

June 2005

PRIVATE PENSIONS

Government Actions Could Improve the Timeliness and Content of Form 5500 Pension Information



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Highlights

Highlights of [GAO-05-491](#), a report to congressional committees

Why GAO Did This Study

The Form 5500 is the primary source of information for both the federal government and the private sector regarding the operation, funding, assets, and investments of private pension and other employee benefit plans. Currently, the Department of Labor (Labor) requires about 3 years to provide certain usable Form 5500 information to the public, leading to complaints that the information is not timely. We have prepared this report under the Comptroller General's authority, and it is intended to assist Congress in improving the timeliness and content of Form 5500 information. This report is addressed to the congressional committees of jurisdiction. It examines: (1) the information reported on the form and how it is used, (2) factors that affect the timeliness of Form 5500 information, and (3) issues affecting the content of the form.

What GAO Recommends

GAO makes recommendations to Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation aimed at improving the timeliness and content of Form 5500 information such as requiring the electronic filing of Form 5500 and making modifications to the form. Labor, IRS, and PBGC generally agreed with our recommendations. Also, Labor, IRS, PBGC, and the Social Security Administration provided technical comments on the draft. We incorporated each agency's comments as appropriate.

www.gao.gov/cgi-bin/getrpt?GAO-05-491.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Barbara Bovbjerg at (202) 512-7215 or bovbjergb@gao.gov.

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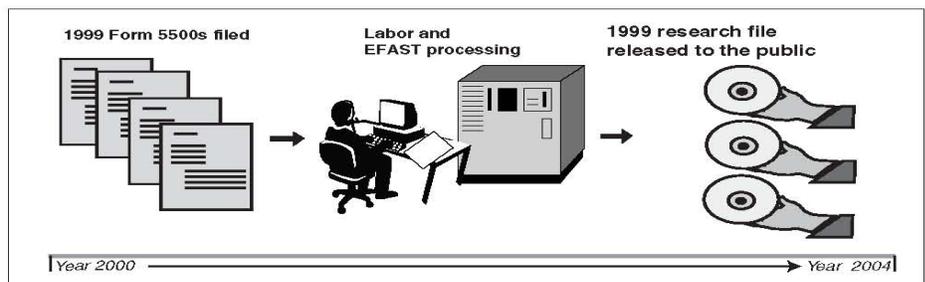
What GAO Found

Detailed information on private pension plans is reported on the Form 5500, and Labor, IRS, and PBGC use the information for compliance, research, and public disclosure purposes. Information collected on the form includes basic plan identifying information as well as detailed information including assets and liabilities, insurance, and financial transactions. The principal users of Form 5500 Reports—Labor, IRS, and PBGC—use the reports primarily as a compliance tool to identify actual and potential violations of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code. Other federal agencies and policy researchers also use Form 5500 information.

Statutory reporting requirements, processing issues, and current Labor practices affect the timeliness of the release of Form 5500 information, resulting in a 3 year lag, in some cases, in releasing certain usable computerized Form 5500 information to the non-principal federal agencies and others. First, under the current statutory reporting requirements, filers can have up to 285 days after the end of the plan year to file their Form 5500. Second, 98 percent of filings are in a paper format. These take more than three times as long as electronic filings to process and have twice as many errors. Third, the release of the Form 5500 information in the research file—the Form 5500's most practical form—is further delayed because Labor waits until all filings for that plan year are processed, which can take up to 2 years.

Despite the efforts of Labor, IRS, and PBGC to improve its content, the Form 5500 lacks key information. These agencies have taken certain steps to improve the content of the Form 5500, such as reviewing the Form 5500 annually to ensure that the form is collecting all the information required by law. However, the form still lacks key information that could better assist Labor, IRS, and PBGC in identifying and tracking all plans over time and monitoring multiemployer plans. Federal and private sector researchers also told us the form could collect better plan financial information, such as 401(k) plan fees. In addition, federal agency officials told us certain information could be reported earlier than the current filing deadline, such as information on a plan's funding status, as well as its assets and liabilities.

