employer contribution is waived for participants who terminated employment due to disability, death or attainment of normal retirement age. Violated plan terms by failing to waive accrual condition resulting in failure to receive 2% discretionary contribution.	Contribution on behalf of each affected employee equal to 2% of employee's compensation for the plan year in which the terminated employee was improperly excluded. Earnings based on the actual annual fund performance of a single investment fund in which the majority of plan assets were invested (over 99%). Corrective contributions will be subject to the plan's general vesting and forfeiture provisions.
11/1/99 VCR	401(a) Misallocation (Contributions)	The administrator allowed participants to make voluntary after-tax contribution although not permitted by plan.	Deduct excess contribution plus earnings from participant's account and return to participant as taxable income. Earnings will be calculated using an average rate of return on trust assets over the period during which the plan permitted improper deferrals.
7/99 Audit CAP	401(a) Misallocation (Contributions)	Board resolution authorized employer to make 401(k) plan matching contributions in company stock and stated that the authorization "shall remain in effect" until otherwise determined by the board. The plan provided for valuation and allocation of discretionary contribution on the last day of the plan year. Agent's initial position was that the board resolution formed part of plan and employer was thereby obligated to make matching contribution. In addition, agent maintained that valuation of the stock contribution at year-end rather than at the later date of the actual contribution caused overallocation to HCEs violating Section 401(a)(4).	Agent withdrew position.
6/11/99 VCR	401(a) Misallocation (Contributions)	Plan provides that terminated participants eligible to receive allocation regardless of hours of service on last day of plan year. Failed to make matching contribution for final paycheck of terminated participants.	Employer will make corrective matching contribution and distribute to terminated employees. Earnings based on actual investment activity, or if not administratively feasible, the highest rate earned by plan.

Compliance Statement Date	Code Section	Violation	Correction
6/11/99 VCR	401(a) Misallocation (Contributions)	Matching contributions made for participants who ceased elective deferrals.	Remove incorrect matching contributions from participant accounts pursuant to plan provision for removing excess matching contributions. Request former participants to repay erroneous contributions distributed to them.
6/11/99 VCR	401(a) Misallocation (Contributions)	Plan defines compensation as W-2 compensation. Failed to calculate deferrals on compensation including auto allowances.	Corrective QNEC equal to missing deferral plus matching contribution for individuals who received auto allowances but did not have deferrals withheld on compensation including the auto allowance.
6/3/99 VCR	401(a) Misallocation (Contributions)	Incorrect allocation of employer profit-sharing contributions caused by error in processing investment elections and in calculating years of service.	Excess contributions will be deducted from participant accounts along with earnings based on the actual rate of the plan's money market fund. The excess contributions will be held in a suspense account and used to reduce future employer contributions. Distributed participants will be asked to return excess amounts, plus earnings, to the plan and these amounts will be used to reduce future employer contributions. Make-up contributions, calculated quarterly, will be contributed to accounts of employees that received less than required allocations. The corrective contributions will include earnings based on the return of the investment fund with the highest return for each quarter.
3/23/99 VCR	401(a) Misallocation (Contributions)	Underallocation of stock contributions. Error caused by calculating contributions based on months of participation rather than months of employment as required by the plan.	The employer will make an additional corrective contribution to accounts for current employees and terminated employees with account balances. For terminated participants who have received total distributions the employer will make an additional contribution and notify each individual of their entitlement to an additional distribution.
10/27/98 VCR	401(a) Misallocation (Contributions)	Elective contributions not based on the plan's definition of compensation. Failed to deduct elective contributions from cash bonuses.	Recalculate affected participant elective contributions using proper definition of compensation. Make corrective employer contribution equal to missed elective contributions, employer matching contribution and earnings. Additional contributions will be limited in accordance with Section 402(g) and 415. Earnings determined using Rev. Proc. 94-62 aggregate plan basis.
8/29/98 VCR	401(a) Misallocation (Contributions)	Distributions understated.	Corrective distribution plus earnings based on the individual's account earnings rate.
8/29/98 VCR	401(a) Misallocation (Contributions)	Recordkeeper deposited contributions in incorrect accounts.	Credit contribution to proper account along with earnings thereon. Make additional corrective contribution to restore earnings that would have been credited to proper account from the date of the initial contribution.

Compliance Statement Date	Code Section	Violation	Correction
2/17/98 VCR	401(a) Misallocation (Contributions)	Matching contributions were allowed in excess of the percentages under terms of the plan. The plan has been amended to cease future contributions (frozen).	Forfeit excess matching contributions and earnings from accounts of affected highly compensated employees and allocate on uniform dollar basis to accounts of all current nonhighly compensated employees participating in plan. Note that correction would have differed had plan not been frozen.
1/23/97 VCR	401(a) Misallocation (Contributions)	Failed to allocate discretionary employer contributions pursuant to the terms of the plan.	Reallocate employer discretionary contributions for the affected years among all eligible participants. Those entitled to additional allocations will be credited with earnings based on the plan's annual rate of return. The allocation will be based on the ratio of each eligible participant's annual compensation during the period to total annual compensation of all eligible participants.
11/6/96 VCR	401(a) Misallocation (Contributions)	Elective deferrals not properly credited to employee accounts. Also, failed to properly execute investment transfers among participant accounts.	To correct deposit error, recalculate and adjust account balances of affected participants. Additions to correct underdeposits will include earnings (based on highest rate of return of plan investment options). To correct reinvestment error, make contribution to affected accounts equivalent to earnings lost (or gained) due to the failure to make timely transfers. Such contributions will be treated as an adjustment to investment earnings.
6/12/96 VCR	401(a) Misallocation (Contributions)	Plan requires allocation of employer contributions to employees who have a year of service (1,000 hours). Failed to allocate employer contributions to participant with more than 1,000 hours of service in the employee's year of termination.	Make contribution plus earnings. Because participant terminated prior to vesting, the contribution will be allocated to other participants as a forfeiture.
6/12/96 VCR	401(a) Misallocation (Contributions)	Plan requires year of service (1,000 hours) to share in allocation of employer contributions. Plan allocated employer contribution to employee with fewer than 1,000 hours of service.	Recalculate allocation plus investment earnings. Because participant no longer has an account balance, the excess contribution will be charged to the account of the company president (who is related to the participant).
6/30/06 VCP	401(a) Misallocation (Forfeitures)	Plan provided that forfeitures would be applied in the following order until exhausted: (1) reduce employer contributions, (2) restore benefits, (3) pay plan expense, (4) correct administrative errors in plan accounts; However, forfeitures were used exclusively to pay plan expenses.	Retroactive plan amendment to reflect actual use of forfeitures.
6/30/06 VCP	401(a) Misallocation (Forfeitures)	Plan provided that forfeitures would be applied in the following order until exhausted: (1) reduce employer contributions, (2) restore benefits, (3) pay plan expense, (4) correct administrative errors in plan accounts; However, forfeitures were used exclusively to pay plan expenses.	Retroactive plan amendment to reflect actual use of forfeitures.
6/4/02 VCR	401(a) Misallocation (Forfeitures)	Premature forfeiture of a portion of certain participants' accounts.	Make corrective contributions (plus earnings) on behalf of affected participants who were rehired but not reinstated in forfeited accounts.

