



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
TEGE 7554, Stephanie Wai
9350 Flair Drive, 3rd Flr Mailroom
El Monte, CA 91731

AKERMAN LLP
ATTN: CAROLYN M. KERSHNER
201 E. LAS OLAS BLVD, SUITE 1800
FT. LAUDERDALE, FL 33301

Date:
08/31/2026
Taxpayer ID number:
59-6000358
Taxpayer or applicant name:
CITY OF LAKE WORTH BEACH
(FPDP) 401(A) PLAN
Form or application number:
27FCA22F
Person to contact:
Name: Stephanie Wai
ID number: 1005541309
Telephone: (626) 927-2038
Fax: (833) 773-6108

Dear CAROLYN M. KERSHNER:

We're sending the enclosed material to you because of a power of attorney or other authorization we have on file.

If you have questions, contact the person listed at the top of this letter.

Sincerely,

WILLIAM H ANDERSON

WILLIAM H ANDERSON

Manager, Employee Plans Voluntary Compliance

Enclosures:
Letter 5353 & Compliance Statement



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

TEGE 7554, Stephanie Wai
9350 Flair Drive, 3rd Flr Mailroom
El Monte, CA 91731

CITY OF LAKE WORTH BEACH
ATTN: LOREN SLAYDON
7 NORTH DIXIE HWY
LAKE WORTH BEACH, FL 33460

Date:

August 31, 2026

Employer ID number:

59-6000358

VCP submission for:

CITY OF LAKE WORTH BEACH
(FPDP) 401(A) PLAN

Plan number:

002

Control number:

27FCA22F

Person to contact:

Name: Stephanie Wai

ID number: 1005541309

Telephone: (626) 927-2038

Fax: (833) 773-6108

Dear LOREN SLAYDON:

I'm enclosing a signed compliance statement for your records. This agreement results from your submission to our Voluntary Correction Program. The compliance statement outlines the failures disclosed in your submission and the corrective actions that you took or will take to resolve those failures.

When we sign a compliance statement, it means we agree with the corrective actions and changes to administrative procedures described in the statement. In the future, we may ask you to verify that you corrected the failures and modified the administrative procedures as described in the compliance statement.

The compliance statement isn't a private letter ruling or a determination letter and doesn't affect the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974. It permits your plan to retain tax favored status under the Internal Revenue Code and is limited to the specific failures and periods described in the compliance statement.

If you included a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, with your submission, we sent a copy of this letter to the individuals you designated to receive written communications.

You can contact the person listed at the top of this letter if you have any questions.

Sincerely,

William H Anderson

William H Anderson

Manager, Employee Plans Voluntary Compliance

Enclosures:

Compliance statement

Form **14568**
(July 2023)

Department of the Treasury - Internal Revenue Service

Model VCP Compliance Statement

OMB Number
1545-1673

Include the plan name, Applicant's EIN, and plan number on each page of the compliance statement, including attachments

Section I - Identifying Information

1. Applicant's name

City of Lake Worth Beach

2. Applicant's EIN (do not use SSN)

59-6000358

3. Plan number

002

4. Plan name

City of Lake Worth Beach (FPDP) 401(a) Plan

Section II - Applicant's Description of Failures

Attach additional pages, as needed. Label the attachment "**Section II. Applicant's Description of Failures.**" List and number each failure separately. Be sure to include the plan name, Applicant's EIN, and plan number on each page of the attachment. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement

See Attachment.

Section III - Applicant's Description of the Proposed Method of Correction

Attach additional pages, as needed. Label the attachment "**Section III. Applicant's Description of the Proposed Method of Correction.**" Describe the correction method for each failure listed in Section II. Be sure to include the plan name, Applicant's EIN, and plan number on each page of the attachment. If using the Form 14568, Schedules, specify the Schedules that are included and attach them to this compliance statement

See Attachment.

Section IV - Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries

Attach additional pages, as needed. Label the attachment "**Section IV. Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries.**" Describe the methods that will be used to locate and notify former employees and beneficiaries or provide an affirmative statement that no former employees or beneficiaries were affected by each failure listed in Section II or will be affected by the correction methods described in Section III. Be sure to include the plan name, Applicant's EIN, and plan number on each page of the attachment

See Attachment.