Timeliness of the Processing and Release of Form 5500 Information



Source: GAO analysis.

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Abbreviations

ARC	Actuarial Research Corporation
CCT	common or collective trust
DFE	direct filing entity
EBSA	Employee Benefits Security Administration
EFAST	ERISA Filing Acceptance System
EIN	employer identification number
ERISA	Employee Retirement Income Security Act of 1974
ESOP	Employee Stock Ownership Plan
GDI	gross domestic income
GDP	gross domestic product
GIC	guaranteed investment contract
IRC	Internal Revenue Code
IRS	Internal Revenue Service
Labor	Department of Labor
MTIA	master trust investment account
OCR	Optical Character Recognition
OMB	Office of Management and Budget

OPR	Office of Policy and Research
PBGC	Pension Benefit Guaranty Corporation
PIN	personal identification number
PSA	pooled separate account
RICS	Returns and Inventory Classification System
SAR	Summary Annual Report
SEC	Securities and Exchange Commission
SSA	Social Security Administration

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United States Government Accountability Office
Washington, DC 20548

June 3, 2005

Congressional Committees

The Form 5500 Report is the primary source of information for both the federal government and the private sector regarding the operation, funding, assets, and investments of private pension plans and other employee benefit plans.¹ The Department of Labor (Labor), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) jointly developed the Form 5500 so employee benefit plans could satisfy annual reporting requirements under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC). Over 700,000 private pension plans must file the Form 5500 annually, representing over \$4.4 trillion in assets and covering over 100 million participants.

Labor, IRS, and PBGC use the Form 5500 to collect information for their various roles in regulating and monitoring private pension plans. Labor enforces ERISA's reporting and disclosure provisions and fiduciary responsibility standards, which among other things, concern the type and extent of information provided to the federal government and plan participants and how pension plans are operated in the interests of plan participants. IRS enforces standards that relate to such matters as how employees become eligible to participate in benefit plans, how they become eligible to earn rights to benefits, and how much, at a minimum, employers must contribute. PBGC insures the benefits of participants in defined benefit private pension plans.²

We have prepared this report under the Comptroller General's authority, and it is intended to assist the Congress in improving the timeliness and content of Form 5500 pension information. As it may prove helpful in the deliberations of committees with jurisdiction over pension issues, we have

¹For the purposes of this report, we will be discussing Form 5500 Reports as they relate to private pension plans.

²Some defined benefit plans are not covered by PBGC insurance; for example, plans sponsored by professional service employers, such as physicians and lawyers, with 25 or fewer employees. Some employers do not include all their employees in their defined benefit plans.

addressed this report to each of these committees. Recent changes in private pension finance have highlighted the need for timely and useful Form 5500 information. Since 2000, private pension underfunding in defined benefit plans has increased dramatically, and additional severe losses may be on the horizon. Consequently, we placed PBGC's single-employer insurance program on our high-risk list of programs that present significant vulnerabilities to the federal government, and policy makers have given their attention to ways to strengthen and stabilize plan funding.³

In 1999, Labor, IRS, and PBGC implemented a new computerized system called the ERISA Filing Acceptance System (EFAST) to improve the processing of the forms. Because it is important that pension information be both timely and useful, we are reporting on (1) the information reported on the Form 5500 and how it is used, (2) the factors that affect the timeliness of Form 5500 information, and (3) issues affecting the content of the Form 5500.

To complete this work, we reviewed the Form 5500 and its filing requirements and the laws that require the filing of regulatory reports on pensions. We also interviewed officials from Labor, IRS, PBGC, and other federal agencies as well as pension experts that use this information. In addition, we analyzed documents regarding the Form 5500 information federal agencies collect and their reasons for obtaining it. As a basis for our analysis of the factors that affect the timeliness of Form 5500 information, we examined the Form 5500 statutory reporting requirements as well as the preparation and processing procedures for the Form 5500. We interviewed representatives of the contractor that operates EFAST to determine the amount of time needed to process Form 5500 Reports. Further, we reviewed EFAST operating procedures, contracts, and performance reports, and conducted a site visit to the EFAST processing center to examine how Form 5500 Reports are processed. We also conducted interviews with parties involved in preparing and filing Form 5500 Reports, including plan sponsor representatives, actuaries, accountants, service providers,⁴ insurance companies, and financial institutions to determine the time and effort that is needed to prepare and file the forms.