Compliance Statement Date	Code Section	Violation	Correction
12/22/98 VCR	401(a) Misallocation (Forfeitures)	Improper forfeiture of matching contributions. Failed to apply forfeiture exceptions for employees not employed on last day of the year but who terminated due to disability, death, economic conditions, etc.	Restore employer matching contributions plus earnings to each affected participant's account. Cashed-out participants will receive distributions of these contributions. All employees will be notified that this action is being taken.
8/29/98 VCR	401(a) Misallocation (Forfeitures)	Failed to timely allocate balance of forfeiture account.	Allocate the forfeitures due to current and former participants. Due to the fact that the forfeitures were timely credited to a forfeiture account and properly credited with earnings, the reallocation will include earnings to the date of correction.
6/12/98 VCR	401(a) Misallocation (Forfeitures)	Forfeitures not allocated to participant accounts in the year forfeited in violation of the plan terms.	Recompute participant accounts as if forfeitures timely allocated. The correction will include an earnings adjustment based on the highest return of any fund under the plan for the applicable years.
6/12/96 VCR	401(a) Misallocation (Forfeitures)	Failure to timely reallocate forfeitures from terminated participants in accordance with the terms of the plan.	Reallocate forfeitures to participant accounts to reflect forfeitures as occurring in the year terminated participants received the vested portion of their account balances. All pre-1989 year forfeitures plus allocable earnings will be reallocated in 1989 because of the small amounts involved and the administrative burden of recalculating allocations for individual years.
5/15/07 VCP	401(a) Misallocation (Earnings)	Sponsor failed to execute new M&P adoption agreement changing from quarterly to daily valuation. Plan operated on daily valuation for 2 plan years before amendment was adopted.	Retroactive plan amendment permitted.
9/16/97 VCR	401(a) Misallocation (Earnings)	Failed to allocate earnings to participant accounts in accordance with plan provisions.	Revalue accounts using correct earnings for affected periods and adjust account balances of active and terminated participants. Make residual distributions to terminated paid-out participants, with total distributions of less than \$20.00 treated as de minimis and reallocated among remaining eligible participants.
5/14/97 VCR	401(a) Misallocation (Earnings)	Failed to allocate ESOP cash dividends in accordance with plan provision. No allocation made for participants who took distributions between ex-dividend date and the monthly allocation date.	Corrective allocation to participants credited with earnings based on the applicable PBGC interest rate for each period that a dividend remained unallocated.
11/3/06 VCP	401(a) Delinquent 401(k) Transfers	Failure to transfer elective deferrals withheld for 1 participant due to payroll error for 1 pay period.	Employer QNEC equal to deferral amount; earnings adjusted using plan's guaranteed income fund return, since plan's aggregate return was negative during year of failure.
6/12/98 VCR	401(a) Delinquent 401(k) Transfers	Plan requires 401(k) contributions to be remitted to the trust within an administratively reasonable time. Failed to timely remit 401(k) contributions and periodic loan payments to the trust.	Revise procedures to ensure that all payments are remitted to the trust, within ERISA rules. Remit all unpaid 401(k) contributions and loan repayments to the trust. Credit earnings on all late contributions in lieu of foregone interest. (Note that the IRS normally treats as ineligible exclusive benefit violations but permitted due to highly unusual equities.)