Section V - Applicant's Proposed Revision to Administrative Procedures

Attach additional pages, as needed. Label the attachment "**Section V. Applicant's Proposed Revision to Administrative Procedures.**" Include an explanation of how and why the failures arose and a description of the measures implemented (or that will be implemented) to ensure that the same failures won't recur. Be sure to include the plan name, Applicant's EIN, and plan number on each page of the attachment. If using the Form 14568 Schedules, specify the Schedules that are included and attach them to this compliance statement

See Attachment.

Section VI - Requests Related to Excise Taxes, Additional Tax and Tax Reporting

☐ The Applicant requests that the Internal Revenue Service (IRS) not pursue the following taxes under the Internal Revenue Code (IRC) (attach supporting rationale)

☐ Excise tax under IRC Section 4972 with respect to failures number _____

☐ Excise tax under IRC Section 4973 with respect to failures number _____

☐ Excise tax under IRC Section 4974 with respect to failures number _____

☐ Excise tax under IRC Section 4979 with respect to failures number _____

☐ Imposition of additional tax under IRC Section 72(t) with respect to failures number _____

Applicant's EIN (do not use SSN) 59-6000358	Plan number 002
Plan name City of Lake Worth Beach (FPDP) 401(a) Plan	

- ☐ The Applicant requests that the IRS grant the following for plan loan failures that did not comply with IRC Section 72(p)
- ☐ With respect to all loans described in this compliance statement, that a deemed distribution corrected pursuant to this VCP submission is not required to be reported on Form 1099-R and that repayments made by the correction not result in the affected participant having additional basis in the plan for purposes of determining the tax treatment of subsequent distributions from the plan
 - ☐ With respect to all loans described in this compliance statement, that a deemed distribution be reported on Form 1099-R with respect to affected participants for the year of correction instead of the year of the failure
 - ☐ For one or more plan loans described in this compliance statement, that it be permitted to report the loans as deemed distributions in the year of correction instead of the year of the failure. For other affected plan loans, the plan sponsor requests relief from reporting them as deemed distributions. Attach additional narrative details that explain why the relief should be granted and which specific loans will be receiving what type of special relief

Section VII - Enforcement Resolution (to be completed by IRS only)

The Applicant and plan sponsor will neither attempt to nor otherwise amortize, deduct, or recover from the IRS any portion of the paid user fee associated with this submission nor receive any federal tax benefit on account of payment of the fee.

The IRS will not pursue revocation of the tax-favored status of the plan under IRC Section 401(a), 403(b), 408(k) or 408(p) on account of the failures described in this compliance statement. This compliance statement considers only the acceptability of the correction methods including the revisions of administrative procedures described in the compliance statement and does not express an opinion as to the accuracy or acceptability of any calculations or other materials included with or provided at any time during the processing of the VCP submission. The reliance provided by this compliance statement is limited to the specific failures and years specified and does not provide reliance for any other failure or year. In no event may this compliance statement be relied on for the purposes of concluding that the plan or plan sponsor was not a party to an abusive tax avoidance transaction. This compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

This compliance statement expresses no opinion as to whether the plan otherwise satisfies the requirements of the IRC and is not a letter ruling or a determination letter within the meaning of Revenue Procedure (Rev. Proc.) 2023-1 (updated annually) and Rev. Proc. 2023-4 (updated annually).

This compliance statement is conditioned on (1) there being no misstatement or omission of material facts in connection with the submission and (2) the completion of all corrections described in this compliance statement within 150 days of the date of this compliance statement. For governmental plans within the meaning of IRC Section 414(d), corrective plan amendments required by this compliance statement that fix the operational failures or employer eligibility failure described in this compliance statement, must be adopted by the later of 150 days after the date of this compliance statement or the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after 91 days after the date of this compliance statement.

- ☐ The IRS will treat the failure to adopt interim amendments, as described in this compliance statement as if they had been adopted timely for the purpose of making available the extended remedial amendment period set forth in Rev. Proc. 2007-44 and beginning on January 1, 2017, Rev. Proc. 2016-37, or its successors. However, this compliance statement does not constitute a determination as to whether the plan amendments, as drafted, comply with the applicable changes in qualification requirements
- ☐ The IRS will treat the failure to timely adopt a written plan, as required under the IRC Section 403(b), Final Treasury Regulations under IRC Section 403(b) and Notice 2009-3, as if it had been adopted timely for the purposes of making available the extended remedial amendment period set forth in Announcement 2009-89, Rev. Proc. 2013-22, Rev. Proc. 2017-18, Rev. Proc. 2019-39, Notice 2020-35, Rev. Proc. 2021-37, Rev. Proc. 2022-40, and any future superseding guidance. However, this compliance statement doesn't constitute a determination as to whether the written plan, as drafted, complies with the applicable requirements associated with IRC Section 403(b) and the Final Treasury Regulations under IRC Section 403(b)