³GAO, *High Risk Series: An Update*, [GAO-05-207](#) (Washington, D.C.: January 2005).

⁴Throughout this report, the term "service providers" will be used to refer to those private sector entities that prepare Form 5500 Reports on behalf of plan sponsors.

To determine the factors affecting the release of usable Form 5500 information to the public, we interviewed Labor officials responsible for releasing Form 5500 information products to the public and to government users. We also interviewed the government contractors that participate in the preparation of these Form 5500 products. To determine the issues affecting the content of the Form 5500, we reviewed current initiatives aimed at improving its content and conducted interviews with federal agency officials, industry association representatives, service providers, and pension experts that either use or prepare Form 5500 Reports. We conducted our work between June 2004 and June 2005 in accordance with generally accepted government auditing standards.

Results in Brief

Detailed information on private pension plans is reported on the Form 5500, and Labor, IRS, and PBGC use the information for compliance, research, and public disclosure purposes. Information collected on the form includes basic plan identifying information as well as detailed plan information including assets, liabilities, insurance and financial transactions plus financial statements audited by an independent public accountant, and for defined benefit plans, an actuarial statement. In addition, information about plan characteristics, such as plan type (defined benefit or defined contribution),⁵ method of funding, numbers of employees and participants, and employees who are excluded from the plan for various reasons are also reported on the form. The principal users of Form 5500 information include Labor, IRS, and PBGC. These agencies use Form 5500 Reports primarily as a compliance tool to identify actual and potential violations of ERISA and the IRC. They also use the Form 5500 to develop pension plan statistics and support policy formulation. In addition to the three principal users, other federal agencies, researchers, and private sector entities also use Form 5500 information to publish government statistics and assess employee benefit, tax, and economic trends and policies. The Form 5500 is also made available to the general public, and Labor makes the information available to public agencies, private organizations, and individuals.

⁵Defined benefit plans provide a guaranteed benefit generally expressed as a monthly benefit based on a formula that combines salary and years of service to the company. These plans express benefits as an annuity, but many offer departing participants the opportunity to receive lump sum distributions. Defined contribution plans establish individual accounts for employees to which employers, participants, or both make periodic contributions. In addition, defined contribution plan participants may be able to direct the investment of the assets in their accounts.

Statutory reporting requirements, processing issues, and current Labor practices affect the timeliness of the release of available Form 5500 information, in some cases, resulting in a 3 year delay in non-principal federal agencies, researchers, and others receiving usable computerized Form 5500 information. First, under the current statutory reporting requirements, filers have up to 285 days to file their Form 5500s—a plan has 210 days from the end of the plan year to file its Form 5500, and filers may apply for an extension of an additional 2 ½ months. Service providers have told us this time frame is necessary because of the coordination with multiple parties, such as actuaries, accountants, and insurance companies to obtain information. Second, once the form is submitted, it must be processed through EFAST, which further affects the timeliness. Given that there is no electronic filing requirement and the process for plan sponsors to obtain and use an electronic signature to authenticate filings is burdensome, 98 percent of filings are submitted in a paper format, which Labor reported can take more than three times longer to process than electronic filings and contain twice as many errors. Also, EFAST's data correction process can add up to 120 days to the processing, largely because once Form 5500s are submitted, the errors are caught and corrections are done through a paper-based correspondence process with the plan sponsors. Third, once the forms have been processed through EFAST, Labor waits until it has processed all filings for that plan year before releasing Form 5500 information in its most practical form—the research file. Labor's practice results in additional delays, because some filings may be caught up in EFAST's lengthy correspondence process to reconcile errors, and non-calendar year plan filings could be submitted up to a year later than calendar year plan filings but still be considered part of the same plan year. Agency officials told us that the timeliness of Form 5500 Reports affects their use of the information.

