



# *Department of Labor*

AUDIT PREPAREDNESS

# ABOUT NESAS PLAN CONSULTANTS

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NESA Plan Consultants is an independent consulting firm dedicated to helping plan sponsors navigate today's retirement plan complexities. This Department of Labor Investigation (DOL) Readiness Guide was aimed to assist plan sponsors understand what takes place in a typical DOL investigation. This guide can help educate and help plan sponsors how to better oversee the management of their employee 401(k) or 403(b) plan, be aware of what to expect, and understand how they will have to respond if the DOL were ever to knock on their door.

## ABOUT THE AUTHOR

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A 14-year veteran helping businesses and organizations take their employee retirement plans to the next level, Mizan specializes in the design, compliance, and administration of 401(k), 403(b), and 457(b) plans. He is the Founder & CEO of NESA Plan Consultants (NESA).

NESA provides high-level, personalized consulting to both businesses and not-for-profit organizations and regularly represents clients in front of Department of Labor (DOL) and Internal Revenue Service (IRS) during audits.



# DON'T FEAR

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Receiving a letter in the mail from the DOL that your plan is under investigation can be nerve wrecking.

This DOL/IRS Audit Readiness guide is intended to help you respond swiftly and effectively.



# GET YOUR DUCKS IN A ROW

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When your retirement plan is selected for an audit, you will receive a request from the DOL to gather and provide certain information. A sample of the letter and list is below. It is critical that you provide the documents by the date given or ask for an extension.



SAMPLE



## **U.S. Department of Labor**

Employee Benefits Security Administration

The Department of Labor (Department) has responsibility for administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Title I establishes standards governing the operation of employee benefit plans such as the Employees Profit Sharing 401(k) Plan (the Plan).

The Plan is scheduled for investigation by this office. Investigative authority is vested in the Secretary of Labor by Section 504 of ERISA, 29 U.S.C. Section 1134, which states in part: "The Secretary shall have the power, in order to determine whether any person has violated or is about to violate any provision of this title or any regulation or order thereunder ... to make an investigation, and in connection therewith to require the submission of reports, books, and records, and the filing of data in support of any information required to be filed with the Secretary under this title ..."

We have found in that submission of relevant documents to our office prior to the inception of an on-site field investigation can lessen the time subsequently spent with, and the administrative burden placed on, Plan and corporate officials, and may eliminate the need for an on-site visit entirely. To that end, we ask that you submit to this office, within ten working days of your receipt of this letter, the documentation listed on the enclosed list. If any items are not applicable, please so indicate and provide an explanation.

We encourage you to submit the aforementioned documents in electronic form. Please assist us in our efforts to maximize resources by submitting electronic files using the least number of discs possible or by email. After I review the documents, I will call you to schedule an appointment. Please note, additional documents may be requested for review and/or copying as well as to review any of the original documents submitted to the Department. If you have any questions, please contact me by telephone or by e-mail. Thank you for your anticipated cooperation and assistance in this matter.

Sincerely,

Senior Investigator

Enclosure

**COPIES OF ITEMS LISTED BELOW  
SHOULD BE SUBMITTED AS INDICATED IN THE COVER LETTER**

Please send all of the items listed below and check them off as you complete the list, returning this list with your responses. Additionally, send a cover letter explaining the absence of any item and the reason for its absence.

	Description of Document
1	Current Plan Document and all Amendments
2	Current Trust Agreement and all Amendments
3	Most Recent Summary Plan Description
4	Most Recent Summary Annual Report
5	The latest Fidelity Bond Policy and Riders/Endorsements for the Plan covering fraud and dishonesty that includes the following information: bond lapse date, amount of the bond, named insured(s), discovery period, deductible, and name of the surety company
6	Fiduciary Liability Insurance Policy, if applicable
7	The most recent internal income statement which indicates receipts and disbursements of funds in connection with the Plan Most recent internal balance sheet/statement of assets and liabilities for the Plan
8	Most recent internal balance sheet/statement of assets and liabilities for the Plan
9	Schedule of Plan Assets, 2008 to present
10	Most Recent Internal Revenue Service Letter of Determination

Note: This is a typical listing of first 10 items on the DOL listing of items requested. The list usually contains 30-50 items.



## BE PREPARED

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Below we will provide some tips on how to effectively overcome a DOL or IRS audit.



# TIPS FOR OVERCOMING A DOL OR IRS AUDIT

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## 1. WORK WITH AN EXPERT

Ideally, you want to hire a consulting firm that has worked with DOL and IRS audits. A consultant with the proper IRS-approved designation can do the heavy lifting by working directly and collaboratively with the DOL or IRS on your behalf.

## 2. REVIEW AND PROVIDE THE DOCUMENTS TIMELY

Before providing any documents or reports to the DOL or IRS, review them to make sure they are the documents being asked. Also, be sure to provide the documents timely and within the timeframe provided. If for some reason you are unable to provide a document, you can request additional time.

## 3. PREPARE FOR INTERVIEWS

The DOL or IRS will typically interview one or more individuals who is responsible for the plan, such as the Plan Administrator or the Fiduciary. The investigator will reach out to you in advance to set up a day, time, and location for the interview. Ideally, you should take the time before the interview to learn how your plan works, as it will help you answer the questions.

## 4. STAY THE COURSE

You may be asked to provide various documents throughout the audit. Or you may not hear from the investigator for a while. Whatever the case may be, don't fret, as it's not unusual for an audit to linger six or 12 months.



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