Applicant's EIN (do not use SSN)
59-6000358

Plan number
002

Plan name
City of Lake Worth Beach (FPDP) 401(a) Plan

- ☐ With regard to failure number _____ (provided that no modification has been made to either the plan document or adoption agreement of the plan that would otherwise cause the employer to lose reliance on the plan's opinion or advisory letter), the corrective amendment will not cause the plan to lose its status as a pre-approved IRC Section 401(a) or pre-approved IRC Section 403(b) plan and (provided that no modification has been made that would otherwise affect the employer's eligibility for the six-year remedial amendment cycle) the employer will be allowed to remain within the six-year remedial amendment cycle described in Rev. Proc. 2016-37 (and any future superseding guidance) for IRC Section 401(a) plans or Rev. Proc. 2013-22 and Rev. Proc. 2021-37 (and any future superseding guidance) for IRC Section 403(b) plans on a continuing basis until the expiration of the next six-year remedial amendment cycle as provided in Section 16.01 of Rev. Proc. 2016-37 or Section 10 of Rev. Proc. 2019-39 (and any future superseding guidance)
- ☐ The IRS will not pursue the following on account of the qualification failures described in this submission:
- ☐ Excise tax under IRC Section 4972
 - ☐ Excise tax under IRC Section 4973
 - ☐ Excise tax under IRC Section 4974
 - ☐ Excise tax under IRC Section 4979
 - ☐ With respect to the overpayment failures described in this compliance statement that were corrected by removing improper distributions from the IRAs of the affected participants and returning those distributions to the plan, the 10% additional tax under IRC Section 72(t)
- ☐ With respect to the loan failures described in this compliance statement:
- ☐ For all loans that are corrected by a corrective repayment to the plan or reamortization as described in this compliance statement. The IRS will not require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures, and repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants
 - ☐ For all loans that will be reported as deemed distributions. The IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure
 - ☐ If the requested relief is not applied consistently to all loans. For loans where relief from issuing Form 1099-R is applicable, all repayments made pursuant to the correction of the loans will not result in an affected participant having additional basis in the plan for the purpose of determining the tax treatment of subsequent distributions from the plan to the participants. For all other loans (or situations where affected participants do not choose to or may not qualify for Form 1099-R relief), the IRS will require deemed distributions under IRC Section 72(p) to be reported on Form 1099-R with respect to the participants affected by the failures. However, the plan will be permitted to report the deemed distributions on Form 1099-R in the year of correction, instead of the year of the failure

Approved:



William H. Anderson

Manager, Employee Plans Voluntary Compliance
Tax Exempt and Government Entities Division

Date August 31, 2026

Plan Sponsor: City of Lake Worth Beach
Plan Sponsor EIN: 59-6000358
Plan Name: City of Lake Worth Beach (FPDP) 401(a) Plan
Plan #: 002

FORM 14568 ATTACHMENT

Section II. Applicant's Description of Failures

A. Introduction

The City of Lake Worth Beach (FPDP) 401(a) Plan ("401(a) Plan") is a governmental, tax-qualified, money purchase pension plan sponsored by the City of Lake Worth Beach, formerly known as the City of Lake Worth (the "City"). The City is also the sponsor of a governmental, tax-qualified defined benefit plan with the current legal name of City of Lake Worth Beach Employees' Retirement System ("Pension Plan"). The 401(a) Plan is the only plan that is the subject of this VCP submission. The 401(a) Plan is the only plan with a tax-qualification failure resulting from the circumstances described in this submission.

Beginning in 2017, the City intended to implement retirement plan changes through coordinated amendments to the Pension Plan and the 401(a) Plan. The criteria for eligibility to participate in the 401(a) Plan is that an employee is not simultaneously actively participating in the Pension Plan. The 401(a) Plan tax-qualification failure that is the subject of this VCP proceeding involves the inadvertent omission of that eligibility criteria in the Plan's governing document. The Plan tax-qualification failure that is the subject of this VCP proceeding also involves inadvertently listing incorrect job positions as eligible positions in the Plan's governing document.