Despite the efforts of Labor, IRS, and PBGC to improve its content, the Form 5500 lacks key information. Each agency has taken steps to improve the content of the form, such as reviewing the Form 5500 annually and revising its content as needed to ensure that the form is collecting all the information required by law. Labor, IRS, and PBGC officials told us that to some extent, they use all of the information collected on the Form 5500. However, the form still lacks key information that could better assist these three agencies in monitoring plans and ensuring that they are in compliance with the law. For example, each agency is unable to accurately identify and track all plans from one year to the next based on Form 5500 information, which impairs Labor's ability to verify whether all required employers are meeting the statutory requirement to file a Form 5500 annually. Additionally, PBGC is unable to identify employers participating

in multiemployer pension plans and the risks attending their financial condition, leaving the agency unable to gauge the impact that events such as employer bankruptcies, withdrawals, and labor strikes would have on multiemployer plans, their participants, and PBGC's multiemployer insurance program. In addition, federal agency officials and researchers who use Form 5500 information say that the form has not kept pace with changes that have occurred in the pension plan universe, such as the shift from defined benefit to defined contribution plans. Consequently, the form lacks certain information on defined contribution plans that they say would give them further insight into the condition of the private pension plan universe, such as detailed financial information on plan fees and 401(k) plan matching contributions, which could be used for research or regulatory purposes. With regard to defined benefit plans, federal and private sector researchers said the form does not collect data that would inform users whether defined benefit plans have sufficient assets to meet their obligations in the event of the plan's termination. Although federal agency officials and others said the form lacks certain information, pension practitioners and service providers told us that it could be further streamlined by removing certain items and consolidating schedules.

Because the Form 5500 is the only comprehensive source of financial and other plan information on private pension plans collected on a regular basis, and is therefore important to pension policy development and enforcement, we make several recommendations to Labor, IRS, and PBGC that are intended to improve the timeliness and content of Form 5500 pension information. These recommendations include (1) requiring the electronic filing of Form 5500 Reports, (2) working collectively to better identify and track plans from year to year, and (3) modifying the Form 5500 to collect additional information on multiemployer pension plans. In general, Labor, IRS, and PBGC agreed with our recommendations. Additionally, PBGC proposed an additional recommendation regarding the timeliness of defined benefit pension plan funding information reported on Form 5500 Schedule B. The Administration's pension reform proposal includes a provision that would advance the statutory reporting date for the Schedule B to February 15 for certain large defined benefit plans. Although our work focused on the timeliness of processing Form 5500 data, we agree that advancing the reporting date for certain plans could be an important element of comprehensive pension reform.

Background

ERISA and the IRC require administrators of pension and welfare benefit plans (collectively referred to as employee benefit plans) to file annual reports concerning, among other things, the financial condition and operation of plans. Labor, IRS, and PBGC jointly developed the Form 5500 so that plan administrators can satisfy this annual reporting requirement.⁶ The requirements for completing the form vary according to the type of plan. If a company sponsors more than one plan, it must file a Form 5500 for each plan. Additionally, ERISA and the IRC provide for the assessment or imposition of penalties by Labor and IRS for plan sponsors not submitting the required information when due.⁷

Form 5500 Reports are shared among Labor's Employee Benefits Security Administration (EBSA), IRS, PBGC, and the Social Security Administration (SSA), and each agency uses the Form 5500 to meet its statutory obligations. EBSA is responsible for the administration and enforcement of ERISA, and its primary purpose is to protect the pension, health, and other benefits of participants in private sector employee benefit plans. IRS oversees the tax code provisions of the law. PBGC is a federal government corporation that guarantees the payments of pension plan benefits to participants in the event that covered defined benefit pension plans terminate while underfunded. SSA is responsible for notifying each new Social Security or Medicare claimant for whom it has pension benefit information. Form 5500 Reports are also made available to other federal agencies and researchers through Labor. Once the forms for a given plan year are processed by EFAST they are available for enforcement and public disclosure purposes. In addition, after the forms are edited by Labor, the information is compiled into a database of usable computerized Form 5500 information, known as the research file, which includes information from all plans with over 100 participants and a 5 percent sample of all of the smaller plans. The research file is used by various federal agencies and pension researchers for conducting policy research and developing government statistics.

