

An overhead photograph of a business meeting. Several people are seated around a white conference table. They are looking at documents, a laptop, and a calculator. The scene is brightly lit, and the participants are dressed in professional attire.

DOL Audit Warning Signs

Provided by: Hickok & Boardman HR Intelligence

DOL Audits

The Department of Labor (DOL)'s Employee Benefits Security Administration (EBSA) has the authority to conduct audits on benefit plans that are governed by the Employee Retirement Income Security Act (ERISA). DOL audits often focus on violations of ERISA's fiduciary obligations and reporting and disclosure requirements.

The DOL may also investigate whether an employee benefit plan complies with ERISA's protections for plan participants, such as the special enrollment rules or mental health parity requirements. Recently, the DOL has been using its investigative authority to enforce compliance with the Affordable Care Act (ACA).

Penalties for noncompliance and other errors found during an audit can be steep. For example, during the 2013 fiscal year, more than 70 percent of audits resulted in monetary fines or other corrective action. There are several factors that increase or indicate your

likelihood of being audited, including the common triggers listed below.

DOL Audit Triggers

A DOL audit can be triggered for a variety of reasons. Some audits can be avoided through careful administrative efforts; other audits are initiated through no fault of your own.

Common triggers for a DOL audit include these preventable causes:

- **Participant complaints.** If any of your plans' participants complain to the DOL about potential ERISA violations, your plan will likely be subjected to an audit. For example, according to a DOL audit summary, 775 new investigations in 2013 resulted from participant complaints.
- **Incomplete or inconsistent information.** The DOL is more likely to investigate a plan that has incomplete answers on the plan's Form 5500, or if information you report is inconsistent from year to year.

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Another reason your plan might be selected for a DOL audit is due to the DOL's national enforcement priorities or projects, which focus investigative resources on certain issues. According to the DOL, the following are areas of heightened importance for audits:

- **Major case enforcement.** EBSA is focusing on major cases in order to best protect areas that have the greatest impact on plan assets and participants' benefits.
- **Employee contributions initiative.** EBSA is focusing on delinquent employee contributions in order to help protect employee contributions to their 401(k), health care and other plans.

In addition to these priorities, the DOL also has several national enforcement projects that receive investigative emphasis:

- Contributory Plans Criminal Project
- Fiduciary Service Provider Compensation Project
- Health Benefits Security Project
- Rapid ERISA Action Team
- Employee Stock Ownership Plans
- Voluntary Fiduciary Correction Program

DOL audits can be triggered by negligence or mistakes on your part, or because your plan falls within one of the areas in which the DOL is focusing its investigative efforts.

Regardless of why you are selected for an audit, you need to be prepared.

Contact Hickok & Boardman HR Intelligence today for the information you need to avoid DOL triggers, as well as tools to help you prepare for and navigate an audit.

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