

# 403(b) Audits: Meeting the DOL Requirements

## Tougher Rules for Nonprofits Require More Reporting

By Paul L. Peterson, CPA

**Not-for-profit organizations that offer employees ERISA 403(b) plans will be required to file a Form 5500 annually with the Department of Labor, just as for-profit companies have done for 401(k) plans for years. Additionally, large 403(b) plans, which cover 100 or more participants, will have to include an audited financial statement with their Form 5500 filings.**

As a not-for-profit plan sponsor, you may find yourself scrambling to meet the DOL requirements if you do not have all accounting records needed to receive an unqualified audit opinion. The Department of Labor requires auditors to measure 2009 figures against comparable information from the prior year. This can be a daunting task for not-for-profit plan sponsors, which have never had to keep 403(b) plan financial records before, or even have a written plan document in place.

### An Overview of the Changes to Compliance Rules for 403(b) Plans

<i>Then</i>	<i>...and now</i>
No or minimal reporting requirement	Mandatory filing with the DOL and the Internal Revenue Service
No written plan document	Written plan document required
No tracking of plan assets	Required to calculate the value of plan assets and the related activity for the plan year
No limit to number of vendors	Consolidation and/or elimination of vendors
No rules on eligibility	Employers are required to permit all employees to participate, unless the plan document specifically excludes a class of employees
No set timing on deposits of employee deferrals	Plan sponsors will be held accountable for late employee deferral deposits
Little to no required communication to employees	Employers are responsible to give notice to all employees eligible and afford them an effective opportunity to make or change an elective deferral
No audit required	Audit required for large plans
No recordkeeping required	Centralized recordkeeping is critical to compliance
No guidelines on how to operate the plan	Plan must operate in accordance with written plan document
Plan sponsors outsource responsibility to third parties	Plan sponsors have fiduciary responsibility over plan

Although the first audit is not required until the 2009 plan year, the Form 5500 requires the Statement of Net Assets be fully comparative. Therefore, the 2008 financial information will need to be included in the plan's 2009 audited financial statements. Since many 403(b) plans are often treated more like individual account arrangements than a formal plan, many sponsors may not have received a net assets and activity statement at the plan level. Plan sponsors should contact their 403(b) investment custodian to ensure that an investment statement will be available at the plan level for 2008 and subsequent years.

In addition to plan level information, auditors must perform procedures at the participant level. Plan sponsors should contact their record keeper to ensure records by participant with plan totals showing the activity for the year are available. This could be a considerable request, particularly if each individual at the sponsoring organization is given his/her own account number and they are not linked together by sponsoring organization.

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## WHAT CAN I EXPECT FROM THE AUDIT?

Although approaches to review your plan may vary between audit firms, most will include a combination of analytical procedures and testing of participant transactions. In their evaluation, the auditors typically seek assurance that a plan generally operated in accordance with its terms, that participants were properly included or excluded, that distributions occurred for valid reasons and for the proper amount, and all assets were captured.



Auditing standards require auditors to formally communicate matters they observe about their clients' accounting procedures and internal controls. Auditors must inform clients about any "significant deficiencies" in accounting procedures or internal controls that come to their attention. Significant deficiency is defined as any flaw creating more than a remote risk of errors in financial statements that could reasonably matter to a user of the statements. Auditors must communicate these matters in writing to all individuals involved in overseeing strategic direction and accountability for operations, in addition to management.

## WHAT CAN I DO TO PREPARE FOR THE AUDIT?

You should start thinking about establishing internal policies, accounting procedures and controls for administering your plan, and verifying that the written plan document requirements have been met. This would help make the audit more efficient.

While there is a lot to consider with the new 403(b) audit requirements, WISS is ready to assist with your first audit.



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