⁶A plan administrator is the person specifically designated by the terms of the instrument under which the plan is operated.

⁷A plan sponsor is defined as the employer, in the case of a single-employer plan, or employee organization in the case of a plan established or maintained by two or more employers or jointly by one or more employers or employee organizations.

Beginning with plan year 1999, EBSA assumed the administrative responsibility for accepting all Form 5500 filings, electronic and otherwise, which had previously been filed with IRS. As part of the switch, Labor, IRS and PBGC adopted EFAST, which was designed to expedite the receipt and processing of Form 5500 filings by relying on paper forms and electronic filing technologies. Collectively, all three agencies have authority to mandate the electronic filing of the Form 5500.⁸

There are various types of Form 5500 filers. Filers are classified as either single-employer plans, multiemployer plans, multiple-employer plans, or direct filing entities (DFEs). In general, a separate Form 5500 must be filed for each plan or DFE. Single-employer plans are plans that are maintained by one employer or employee organization. Multiemployer plans are established pursuant to collectively bargained pension agreements negotiated between labor unions representing employees and two or more employers, and are generally jointly administered by trustees from both labor and management. Multiple-employer plans are plans maintained by more than one employer and are typically established without collective bargaining agreements. DFEs are trusts, accounts, and other investment or insurance arrangements that plans participate in and that are required to or allowed to file the Form 5500.⁹

Filers have a normal deadline of 210 days after the end of the plan year to submit their Form 5500 Reports. For example, under the filing deadlines for plan year 2001, a calendar year filer must file its Form 5500 by July 31, 2002. However, a non-calendar year plan, for example, that has a plan year that runs from October 1, 2001 to September 30, 2002 would have until April 30, 2003 to file its Form 5500.¹⁰

When the Form 5500 was first developed, nearly 30 years ago, more participants were covered by defined benefit plans than by defined

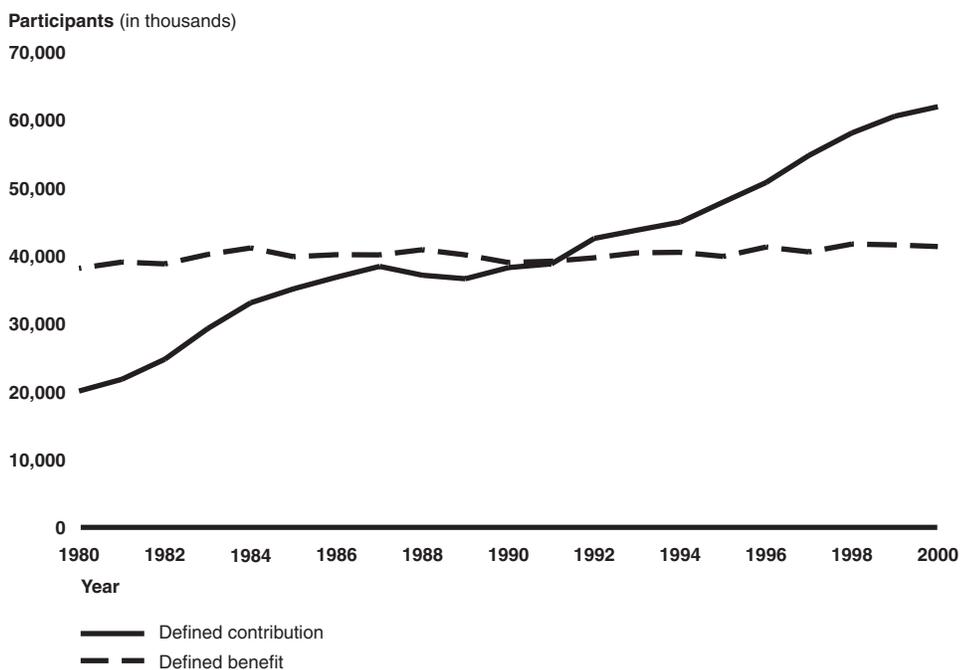
⁸Labor officials told us that under Title I of ERISA they have authority to require the electronic filing of their respective components of the Form 5500. PBGC officials said they have similar authority under Title IV of ERISA. IRS officials also said that under IRC they have authority to require the electronic filing of their respective components of the Form 5500.

