
# DOL clarifies bond requirements for pooled employer plans

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*Nov. 3, 2022*

A Department of Labor (DOL) information letter clarifies how ERISA's bond requiments apply to a pooled employer plan (PEP). A PEP is a type of multiple-employer plan created by the Setting Every Community Up for Retirement Enhancement (SECURE) Act (Div. O of Pub. L. No. 116-94) to make it easier for unrelated employers to participate in group retirement plans.

Under ERISA, fiduciaries and any other plan officials who handle "funds or other property" of an employee benefit plan must be covered by a fidelity bond (although some exceptions apply). The SECURE Act requires a PEP's plan administrator — called a pooled plan provider — to ensure that all fiduciaries and anyone handling PEP assets are properly bonded. The information letter explains that this provision does not extend the bonding requirement to a participating employer's employees who collect and transmit funds to the PEP. Under DOL regulations, contributions to a plan don't become "funds or other property" subject to the bonding requirement until they're received by the plan administrator.

The letter also clarifies that independent contractors are not exempt from ERISA's bonding requirements. A pooled plan provider must ensure that an independent contract administrator or manager who handles plan funds or other property is covered by a fidelity bond (unless an exception applies). The independent contractor could be covered by the PEP's bond or obtain a separate bond that satisfies ERISA's bonding requirements.

## Related resources

- Information letter (DOL, Sept. 7, 2022)

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