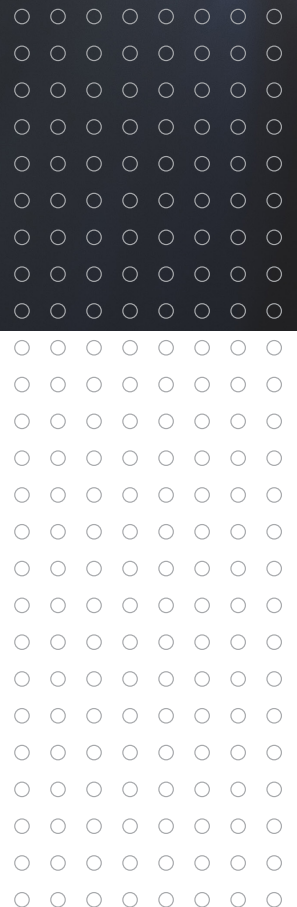




Checklist:

# Audit Preparation

Let's prepare for the possibility of a DOL audit



# Audit Preparation Checklist



Employers who prepare for a Department of Labor (DOL) audit are well-positioned to avoid disruption, escape penalties, and resume operations as quickly as possible. Start your planning by reviewing this checklist, and then contact your HUB International advisor to fill in the gaps.

## 1. Establish a Fiduciary File

Maintaining solid, documented evidence of your-compliance efforts is the most important defensive strategy to avoid audit penalties. The DOL will request a large number of health plan and HR documents, so gather all relevant materials that showcase and substantiate your efforts. Advanced preparation will help you to flag potential weaknesses and minimize gaps in documentation before the DOL detects a problem. Ask your HUB advisor for our Fiduciary File Checklist to help you capture and record specific details and decisions. It should include the following:

- A formal benefits plan document (not simply an insurance certificate)
- Summary Plan Description (SPD) and any Summaries of Material Modification (SMM)
- Summary of Benefits and Coverage (SBC)
- Employee Handbook - Sections on welfare and fringe benefits
- Prepared annual notices and other employee communications
- Any corporate records (Board or Committee resolutions, minutes, or consent actions) related to your benefits.

## About ACA Compliance

### Fiduciary file documentation for ACA compliance

In addition to providing a formal benefits plan document, you need to include the following:

- Statements of your plan's measurement, administrative, and stability periods
- Documentation of affordability safe harbor used and premium calculations
- A completed worksheet or "memo to file" to explain your organization's approach to classifying positions under the ACA and your plan management strategy
- Records supporting eligibility determinations including hours tracking and calculations
- Employee communications regarding eligibility/an offer of coverage (as well as any electronic or signed paper waivers)
- Employee classification records – designating variable hour, seasonal, or full-time status

## 2. Designate a Leader and Form a Response Team

You need an action plan that clearly states who will spearhead the audit internally and how key people will communicate with each another. Your plan should list the members of your response team – including the details of who copies and compiles the requested documents and who reviews the desk audit response – the first set of documents you submit to the DOL. It's equally important to designate someone to oversee an on-site audit if the government requests that step – to greet the on-site auditor, set ground rules, arrange HR or benefit staff interviews, and discuss open issues. You need a clear policy and approach to an on-site audit.

The audit leader should fully understand his or her responsibilities in the event of an audit, and be responsible for:

- Organizing content from records and your fiduciary file
- Serving as the official point of contact to the DOL and as the single, designated avenue to deliver any requested material
- Forming and fulfilling a response plan including:
  - Creating a timetable of future internal audit meetings
  - Outlining the process to gather content
  - Communicating instructions and expectations when tasks are delegated
  - Reviewing team responses and final submissions



The DOL audit response process requires an entire team across your enterprise – with the authority and support of senior leadership to prepare complete and timely responses. The DOL will request a wide array of documents that cross departmental boundaries so be sure the team you name can promptly respond to such requests. They may also request interviews of relevant employees. Think beyond your HR department – keep everyone involved and informed by selecting members from the following teams or roles:

- Legal
- Finance
- Payroll
- C-suite leadership
- Human Resources
- Information Technology
- Benefits advisor/Insurance broker

### 3. Create your Notification Plan

Your organization will need to disseminate audit notification and instructions, so creating a notification plan now can ensure that the process goes smoothly in the event of an audit. HUB suggests you make sure the following individuals are aware of their roles if an audit should occur, and notify stakeholders in the following order:

- Senior leadership
- Legal counsel
- Benefits advisor/Insurance broker
- Accounting or CPA firm
- Response team

Any audit-related materials and support documents should be drafted in collaboration with legal counsel and to the extent possible, protected by work-product or attorney-client privilege. Make sure the key people in your organization know that the first point of contact should be your lawyer or internal legal counsel as he/she may be aware of legal circumstances unrelated to the audit that requires a specialized, strategic response. You should notify legal counsel as soon as you receive a letter from the DOL.