⁹These trusts, accounts, and other investment arrangements include master trust investment accounts (MTIAs), common or collective trusts (CCTs), pooled separate accounts (PSAs), and 103-12 investment entities (103-12 IEs).

¹⁰Labor regulations operationalize the deadline to the end of the seventh month after the close of the plan year (29 C.F.R. sec 2520.104a-5).

contribution plans. As shown in figure 1, in 2000, defined contribution plans had about 62 million participants, while defined benefit plans had about 41 million participants.

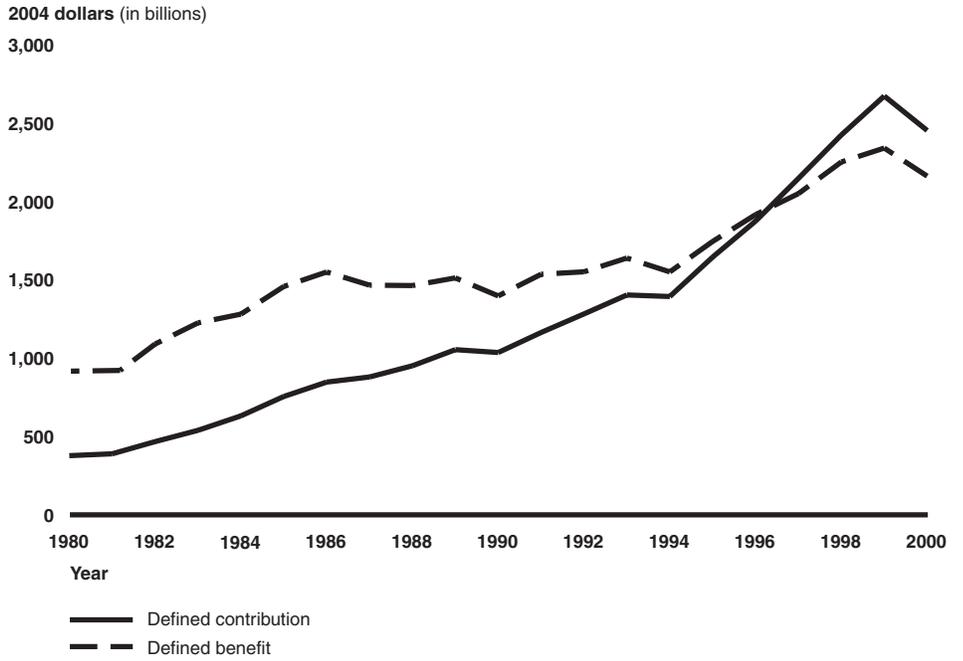
Figure 1: Participants of Defined Benefit and Defined Contribution Pension Plans, 1980-2000



Source: *Private Pension Plan Bulletin: Abstract of 1999 Form 5500 Annual Reports*, Labor. Data for year 2000 comes from Labor's 2000 preliminary Form 5500 research file.

As shown in figure 2, as of 1997, assets held by defined contribution plans exceed those held by defined benefit plans.