Compliance Statement Date	Code Section	Violation	Correction
6/19/02 Walk-In CAP	401(a) Delinquent Contributions	Failed to provide matching contributions to 26 participants in a timely manner for the 2000 plan year.	Corrective matching contribution, plus earnings (based on the funds that produced the highest rate of return). Pay monetary sanction of \$16,000 (covering multiple violations).
8/29/98 VCR	401(a) Delinquent Contributions	Failed to allocate matching contributions to eligible employees.	Credit affected individuals with additional matching contributions plus earnings that would have accrued within the specific individual's account.
3/20/98 VCR	401(a) Delinquent Contributions/ Allocations	The plan is a defined contribution plan originally funded with assets spun off from a predecessor plan. Failed to provide matching contributions to eligible participants under predecessor plan.	Corrective matching contribution plus imputed earnings equal to the rate of return on the plan's guaranteed investment option made to successor (transferee) plan. Corrective matching contributions retained in the accounts of affected participants who are still employed and distributed to cashed-out participants.
11/22/96 VCR	401(a) Delinquent Contributions	Ceased after-tax contributions by certain active participants in violation of plan terms. The violation occurred in the process of reallocating amounts held in suspense to correct a separate Code Section 415 violation.	Because the violation occurred as part of good faith attempt to correct the Code Section 415 violation and affected participants are in a same position had the excess after-tax contributions been returned instead of ceased, the employer will not be required to make-up missed after-tax contributions or allow affected participants to make-up the missed contributions.
8/17/06 VCP	401(a) Ineligible Employees	Plan permitted 38 employees to participate who were ineligible based on job classification; error occurred as a result of job classification provisions being incorrectly applied.	Adjust plan records to reflect ineligible status of employees; no benefits were paid to ineligible employee group so no recovery of overpayments necessary.
8/9/06 VCP	401(a) Ineligible Employees	Executive terminated employment and entered into consulting agreement with former employer. He was paid, but performed no services. He made 401(k) deferrals from consulting fees and received matching contributions, but was misclassified as an "employee."	Improper deferrals returned with earnings; matching contributions and associated earnings are forfeited and used to reduce future employer contributions. Earnings calculated based on weighted mid-year rate of return.
8/9/06 VCP	401(a) Ineligible Employees	Executive terminated employment, entered into consulting agreement with former employer, was paid, but performed no services for 3 years. He was credited with additional DB accrual service but was misclassified as an "employee."	Credited service will be adjusted to reflect employment termination date.
2/28/06 VCP	401(a) Ineligible Employees	401(k) plan covered union employees only. When union was decertified, the former union employees continued active participation until amendment to permit coverage 16 months later.	Retroactive plan amendment to permit participation by affected employees.
1/13/04 VCP	401(a) Ineligible Employees	Contrary to plan terms, union employees permitted to participate in plan.	Retroactively amend plan to include union employees within definition of "eligible employee."
1/13/04 VCP	401(a) Ineligible Employees	Employees who satisfied service requirements were allowed to participate immediately. Plan terms permitted only semi-annual entry into plan.	Retroactively amend plan to provide that eligible employee may participate in plan immediately upon satisfying service requirements.

Compliance Statement Date	Code Section	Violation	Correction
4/21/04 VCO	401(a) Ineligible Employees	Three participants were permitted to make deferrals and receive matching contributions prior to satisfying plan's eligibility requirements during the 1999 and 2000 plan years.	For the 2 participants who had already received distributions of their account balances, send a letter indicating that inappropriate deferrals and matching contributions plus earnings are not eligible for favorable tax treatment. For the participant who had not yet received a distribution, distribute excess deferral plus earnings as taxable income to the participant. The participant will also forfeit the matching contribution related to amount returned plus earnings. Earnings based on average rate of return of plan's investment fund options from 1/1/98 through date of correction.
6/19/02 Walk-In CAP	401(a) Ineligible Employees	Prior service for eligibility and vesting purposes was credited to changed status employees in violation of plan terms.	Retroactively amend plan to provide that service would be credited for prior service to changed status employees. Pay monetary sanction of \$16,000 (covering multiple violations).
6/19/02 Walk-In CAP	401(a) Ineligible Employees	During 1999, permitted one terminated employee to defer severance pay in violation of plan terms.	Distribute erroneously deferred amount (not reduced for subsequent plan investment losses). Pay monetary sanction of \$16,000 (covering multiple violations).
6/19/02 Walk-In CAP	401(a) Ineligible Employees	401(k) plan required employees to complete enrollment forms to be eligible to participate. Failed to follow plan terms by allowing 247 employees to participate without completing forms.	Retroactively amend plan to eliminate enrollment forms requirement. Pay monetary sanction of \$16,000 (covering multiple violations).
12/20/01 VCR	401(a) Ineligible Employees	401(k) plan provided that an employee is eligible to participate in the plan if he is employed in certain job classifications. In violation of the plan provisions, participants who terminated employment and received severance payments were permitted to continue to make elective deferrals to the plan from severance payments. During 1999 and 2000, three participants made elective deferrals to the plan from their severance payments.	Distribution of erroneously deferred amounts plus earnings (based on actual earnings allocated to affected participants' accounts).
11/14/00 Walk-In CAP	401(a) Ineligible Employees	Holding company has both taxable and tax-exempt entities within controlled group and sponsors both a 403(b) and a 401(k) plan. Assets of both plans are held by same trustee. Holding company violated plan document and Section 401(k)(4)(B) by allowing employees of tax-exempt entity to participate in 401(k) plan prior to 1997. The 401(k) plan has 250 participants.	Employer discontinued 401(k) deferrals and reclassified deferrals of ineligible employees as 403(b) accounts. Allow such employees to keep contributions and earnings in the 403(b) plan subject to normal distribution rules. Pay monetary sanction of \$4,000.
7/19/00 VCR	401(a) Ineligible Employees	Profit-sharing plan provides for entry at beginning of month after meeting eligibility requirements. Failed to follow plan terms by allowing entry on first day of month in which eligibility requirements met.	Deduct excess contribution, plus earnings from participant accounts. Earnings will be based on return of plan's money market fund for administrative ease. Place such amounts in a suspense account to be used to reduce future employer contributions. Former employees who have received distributions will be requested to repay excess contributions to the plan.