### 4. Prepare an Audit Briefing Strategy

An audit briefing strategy can be populated with facts and inquiries from the audit notification. This should provide critical summary details to organization leadership regarding the nature and scope of the audit. Note that the DOL may be unlikely to say what triggered the audit or what specific issue is the subject or purpose of the audit. It's best not to speculate. The worksheet also operates as the response timetable, sets the agenda for the internal audit kick-off meeting and captures response steps taken and any open issues. The following materials and documents should be prepared in advance and presented at this meeting:

- Original DOL notification letter
- Discovery and/or demands from the DOL
- Deadlines that are outlined in the notification
- Indication of any red flags that triggered the audit
- Names and contact information for all people who will be involved in the response
- Specific assignment of all follow-up responsibilities/action items
- Internal deadlines for each item
- Dates of expected formal conference calls for the response team

## 5. Establish a Communication Process

It's essential that unnecessary electronic communications are avoided when communicating about a DOL audit. For example, frivolous and unnecessary comments in emails while distributing and sharing audit response content may create complications that inadvertently raise issues or create additional items for the DOL to investigate. For a smooth and efficient communication plan, consider the following steps:

- Plan to communicate in writing in a manner advised by your counsel to ensure privilege remember all emails, texts, and notes may be discoverable and may imply things you don't mean.
- Discuss with legal counsel how to best communicate with your outside advisors (legal, accounting, insurance broker/benefits advisor).
- Prepare for in-person, telephonic, or virtual response team meetings to minimize the reliance on email communications.

## 6. Create a Template for Response Elements to the Audit

Your goal should be to avoid an on-site audit by thoroughly fulfilling the DOL's initial information requests. Be ready now to make the auditor's job as easy as possible by:

- Furnishing all DOL-requested items in a clear and attractive way - keep in mind the DOL may request a zip file or flash drive.
- Provide necessary documents and information to respond to the requests, but do not volunteer extra information
- Determining what issues or documentation are not applicable to your organization and therefore, not required.
- Ensuring the team member responsible for compiling, copying, and creating your response electronically has the skills to organize your organization's response appropriately so that it's easy for the auditor to review. Best practices include using divider tabs, a table of contents, and perhaps even including your own checklist showing all requested and provided documents.
- Ensuring you keep copies of your response for your own records of all communications and submissions to the DOL and providing a copy to legal counsel and your other audit response partners so any follow-up questions can be easily addressed.

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### Now's the Time to Act

As an employer, you must demonstrate that you have worked in good faith to meet your compliance requirements. For more information on the actions you should take before, during and after an audit, contact HUB International.

[Contact a HUB Employee Benefits advisor today](#)

\*This checklist is intended to offer a high-level overview of major employee benefits plan documentation and is not representative of all requirements that may apply to your plan.

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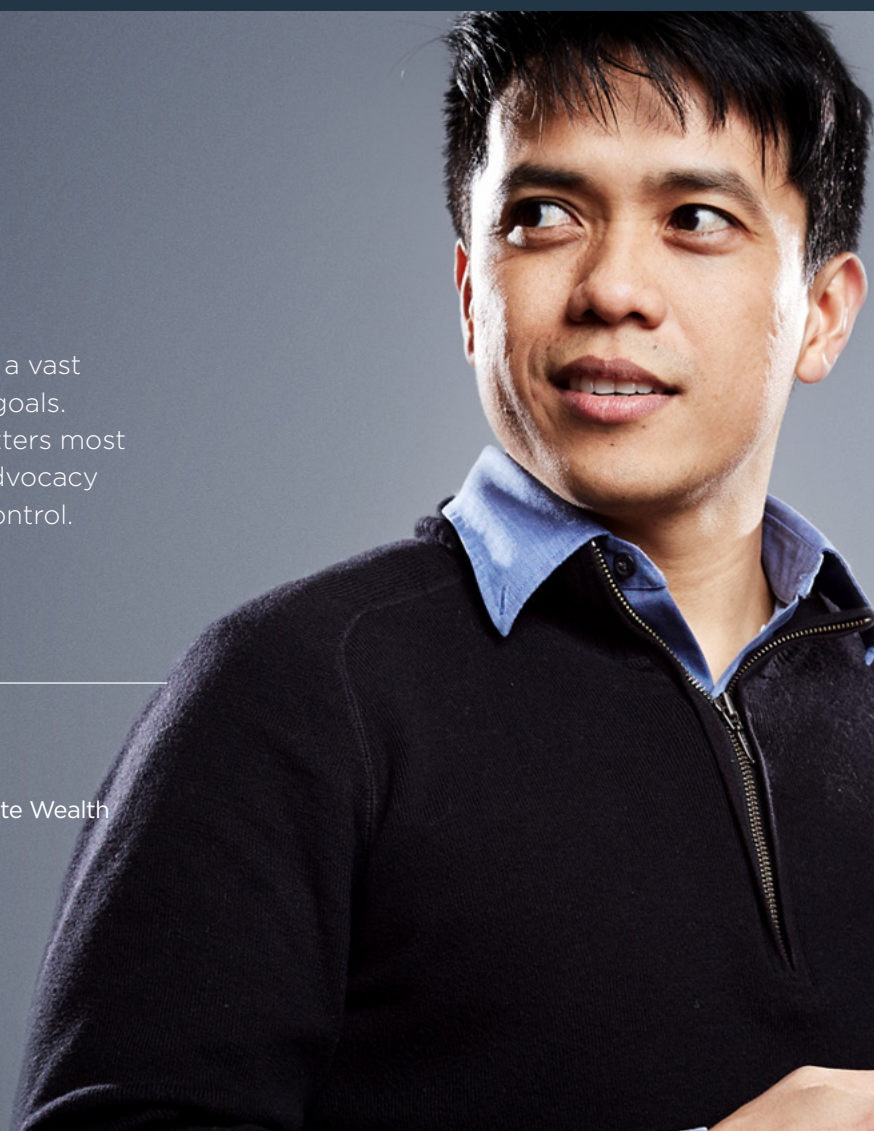
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