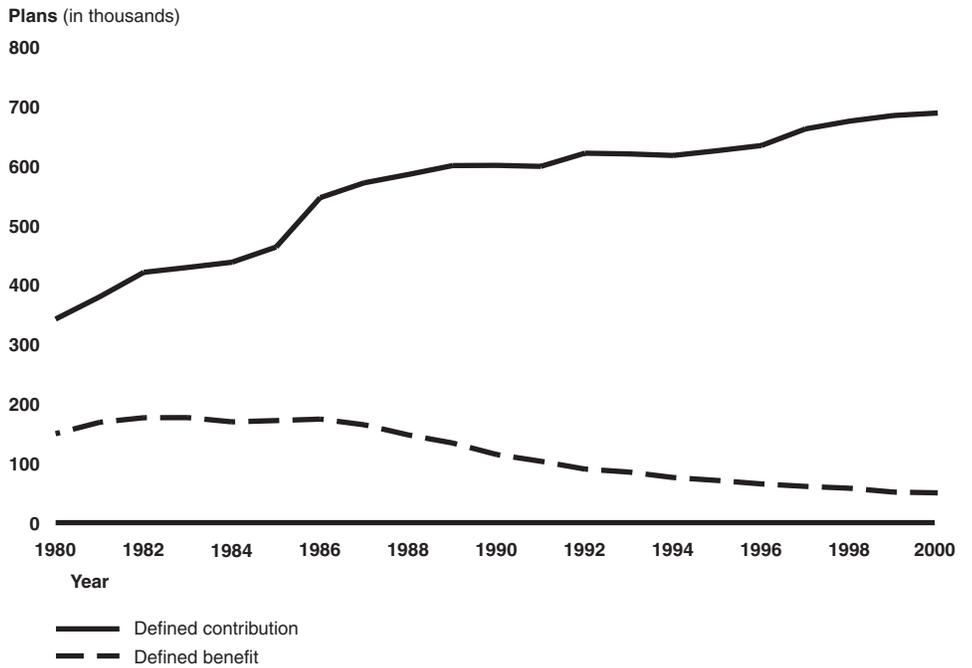
Figure 2: Assets of Defined Benefit and Defined Contribution Pension Plans, 1980-2000



Source: *Private Pension Plan Bulletin: Abstract of 1999 Form 5500 Annual Reports*, Labor. Data for year 2000 comes from Labor's 2000 preliminary Form 5500 research file.

As shown in figure 3, as of 2000, employers sponsored over 687,000 defined contribution plans compared with about 49,000 defined benefit plans.

Figure 3: Defined Benefit and Defined Contribution Pension Plans, 1980-2000



Source: *Private Pension Plan Bulletin: Abstract of 1999 Form 5500 Annual Reports*, Labor. Data for year 2000 comes from Labor's 2000 preliminary Form 5500 research file.

Unlike defined contribution plans, where benefits are based on investment returns on individual accounts, benefits provided by defined benefit pension plans are partially insured by PBGC. In the case of a single-employer defined benefit plan, PBGC guarantees benefits when an underfunded plan terminates. For multiemployer defined benefit pension plans, the agency guarantees benefits when a plan becomes insolvent, which is when a plan's available resources are not sufficient to pay the level of benefits at PBGC's guaranteed level. PBGC's insurance programs and its operations are financed through premiums paid annually by plan sponsors, investment returns on PBGC assets, assets acquired from terminated single-employer plans, and recoveries from employers responsible for underfunded terminated single-employer plans.¹¹ Premium revenue totaled about \$1.485 billion in 2004, of which \$1.458 billion was

¹¹PBGC receives no funds from federal tax revenues, but it is authorized under ERISA to borrow up to \$100 million from the federal treasury if it has inadequate resources to meet its responsibilities.

paid into the single-employer insurance program and \$27 million paid to the multiemployer insurance program. This is the highest premium revenue PBGC has ever received. In contrast, in 2004 PBGC paid \$3.007 billion in benefit payments and provided over \$10 million in financial assistance to insolvent multiemployer pension plans.

The termination of several large, underfunded defined benefit pension plans of bankrupt firms in troubled industries has worsened the single-employer program's net financial position. After fluctuating over the last decade, the single-employer insurance program now has a large and growing accumulated deficit and has moved from a \$9.7 billion accumulated surplus in 2000 to a \$23.3 billion accumulated deficit in 2004. Additionally, the agency's multiemployer insurance program has a current deficit of \$236 million. Because of the decline in the financial condition of the single-employer program, GAO placed it on its high-risk list of programs with significant vulnerabilities to the federal government.