Compliance Statement Date	Code Section	Violation	Correction
2/22/00 Walk-In CAP	401(a) Ineligible Employees	Plan originally had 4-year graded vesting. Employer drafted, but failed to execute, amendment to adoption agreement to conform to 3-year cliff vesting. Violated plan terms by administering plan as if new vesting schedule was effective.	Retroactively amend plan to provide for 3-year cliff vesting schedule. Monetary sanction of \$50,000 (covering multiple violations).
2/22/00 Walk-In CAP	401(a) Ineligible Employees	Plan permitted participation on entry date following satisfaction of age and service requirement. Administrator violated plan terms by allowing employees to make elective deferrals immediately following date of hire.	Execute retroactive amendment to allow immediate participation. Monetary sanction of \$50,000 (covering multiple violations).
12/13/99 VCR	401(a) Ineligible Employees	Early participation. Former leased employees hired by employer allowed participation on date of hire rather than next eligible entry date following hire.	Refund deferrals made prior to eligible entry date plus earnings using the actual rates pursuant to Rev. Proc. 98-22. Any matching contributions allocated on improper deferrals will be forfeited and held in suspense and used to reduce future employer contributions.
11/1/99 VCR	401(a) Ineligible Employees	Participants allowed to make deferrals prior to satisfying eligibility requirements in the plan.	Distribute excess deferrals plus earnings as taxable income. Earnings will be calculated using an average rate of return on trust assets over three year period during which administrator permitted improper deferrals.
3/23/99 VCR	401(a) Ineligible Employees	Allocation for year during which employee was not a plan participant.	Reduce affected participant's account by offsetting improper allocation plus earnings against future employer allocations.
7/20/98 VCR	401(a) Ineligible Employees	The plan is a defined benefit plan sponsored by a hospital. Allowed participation by ineligible employees of unrelated employer.	Defect involved a small number of employees. Employer will make bookkeeping adjustments to plan records to remove accruals attributable to service with unrelated employer and, where appropriate, to cease future accruals.
6/15/98 VCR	401(a) Ineligible Employees	Allowed participation by participants who had not satisfied eligibility requirements.	Refund 401(k) deferrals made prior to each affected participant's eligible plan entry date plus earnings based on an aggregate plan rate of return.
11/18/96 VCR	401(a) Ineligible Employees	Allowed employees who had not satisfied plan's year of service requirement to make elective deferrals.	Return elective deferrals made prior to participants' correct entry date, plus earnings, as taxable income.
1/29/96 VCR	401(a) Ineligible Rollover	Money purchase plan accepted rollover contributions from a nonqualified plan.	Employer will return contributions plus accrued earnings. Earnings to be calculated based on amounts initially deposited plus interest factors for each fund during the applicable calendar quarter. The final distribution will also include accrued earnings through time of distribution.
7/25/97 VCR	401(a) Improper Suspense Account	Contributions exceeded defined contribution plan's prescribed contribution formula for multiple plan years.	Place excess contributions in suspense account and carry such amounts forward to reduce required employer contributions in following year.
2/16/07 Audit CAP (Closing Agreement-Plan A)	401(a) Definite Allocation Formula	Profit sharing plan amended in 2002 to require automatic "fail-safe" nonelective employer contributions (NEC) for NHCEs if annual partner contributions would discriminate; fail-safe NEC made for 2002. Additional violations: See 401(a) Non-amender (Plan A)	Amend plan to eliminate fail-safe formula (prospective only). Sanction equal to 2% of maximum payment amount (based on combined violations).

Compliance Statement Date	Code Section	Violation	Correction
2/16/07 Audit CAP (Closing Agreement- Plan B)	401(a) Definite Allocation Formula	Profit sharing plan amended in 2002 to require automatic "fail-safe" nonelective employer contributions (NEC) for NHCEs if annual partner contributions would discriminate; fail-safe NEC made for 2002. Additional violations: See 401(a) Non-amender; 401(a) Drafting Error (Plan B)	Amend plan to eliminate fail-safe formula (prospective only). Sanction equal to 4% of maximum payment amount (based on combined violations).
2/16/07 Audit CAP (Closing Agreement- Plan C)	401(a) Definite Allocation Formula	Profit sharing plan amended in 2002 to require automatic "fail-safe" nonelective employer contributions (NEC) for NHCEs if annual partner contributions would discriminate; fail-safe NEC made for 2002. Additional violations: See 401(a) Non-amender; 401(a) Drafting Error (Plan C)	Amend plan to eliminate fail-safe formula (prospective only). Sanction equal to 4% of maximum payment amount (based on combined violations).
8/17/06 VCP	401(a) Loans	Paperless residence loans were used where plan required written applications.	Plan amended retroactively to provide for paperless residence loans to reflect plan operation.
8/9/06 VCP	401(a) Loans	Participant received loan without obtaining spousal consent required under plan.	Loan was already repaid, so no correction necessary.
7/25/06 VCP	401(a) Loans	Plan loan repayment schedules were not followed and/or maximum five year repayment schedules were exceeded for 1 to 2 pay periods as a result of payroll system errors.	No correction for repaid loans; existing loan repayments recalculated to satisfy plan loan repayment timing.
7/25/06 VCP	401(a) Loans	Plan loan default events were not followed resulting in delayed default date by 5 to 21 months following default event.	No correction required for prior late loan defaults; correct plan administration on prospective basis.
7/25/06 VCP	401(a) Loans	Plan permitted loan repayments during unpaid leaves of absence and/or military leaves; however, for small group of participants on paid leaves of absence, loans were defaulted.	Error caused some affected participants to default on loans, receive deemed distributions and notice that such amounts were not eligible for rollover; no correction was required for these participants; erroneous practice was corrected on prospective basis.
4/21/04 VCO	401(a) Loans	For 1998-2001 plan years, loan repayments for certain active participants were never initiated nor were defaults issued or recognized due to payroll system problems. All such participants later received distributions. In addition, one participant was not credited with a loan repayment that had been made and the participant later received a lump sum distribution.	Issue a 1099-R to each participant who terminated with an outstanding loan balance. For the terminated participant whose loan repayment was not credited to his account, deposit the amount plus earnings into a new account in his name and send a letter notifying him that this amount is available for distribution under the plan terms.
6/25/03 VCP	401(a) Loans	Plan loan repayments during 3 plan years were withheld from the wages of 47 participants but were not applied to the participants' outstanding loan balances in violation of the plan's terms.	All loan repayments will be properly credited to affected participants' accounts. The repayments will be increased to reflect earnings through the date of correction (calculated using the actual trust earnings rate). Monetary sanction of \$5,000.
5/13/98 VCR	401(a) Loans	Allowed loans for amounts below plan minimum.	No retroactive correction because the improper loans have been repaid and the defect involved a small number of loans.
1/27/98 VCR	401(a) Loans	Loan to participant exceeded the plan's dollar limit.	No remedial action required because loan has been repaid and did not exceed limits of Section 72(p).

