

Pension Benefit Guaranty Corporation

74-27

December 13, 1974

REFERENCE:

[*1] 4021(b)(13) Plans Covered. Professional Service Employer Plans
4021(c)(2)(A) Plans Covered. Definition of Professional Service Employer
4021(c)(2)(B) Plans Covered. Definition of Professional Individuals

OPINION:

We have received a letter, forms, and a check you forwarded to this Corporation on November 25, 1974.

In your letter, you state that you should be excluded from the coverage of Title IV because you are a "professional service employer" within the meaning of the Employee Retirement Income Security Act § 4021(b)(13). You have asked whether we agree with your position.

Unfortunately, we are not able to conclude that you are a "professional service employer" on the basis of the information contained in your letter. The statute does not explain what is meant by "professional individuals" but it does list a series of occupations which it states are included within that definition. None of the services referred to in your letter are performed by persons engaged in the occupations specified in the statute, nor does your letter contain reasons why the occupations referred to in your letter should be considered professional within the meaning of § 4021(c)(2)(B). In addition, the statute [*2] requires that a professional service employer be owned or controlled by professional individuals and that the principal business of the employer be to perform a professional service. Again, we are unable to determine, on the basis of your letter, whether "professional individuals" own or control * * * or what facts underlie the conclusion that your services are "completely professional."

Should you wish to pursue this matter further, we suggest that you supply additional information and reasons which would enable us to reach a determination. For your convenience, we have attached a copy of § 4021 of the Act.

George B. Driesen
Deputy General Counsel