A. Background

In 2016 and 2017, the City undertook a significant restructuring of its retirement benefit offerings for its employees. One of the changes was an expansion of the classes of employees that would not be eligible to participate in the Pension Plan. Instead, the intent was that employees with the following job positions would only be eligible to participate in the Plan: Mayor, Commissioner, City Manager, Assistant City Manager, Internal Auditor, Clerk, Deputy Clerk, non-interim and non-acting Director, and non-interim and non-acting Assistant Director.

However, employees who held those job positions at the time of the restructuring and were already participating in the Pension Plan would have a one-time option to elect one plan or the other. That is, they could elect to either remain a participant actively accruing benefits in the Pension Plan or alternatively to participate in the 401(a) Plan, but they could not accrue or continue to accrue benefits in both plans simultaneously. Similarly, employees who were participating in the Pension Plan and were later promoted to one of the specified job positions would have a one-time option to elect to either continue participating in the Pension Plan or alternatively to participate in the 401(a) Plan.

A March 21, 2017 Executive Brief to the City Commission summarized the proposed change and requested "[a]pproval of an amendment to the City's Pension Plan Ordinance to clarify positions excluded from the Pension Plan and to provide a onetime option to remain in the Pension Plan."

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Pursuant to local law, the proposed amendment to the City's Pension Plan Ordinance underwent two mandatory roll call votes at public City Commission meetings held on March 21, 2017 and April 4, 2017, with the result that the Commission adopted the changes. The April 4, 2017 date referenced in the timing requirements in the Ordinance for marking the election to remain the Pension Plan was changed to December 31, 2017. On December 5, 2017, a first reading of a proposed Pension Plan Ordinance initiated another change to the date reference from December 31, 2017 to March 2, 2018. On February 6, 2018, a first reading of a proposed Pension Plan Ordinance initiated another change to the date reference from March 2, 2018 to September 30, 2018, to allow more time for making the one-plan-or-the-other election.

Following such action by the City Commission, the City's Human Resources personnel (who are responsible for administering the 401(a) Plan) and the Pension Plan's third-party administrator implemented the changes. Specifically, each current employee who was eligible to make a one-plan-or-the-other election was provided with a written opportunity to make such election, and existing Pension Plan participants who were promoted in the future into an applicable job position were also given the one-plan-or-the-other election opportunity.

B. Plan Operational Failure

In connection with the restructuring of the City's retirement benefit offerings, the City also intended to amend the 401(a) Plan's governing document to specify the job positions eligible for the 401(a) Plan and to provide that an employee actively accruing benefits in the Pension Plan is not eligible for the Plan. Accordingly, at the public February 17, 2017 City Commission meeting, the City approved an amendment to the 401(a) Plan's governing document, effective as of February 1, 2017, that changed the Plan's definition of an eligible employee. Unfortunately, the Plan amendment that was approved inadvertently contained draft verbiage that did not reflect the correct, final plan design. Specifically, the adopted 401(a) Plan amendment provided that these groups of eligible employees are eligible to participate in the 401(a) Plan: Mayor, Commissioners, City Manager, Assistant City Manager, Internal Auditor, Clerk, Deputy Clerk, Directors, and Assistant Directors.

This amendment verbiage was incorrect because:

- (i) it did not explicitly indicate that only *non-interim and non-acting* Directors are the types of Directors eligible for the 401(a) Plan;
- (ii) it did not explicitly indicate that only *non-interim and non-acting* Assistant Directors are the types of Assistant Directors eligible for the 401(a) Plan; and
- (iii) it did not explicitly indicate that an employee who is actively accruing benefits as a Pension Plan participant is not eligible for the 401(a) Plan.

Following the 401(a) Plan amendment and the Pension Plan Ordinance amendment, the Pension Administrator provided an educational PowerPoint presentation to the employees about the changes which included content about the Pension Plan's vesting and benefit structure and some slides discussing the topic of the one-plan-or-the-other election. Following the workshop, the

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Pension Administrator met with each of the employees personally to answer their questions relating to the election or to provide information specific to their situations. Besides the PowerPoint slides, the documents distributed in the process included a copy of the Pension Plan Ordinance itself and the one-plan-or-the-other election form. After the workshop and the individual sit-downs, the employees completed and signed the election forms, which were witnessed. These forms are the Pension Administrator's documentation that the employees completed the educational and election process.

The 401(a) Plan document, which inadvertently did not reflect the correct terms of the City's pension reform, was never distributed to the employees. Rather, the employees timely received the correct information orally and in writing, as described above, about the one-plan-or-the-other election and the job positions that were eligible for the 401(a) Plan.