Compliance Statement Date	Code Section	Violation	Correction
11/22/96 VCR	401(a) Loans	Participant loans exceeded Section 72(p)(2) dollar limit. Proceeds of principal residence loans used to refinance outstanding general purpose loans.	Revise plan loan administrative procedures. No correction for loans exceeding Section 72(p)(2) limit because outstanding loan balances were within the limit as of the VCR filing date. Treat portions of principal residence loans used to repay general purpose loans as outstanding loans.
6/25/03 VCP	401(a) Improper Plan Expenses	Plan participants' accounts were charged plan administration fees, contrary to the plan terms that expenses would not be paid by the plan if the sponsor elected to pay instead.	Sponsor to make corrective contributions equal to the administrative fee charged against the affected participants' accounts plus earnings from the date the fee was charged until the date of the correction (calculated using the actual trust earnings rate). Monetary sanction of \$5,000.
10/31/07 VCP	401(a)(4) High-25 Rule	Underfunded DB plan inadvertently paid lump sum to High-25 employee (HCE) of \$412,100 instead of monthly annuity (\$29,808) ("unrestricted benefit") and did not secure repayment under bond, letter of credit or escrow in case of early termination.	Sponsor to contribute quarterly "make-whole" payments for value of lump sum, net of value of cumulative unrestricted annuity payments that should have been made (increased at plan's 417(e) interest rate from date of distribution through date of full correction). Make-whole payment was apart from normal quarterly contributions (§ 412(m)), and did not offset required minimum funding for year of correction. Sponsor demonstrate that bond, letter of credit or escrow (by sponsor) were commercially unavailable or less valuable than make-whole payment and participant would not correct.
2/22/00 Walk-In CAP	401(a)(4) Nondiscrimination	Plan provided graduated increase in the rate of employer matching contributions for length of service. Group of employees to whom highest tier of schedule (36 months or more of service) is available failed Section 410(b).	Retroactively amend plan to expand the group of employees eligible for matching contribution at rate provided by highest tier. Make additional step-up contributions for affected employees who become eligible for higher matching rate. Monetary sanction of \$50,000 (covering multiple violations).
8/17/06 VCP	401(a)(9) Minimum Distributions	DB plan failed to pay minimum distribution requirements for one participant.	Commence annuity payments and one-time lump sum adjustment for previous distributions that should have occurred. Waive § 4974 excise tax.
7/25/06 VCP	401(a)(9) Minimum Distributions	DB plan failed to pay portion of required minimum distributions attributable to accruals from prior plans merged into current plan.	Actuarially adjust annuity payments prospectively; make-up payments by lump sum (adjusted for earnings using 30 year Treasury rate, as required by plan). Excise tax on participants is waived (§ 4974).

Compliance Statement Date	Code Section	Violation	Correction
3/18/03 VCP	401(a)(9) Minimum Distributions	Failed to make minimum distributions from a defined benefit plan to 5 participants by April 1 following the calendar year in which they attained age 70-1/2.	Make a single sum make-up distribution, plus earnings (8% per annum), to participant who received lump sum distribution and to participant who is receiving monthly annuity payments (and increase his future annuity payments to reflect correct payment amount). For 2 participants who received excessive monthly annuity payments, the plan will prospectively adjust future payments for overpayments and missed payments. For participant who has not received any distributions, the plan will make a single sum corrective distribution, plus earnings (8% per annum), and begin making annuity payments that reflect correct payment amount. Pay monetary sanction of \$1,250 (covering multiple violations).
11/27/01 VCR	401(a)(9) Minimum Distributions	Failed to make minimum distribution from a defined benefit plan to 25 employees who attained age 70-1/2.	Distribute minimum required distributions plus earnings from the date distribution required until actual distribution. Earnings based on the prime rate in effect during the period.
12/13/99 VCR	401(a)(9) Minimum Distributions	Profit sharing plan failed to timely commence distributions to participants attaining age 70-1/2.	Distribute minimum required distributions plus earnings from the date distribution required until actual distribution. Earnings computed on aggregate plan basis: Form 5500 earnings divided by beginning balance plus one-half of year's contributions minus one-half of year's benefit payments.
12/22/98 VCR	401(a)(9) Minimum Distributions	Failed to make minimum distribution to employee who attained age 70-1/2.	Contact each affected participant and distribute the remaining account balance.
12/22/98 VCR	401(a)(9) Minimum Distributions	Failed to make minimum distribution to employee who attained age 70-1/2.	Contact each affected participant and distribute the remaining account balance.
10/19/98 VCR	401(a)(9) Minimum Distributions	Failed to make minimum distributions to participants attaining age 70-1/2 as required by Section 401(a)(9).	Distribute minimum required amounts to affected participants (or surviving spouses) with applicable gains or losses for all years. Enter into standard closing agreement to pay excise tax for failure to make timely distributions.
7/14/98 VCR	401(a)(9) Minimum Distributions	Profit sharing plan failed to make distributions to participants who attained age 70-1/2.	Distribute minimum required amounts to affected participants plus earnings. Correction will include interest on the earnings from distribution date to correction date. Earnings to be credited at an aggregate plan rate in accordance with Rev. Proc. 94-62, Section 5.01.
1/28/98 VCR	401(a)(9) Minimum Distributions	Pension plan failed to make minimum required distribution to participants who attained age 70-1/2.	Distribute minimum required amount to all affected participants plus earnings calculated from the date distribution was required. Earnings will be credited at the plan's lump sum interest rate in effect on the actual distribution date.
5/14/97 VCR	401(a)(9) Minimum Distributions	Pension plan failed to make minimum distributions by required beginning date. Defect involved 1989 through 1994 plan years.	Corrective distributions to participants reflecting missed minimum required distributions and earnings calculated beginning with the month a minimum required distribution should have been made through the date of corrective distribution, based on the prime rate in effect during the period.

