

## Monitoring Service Providers

ERISA requires plan fiduciaries to monitor service providers and ensure that fees paid out of plan assets are reasonable in light of services being rendered. ERISA does not dictate how that monitoring should occur, nor at what frequency.

The two most common tools for monitoring service providers are **fee benchmarking** and **requests for proposals**.

### Fee Benchmarking

Fee benchmarking studies often look at general industry data and/or proprietary pricing data to approximate a fee range that the plan could expect if it solicited bids from vendors at large. This type of study does not consider the specific service requirements of a particular plan.

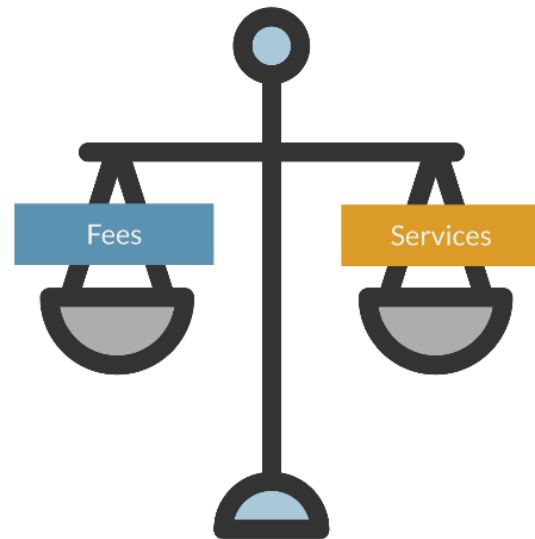
### Requests for Proposal

While requests for proposals are more labor-intensive, they also provide a more accurate view of where the market is for the specific service requirements of a plan. While benchmarking focuses solely on fees, a full, competitive vendor search may provide improved or expanded services.

## Recent Litigation

Lawsuits continue to be filed against plan sponsors alleging a breach of fiduciary duty, including complaints about a failure to negotiate lower recordkeeping fees or a failure to solicit competitive bids from alternate recordkeepers. Settlement terms, including a requirement to conduct a competitive request for bid process, have become common and were included in the McKinsey & Co, Cerner Corp, MIT, Duke, and John Hopkins settlements, to name a few.

The courts also continue to highlight the differences between benchmarking and RFPs. To quote Judge William J. Martinez from the recent Banner Health 401k decision: "The Court finds it highly significant that Banner has not undertaken a single RFP in nearly 20 years, despite the recognized utility of an RFP for assessing reasonableness of fees."

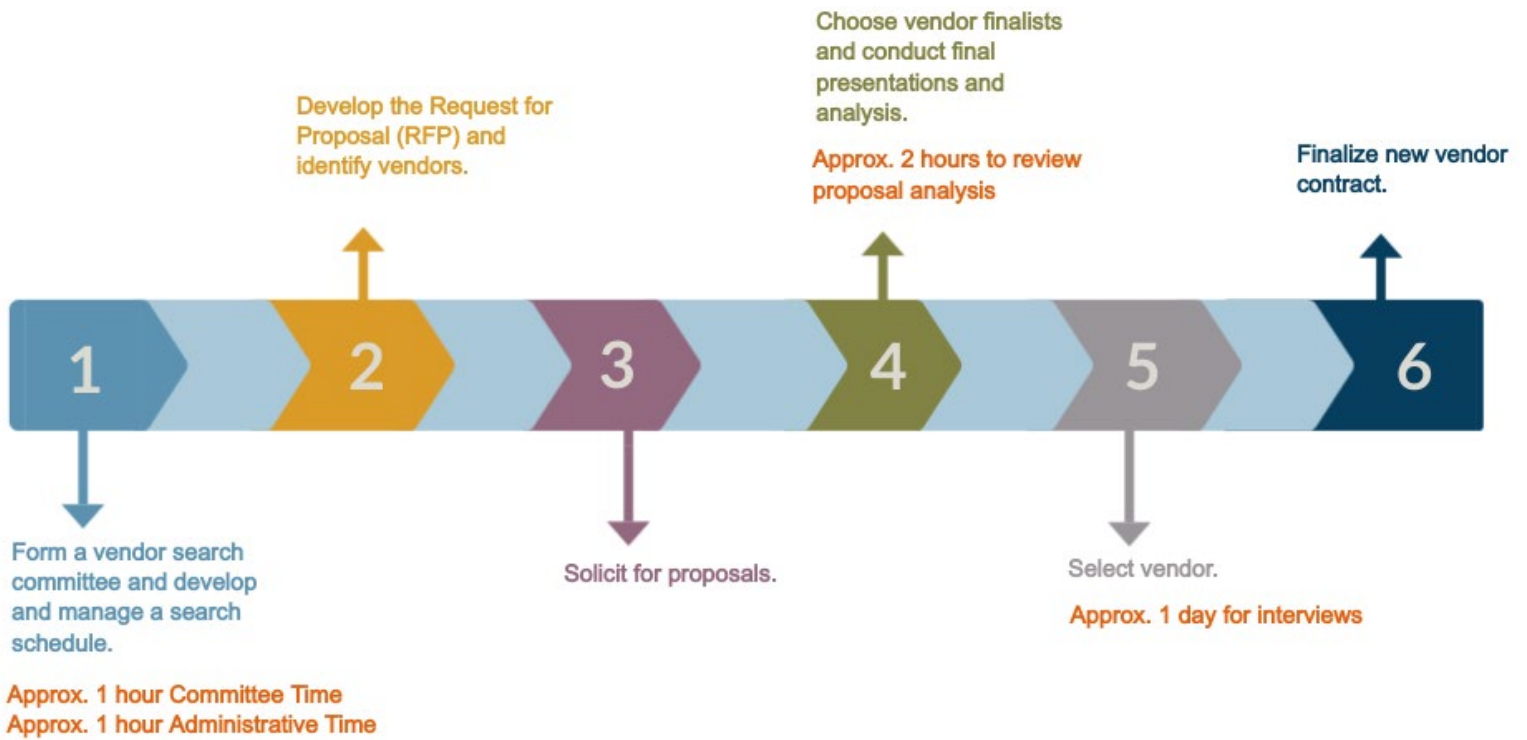


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Ultimately, benchmarking and negotiation of fees can play an important role in the fiduciary duty to monitor fees and service providers; it is no replacement for the insight gained from a competitive request for proposal process.

## Plan Sponsor & Committee Time Commitment: Over a 3-month period

While requests for proposals are more labor-intensive, hiring a consultant to conduct the search can significantly reduce the time commitment through to the selection of a vendor. The following shows each of the steps through the selection of an ongoing vendor. The estimated time commitments for the plan sponsor and committee are in orange.



## Transition and Beyond

If a new vendor is selected, the transition takes a minimum of three months and requires additional time commitments from committee members, finance, operations, and human resources teams.