Additionally, employees were provided with an FAQ document about the 2017 retirement benefit changes which states that, "The amendment would affect current employees holding one of the following positions and who are members of the Retirement System on the effective date of the Amendment: Assistant City Manager; Non-Interim and Non-Acting Department Directors and Assistant Directors; City Clerk; Deputy City Clerk; Internal Auditor. They will be offered a onetime opportunity to either to stay in the Retirement System or to leave the Retirement System and participate in the existing City sponsored 401(a) defined contribution plan, but not both."

Effective as of January 1, 2022, the City adopted a Cycle 3 amendment and restatement of the Plan using the Cycle 3 pre-approved form of adoption agreement and base plan document pre-filled by MissionSquare. The restatement again inadvertently included the incorrect eligibility verbiage.

However, the City recently undertook an internal compliance review of the Plan and during the course of that review, detected the issues in the Plan document verbiage. The City engaged legal counsel to prepare correct Plan document verbiage, and at the public June 4, 2024 City Commission meeting, the Commission approved, effective June 9, 2024, amended Plan document verbiage.

While this amendment, effective June 9, 2024, correctly reflects the Plan's eligibility terms on a prospective basis, as a technical matter, an operational error ("Failure") occurred during the period February 1, 2017 through June 8, 2024 because the Plan was not operated in accordance with the written governing Plan document in effect during that time period. The total number of unique employees affected by the Failure is fourteen (14), broken down as follows:

Five (5) employees – During the period February 1, 2017 through June 8, 2024, employees with *interim* or *acting* Director or Assistant Director job positions were excluded from participating in the 401(a) Plan, even though the written Plan document in effect during that time period did not explicitly exclude those job positions.

Thirteen (13) employees, with four (4) duplicates from the above group of five (5) – During the period February 1, 2017 through June 8, 2024, certain employees with job positions listed in the

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governing 401(a) Plan document were excluded from participating in the 401(a) Plan because they were actively accruing Pension Plan benefits, even though the 401(a) Plan document in effect during that time period did not explicitly exclude employees who were actively accruing Pension Plan benefits. These employees were provided with a one-plan-or-the-other election and they affirmatively elected to continue accruing benefits under the Pension Plan instead of participating in the Plan. One employee, Douglas Yoakum, was excluded from participating in the 401(a) Plan during his interim Directorship period of January 1, 2024 to October 13, 2024. Before, during, and after that interim period, he remained eligible for, and continued actively accruing, Pension Plan benefits.

Section III. Applicant's Description of the Proposed Method of Correction

One of the overarching principles of EPCRS is that the Plan and its participants and beneficiaries should be restored to the positions that they would have been in had the error not occurred. *See* Rev. Proc. 2021-30 § 6.02(1). In addition, a correction should be reasonable and appropriate for the error. *Id.* at § 6.02(2). While under some circumstances it is appropriate to enroll excluded eligible employees in the plan and to make corrective contributions, adjusted for earnings, for them, EPCRS also recognizes that in some circumstances, it is appropriate to adopt a retroactive amendment to conform the plan's written terms to past operations.

Here, the City proposes to correct the Failure by adopting a corrective amendment to the Plan document, effective retroactive for the period February 1, 2017 through June 8, 2024, that contains the correct list of eligible job positions and indicates that an employee who was actively accruing benefits as a Pension Plan participant is not eligible for the Plan.

The City believes this correction method is reasonable and appropriate under the circumstances because it correctly reflects the intended plan design as it was always historically understood and implemented by both the City and the affected employees, including through the employees' affirmative one-plan-or-the-other elections.

Section IV. Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries

No procedures to locate former employees or beneficiaries are necessary because there are no former employees or beneficiaries who will be affected by the proposed correction. The proposed correction conforms the Plan document to the actual past operations that applied to all former employees and beneficiaries during the applicable time period, including the elections that former employees made concerning which retirement plan they wished to have while employed with the City.

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Section V. Applicant's Proposed Revision to Administrative Procedures

No changes to the Plan's administrative procedures will be necessary as a result of the proposed correction because the Plan document, as retroactively amended, and all past and future administrative procedures will be consistent.

The Failure occurred because incorrect plan design terms were inadvertently included in the Plan's governing documents in 2017 and in the Cycle 3 restatement in 2022. In its capacity as the Plan sponsor, the City has engaged specialist benefits counsel to assist with the review and drafting of all future Plan document amendments and restatements, to try to ensure that plan design terms are correct in future Plan documents.

* * * * *