Compliance Statement Date	Code Section	Violation	Correction
11/22/96 VCR	401(a)(9) Minimum Distributions	Plan is a profit sharing plan that failed to make allocations to eligible participants who thereby failed to receive minimum distribution upon attaining age 70-1/2.	Corrective distribution to affected employees along with earnings based on the trust's annual rate of return for each year.
3/29/96 VCR	401(a)(9) Minimum Distributions	Defined contribution plan failed to make distributions to participants who attained age 70-1/2.	Distribute lump sums to affected participants including total missed minimum required distributions plus earnings based on average plan earnings. In addition, employer will enter into closing agreement with IRS to pay 100% of the Code Section 4974 excise tax.
10/19/95 VCR	401(a)(9) Minimum Distributions	Pension plan failed to make minimum distributions to employee who attained age 70-1/2. Error in calculating participant's benefit caused plan to pay less than minimum distribution for multiple plan years.	Distribution of underpayment plus earnings based on the plan's funding assumption, compounded annually. Employer will enter into a closing agreement with IRS to pay 100% of the Code Section 4974 excise tax.
11/18/94 VCR	401(a)(9) Minimum Distributions	Pension plan failed to make minimum required distribution to plan participant improperly excluded from participation.	Employer will make corrective distribution in accordance with the terms of the plan. Employer will enter into a closing agreement with IRS to pay 100% of the Code Section 4974 excise tax.
8/19/94 VCR	401(a)(9) Minimum Distributions	Pension plan failed to make minimum distribution to employee who attained age 70-1/2.	Corrective distribution of unpaid amounts calculated by subtracting required distribution from prior year-end account balance, adding contributions, earnings and forfeitures, and dividing by remainder of life expectancy.
8/9/06 VCP	401(a)(11) Spousal Consent	401(k) benefit subject to QJSA absent spousal consent, was improperly paid in lump sum to married participant.	Unless spousal consent is obtained, plan must pay survivor benefit to spouse after participant's death if spouse files claim. IRS declined to apply EGTRRA relief enacted one-year after failure permitting QJSA option to be eliminated.
8/9/06 VCP	401(a)(11) Spousal Consent	DB plan did not obtain spousal consent to non-QJSA distributions for 19 participants over 12 year period.	Where consent cannot be obtained, plan will provide spouse with annuity equal to survivor benefit under QJSA after participant's death.
8/9/06 VCP	401(a)(11) Spousal Consent	DB plan QJSA waivers were not witnessed by plan representative or notary or (5 participants over a 14 year period).	Employer will attempt to obtain properly witnessed consents. If new consent unavailable, benefits need not be adjusted because spouse had agreed to earlier waiver.
3/18/03 VCP	401(a)(11) Spousal Consent	Defined benefit plan failed to obtain spousal consent forms for 19 of the 279 participants who received lump sum distributions and single life annuity payments.	Request spousal consent forms from 7 married participants who were paid lump sum distributions in excess of \$3,500 and 12 married participants who elected a single life annuity.
11/27/01 VCR	401(a)(11) Spousal Consent	Defined benefit plan failed to provide required written QJSA explanation and obtain the proper spousal waivers in violation of Section 417 and the terms of the plan.	Send letter to last known address of affected participants with the written explanation required under Section 417(a)(3) and the opportunity to convert prior lump-sum distributions to QJSA. Letter will also request that affected participant and his or her spouse sign and return the notice to the plan sponsor if they elect to decline the QJSA.
10/31/00 VCR	401(a)(11) Spousal Consent	Failed to follow the terms of the plan and Section 417 by denying eligible employees the opportunity to receive distributions in the QJSA form provided under the terms of the plan.	Send letter to last known address of affected participants giving them the opportunity to convert prior lump-sum distributions to QJSA by repaying the original amount to the plan.

Compliance Statement Date	Code Section	Violation	Correction
11/3/98 VCR	401(a)(11) Spousal Consent	Single distribution made without receiving proper consent from spouse.	Contact affected spouse and afford opportunity to make election or repay distribution and commence J&S annuity. Also implement distribution consent monitoring procedures.
5/13/98 VCR	401(a)(11) Spousal Consent	401(k) plan failed to obtain proper spousal consent prior to electing optional form of distribution.	Solicit written consents from affected participants and spouses. Participants will have a choice of consenting to distribution made or receiving qualified joint and survivor annuity form upon repayment of original distribution.
3/5/98 VCR	401(a)(11) Spousal Consent	Multiemployer pension plan failed to provide required written qualified joint and survivor annuity explanation in violation of Code Section 417(a)(3).	Solicit written consents from affected participants and spouses confirming benefit option previously chosen. A participant's failure to reply within 60 days will be treated as confirming the prior election.
3/5/98 VCR	401(a)(11) Spousal Consent	Multiemployer plan failed to obtain spousal consents for election for five year certain joint and survivor annuity option in violation of terms of the plan.	Solicit written consents from spouses of affected participants for five year certain annuity option. A participant's failure to reply within 60 days will be treated as confirming the prior election.
2/10/98 VCR	401(a)(11) Spousal Consent	Failure to observe 90-day timing rule for obtaining spousal consents to participant's waiver of qualified joint and survivor annuity (QJSA).	Revise administrative procedure. No additional corrective action required because of administrative burden involved of identifying and notifying affected spouses and because all spouses waived their right to a QJSA.
2/10/98 VCR	401(a)(11) Spousal Consent	Deficient participant notices of optional forms of benefit under the plan (Reg. Section 1.401(a)-20 Q&A 36).	Revise notice of optional benefits. Contact sample of terminated individuals with corrected information. If sample group elects different form of benefit, then employer will be required to notify all affected participants of right to elect different form of benefit.
9/97 VCR	401(a)(11) Spousal Consent	Failed to provide QJSA notices to terminating participants and did not obtain spousal consents to distributions.	Notify participants of right to repay distributions and receive QJSA option instead. Request employee and spousal consent from participants who do not select QJSA option.
11/18/96 VCR	401(a)(11) Spousal Consent	Failure to secure proper spousal consent for 401(k) distributions.	Employer will seek necessary consents to lump sum distributions. Where spouse does not consent, participant may convert to annuity by returning to the plan, with interest, the amount of the original distributions (less an required distributions under Code Section 401(a)(9)).
4/18/96 VCR	401(a)(11) Spousal Consent	Failure to make distributions under the plan's stated normal forms of benefit and/or to obtain spousal consent for distributions.	Employer will give affected former participants, and spouses if applicable, the option of consenting to the lump sum distribution made or to repay the lump sum and obtain a normal form distribution.
1/22/96 VCR	401(a)(11) Spousal Consent	Failure to allow participants to receive benefits accrued in former merged plans in the form of qualified joint and survivor annuity (QJSA), qualified preretirement survivor annuity (QPSA), or life annuity pursuant to plan's grandfathered distribution options. Failure to obtain waiver of the QJSA from participants and spousal consent where applicable.	Participants who received the plan distributions without the proper notice and opportunity to receive their benefits in the form of an annuity or to waive the QJSA or QPSA were informed of the option to convert prior distributions by repayment. Where applicable, spousal consents will be requested. Revised forms and procedures to allow specific distribution options.

Compliance Statement Date	Code Section	Violation	Correction
8/9/06 VCP	401(a)(11) QPSA	401(k) plan failed to issue QPSA notices for 13 years after merger of acquired plan with QPSA rule. Plan amended in 2001 to eliminate QPSA under 411(d)(6) regulations. No participants adversely affected by failure.	No correction necessary, since QPSA requirements no longer applicable to plan and no participants were adversely affected during period of failure.
8/9/06 VCP	401(a)(11) QPSA	DB plan failed to provide QPSA notice to any participant since date plan was amended to add QPSA rule in 1985. QPSA was fully subsidized.	No adverse impact on participants so no remediation.
9/97 VCR	401(a)(11) QPSA	Failed to provide required notices in accordance with qualified preretirement survivor (QPSA) requirement.	Provide required notices to all participants over age thirty-two and all terminated participants who have not received distributions of their account balances. Since no participant has died while subject to the QPSA requirement, no further corrective action.
5/14/97 VCR	401(a)(11) QPSA	Failure to provide proper notices and obtain valid waivers and consents in accordance with the qualified preretirement survivor (QPSA) requirements. Related violation of failing to follow plan terms by treating QPSA benefit as being fully subsidized.	No corrective action with respect to participants who received fully subsidized QPSAs. Plan will restore benefits, both retirement and death, of all retired participants or surviving spouses who failed to receive benefits or had benefits reduced due to improper QPSA administration. Earnings on the payments will be calculated from the original payment date (or the date the payment should have been made, if the original payment date was incorrect) through the corrective distribution date, using the prime interest rate in effect during the period.
1/8/97 VCR	401(a)(13) Assignment of Benefits	Failed to file third party written acknowledgment with plan administrator in connection with voluntary and revocable benefits assignments to pay retiree medical costs in violation of Reg. Section 1.401(a)-13(e)(1).	File third-party written acknowledgment with the pension plan administrator.
3/5/98 VCR	401(a)(14) Benefit Commencement	Multiemployer plan failed to begin distributions to retired employees who attained age 65.	Provide corrective benefit payments to affected participants plus earnings based on the plan's interest assumption for funding purposes.
2/10/98 VCR	401(a)(14) Benefit Commencement	Deferred distributions without obtaining participant deferral elections.	Solicit elections to delay distributions from all participants who should have consented under Section 401(a)(14).
8/8/06 VCP	401(a)(17) Compensation Limit	Employer contributions allocated based on compensation in excess of 401(a)(17) limit.	Forfeit excess, hold in suspense account to reduce future employer contributions; earnings determined on aggregate plan basis.
8/8/06 VCP	401(a)(17) Compensation Limit	Matching contributions based on compensation in excess of 401(a)(17) limit for one plan year.	Forfeit excess, hold in suspense account to reduce future employer contributions; earnings determined on aggregate plan basis.

Compliance Statement Date	Code Section	Violation	Correction
10/20/05 VCP	401(a)(17) Compensation Limit	Excess pension allocation made to account of a participant whose income exceeded Section 401(a)(17) limit.	Reduce account balance of affected participant by improperly allocated amount, adjusted for earnings. Earnings calculated on aggregate plan basis (earnings reported on Form 5500 divided by trust beginning balance, adjusted to add one-half of year's contributions and subtract one-half of year's benefit payments; partial year earnings determined on aggregate plan basis through last day of month prior to correction using most recent monthly valuation). Place excess allocation in unallocated suspense account and use to reduce future employer contributions to plan.
9/30/05 VCP	401(a)(17) Compensation Limit	For two plan years, plan improperly limited compensation taken into account for matching contribution purposes to \$66,667, well below applicable Section 401(a)(17) limit.	Make corrective contributions for affected participants' accounts to make up for matching amounts not previously contributed. Earnings based on annual net rate of return on plan's assets, compounded annually.
1/04 VCP (Rev. Proc. 2001-17)	401(a)(17) Compensation Limit	Participant deferred based on compensation exceeding Section 401(a)(17) limit for one plan year. Participant later separated and received lump sum distribution.	Violation was corrected in pre-filing lump-sum distribution. Monetary sanction of \$15,000. (Pre-Rev.Proc. 2003-44)
7/19/00 VCR	401(a)(17) Compensation Limit	Participants received allocation based on compensation exceeding Section 401(a)(17) limit.	Deduct excess contribution, plus earnings from participant accounts. Earnings will be based on return of plan's money market fund for administrative ease. Place such amounts in a suspense account to be used to reduce future employer contributions. Former employees who have received distributions will be requested to repay excess contributions to the plan.
2/18/00 VCR	401(a)(17) Compensation Limit	Elective deferrals, matching and profit-sharing contributions based on compensation in excess of the Section 401(a)(17) limit.	Permit participants to retain excess elective deferrals in light of fact that no deferrals exceeded Section 402(g) and no deferrals exceeded the amount allowed under the plan had the Section 401(a)(17) limit been correctly applied. Remove excess matching and profit-sharing contributions, plus earnings, from participant accounts and reallocate as future employer matching and/or profit-sharing contributions. Terminated participants who have received distributions will be notified that a portion of the distribution was ineligible for favorable tax treatment. Earnings calculated on an aggregate plan basis using the earning rate reported on the Form 5500, adjusted for contributions and distributions during the year.
7/15/99 VCR	401(a)(17) Compensation Limit	Deferrals based on compensation in excess of the Section 401(a)(17) limit.	No correction. Deferral percentages were within the plan limit and amounts deferred did not exceed the Section 402(g) limit. Employer has revised administrative procedures.

Compliance Statement Date	Code Section	Violation	Correction
12/22/98 VCR	401(a)(17) Compensation Limit	Contributions under the plan were limited in accordance with Section 401(a)(17) for the calendar year in which the plan ended rather than the calendar year in which the plan begins.	Place excess matching contributions plus earnings in a suspense account and use to reduce subsequent year employer contributions. Earnings will be determined on an aggregate plan basis. Notify terminated employees that portion of distribution ineligible for favorable tax treatment.
12/22/98 VCR	401(a)(17) Compensation Limit	Matching contributions based on compensation in excess of the Section 401(a)(17) limit.	With respect to current employees and terminated participants with account balances, the employer will place excess contributions in a suspense account to be used to reduce subsequent year employer contributions. Terminated participants who have received full distributions will be notified that excess matching contributions plus earnings are not eligible for favorable tax treatment. Earnings will be calculated on an aggregate plan basis as described in Rev. Proc. 94-62.
2/17/98 VCR	401(a)(17) Compensation Limit	Matching contributions based on compensation in excess of the Section 401(a)(17) limit. Plan is frozen.	Forfeit excess matching contributions and earnings from accounts of highly compensated employees and allocate on uniform dollar basis to accounts of all current nonhighly compensated employees participating in plan. Note that the correction would differ if the plan were not frozen.
1/27/98 VCR	401(a)(17) Compensation Limit	Employer matching contributions made with respect to compensation exceeding \$200,000.	Place excess matching contributions in a suspense account to be used as a source of future matching contributions.
5/30/97 Walk-In CAP	401(a)(17) Definition of Compensation	Operational defect of failing to properly apply Section 401(a)(17) limit with respect to several participants.	Correct Section 401(a)(17) violation placing excess allocation in suspense account and use such amounts to reduce employer contribution in following plan year. Pay monetary sanction of \$5,000 (covering multiple violations).
1/23/97 VCR	401(a)(17) Compensation Limit	Allocation of employer discretionary contribution based on compensation in excess of the Section 401(a)(17) limits.	Remove excess amounts from the account balance of each of the affected participants along with an earnings factor equal to an 8% rate of return. The excess amounts will be used to fund a portion of the cash shortfall created by the other defects.
11/18/96 VCR	401(a)(17) Compensation Limit	Matching contribution based on compensation in excess of the Section 401(a)(17) limits.	Remove excess match and earnings from participant accounts and place in suspense account. Earnings include actual plan earnings through the 1995 plan year and will be based on the rate of earnings of the participant accounts during the period involved. All earnings will be updated when corrections are actually made (calculated through the last day of the month preceding correction).

Compliance Statement Date	Code Section	Violation	Correction
6/12/96 VCR	401(a)(17) Compensation Limit	Allocation based on compensation in excess of the Section 401(a)(17) limit. Violation occurred because employer failed to combine compensation earned by the corporate president (5-percent owner) and his spouse as required by Section 414(q).	Reallocate employer contributions among all participants for affected years. Allocations, earnings and forfeitures for subsequent years will be redetermined to reflect the reallocations. The employer will also make a corrective contribution to replace an excess distribution. The appropriate adjustments for the allocation of actual investment income will be made based on the changes in the individual participant's account balances.
3/1/96 VCR	401(a)(17) Compensation Limit	Allocations of total employer contributions to participants based on compensation in excess of the § 401(a)(17) limit.	Reallocate excess contributions to other participants. No adjustment for plan earnings since the contribution was made after year-end and did not share in or affect the allocation of earnings of the trust for the year in which the defect occurred.
11/21/94 VCR	401(a)(17) Compensation Limit	Allocations of total employer contributions to participants based on compensation in excess of the Section 401(a)(17) limit.	Remove excess allocations and earnings based on the plan's actual rate of return from affected participants' accounts and reallocate among all participants. In making this correction, the employer made an excess reallocation of earnings because it used the incorrect earnings rate for two plan years. This excess amount, plus earnings, will be contributed to accounts of affected highly compensated employees.
5/4/93 VCR	401(a)(17) Compensation Limit	Contribution based on compensation in excess of the Section 401(a)(17) limit. Violation caused by failure to aggregate compensation of married couple.	Employer will place excess contributions plus earnings into a suspense account to be reallocated in future years as employer contributions.
8/8/06 VCO	401(a)(30), 402(g) Excess Deferrals	Deferrals in excess of 402(g) limit for one plan year.	Distribute excess; earnings determined on aggregate plan basis.
4/21/04 VCO	401(a)(30), 402(g) Excess Deferrals	Elective deferrals exceeded Section 402(g) limit and were never refunded.	Distribute excess deferral plus earnings to the affected participants. The excess will be reported as taxable for the year of the deferral and the year of distribution. Earnings based on average rate of return of plan's investment fund options from 1/1/98 through date of correction.
6/11/99 VCR	401(a)(30), 402(g) Excess Deferrals	Excess deferral not timely refunded.	Distribute excess deferral to employee and report as taxable income in year of deferral and year distributed.
2/17/98 VCR	401(a)(30), 402(g) Excess Deferrals	Allowed pre-tax contributions in excess of Section 402(g) limit. The plan was subsequently frozen.	Distribute contributions of highly compensated employees in excess of the Section 402(g) limit, plus earnings, to affected HCEs.
1/28/98 VCR	401(a)(30), 402(g) Excess Deferrals	Elective deferrals exceeded Section 402(g) limit.	Distribute excess deferrals to participants plus earnings calculated on the basis of aggregate plan earnings.
5/30/97 Walk-In CAP	401(a)(30), 402(g) Excess Deferrals	Elective deferrals exceeded the Section 402(g) limit.	Refund excess deferrals, plus earnings in accordance with plan guidelines. Employer paid monetary sanction of \$2,000 (covering multiple violations).