Form 5500 Reports Provide Detailed Private Pension Plan Information, Which Is Primarily Used to Determine Compliance with Federal Laws

Detailed information on private pension plans is reported on the Form 5500 and is used by Labor, IRS, and PBGC for compliance, research, and public disclosure purposes. Each agency uses data from Form 5500 Reports primarily as a means to identify actual and potential violations of ERISA and the IRC, as well as for research and policy formulation. Other federal agencies, private sector entities, and researchers also use Form 5500 data in assessing employee benefit, tax, and economic trends and policies. The Form 5500 is also made widely available to the general public.¹²

¹²Although most of the Form 5500 information reported is made available, certain information, including that reported on Schedule E and Schedule SSA is not, as noted in table 1.

Form 5500 Reports Provide Detailed Information about the Financial Condition and Operation of Private Pension Plans

The Form 5500 is used to collect important information about the financial health and operation of private pension plans. Similar to the structure of an income tax form, the Form 5500 has multiple parts. As shown in table 1, there is the Form 5500 and its 12 schedules. The main part of the form provides basic information to identify the plan and type of plan. The form's schedules provide more specific information about the plan, such as financial information, actuarial information, and insurance information.

Table 1: Information Reported on the Form 5500 and Schedules

Form 5500—Annual Report Identification

- Basic plan identification information and basic information about the plan:
 - Contact information is provided on the plan's sponsor and administrator.
 - Information on plan features and on the number of plan participants is reported.
 - Information on the general arrangements for funding and benefits is reported on the form.

Plan Financial Information:

Schedule A—Insurance Information

- Insurance information is filed for every defined benefit pension plan, defined contribution pension plan, and welfare benefit plan if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization (such as Blue Cross, Blue Shield, or a health maintenance organization). This includes investments with insurance companies such as guaranteed investment contracts (GICs).

Schedule C—Service Provider Information

- Information on the service providers is for large plans mostly.
- Plans file this if their service provider was paid \$5,000 or more and/or if an accountant or actuary was terminated in the course of the plan year.

Schedule D—DFE/Participating Plan Information

- Filed when the Form 5500 is filed for a DFE or a plan that invested or participated in any DFEs, CCTs, MTIAs, 103-12 IEs, and/or PSAs,
 - Part I provides information about plan investment or participation in these entities.
 - Part II provides information about plans participating in the DFE.

Schedule G—Financial Transaction Schedules

- Schedule G is used to report:
 - loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year,
 - leases in default or classified as uncollectible, and
 - nonexempt transactions.

Schedule H—Financial Information

- Information on the asset holdings of large plans and DFEs.

Schedule I—Financial Information—Small Plan

- Information on the asset holdings of small plans.
-

Schedule P—Annual Return of Fiduciary

- The statute of limitations under section 6501(a) for any trust described in section 401(a), which is exempt from tax under section 501(a), will not start to run until this schedule is filed. The fiduciary (trustee or custodian) must sign this schedule. If there is more than one fiduciary, the fiduciary authorized by the section 501(a).

Accountant's Report

- The accountant's report is an audited financial statement of the plan's operations. The report is prepared by an independent qualified accountant and contains the accountant's opinion as to whether the financial statements of the plan conform to generally accepted accounting principles.

Pension Benefit Information:

Schedule B—Actuarial Information

- This schedule contains actuarial information on the plan assets and liabilities and on the actuarial assumptions used to calculate these.
- Filed for defined benefit plans subject to minimum funding standards.
 - An enrolled actuary must sign Schedule B.
 - A stamped or machine-produced signature is not acceptable.

Schedule E—Employee Stock Ownership Plan (ESOP) Annual Information

- ESOPs complete and information only goes to IRS.

Schedule R—Retirement Plan Information

- Schedule R reports certain information on plan distributions, and funding, and the adoption of amendments increasing the value of benefits in a defined benefit pension plan.

Schedule SSA—Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits

- Schedule SSA is used to report all participants with deferred vested benefit rights who separate from a company during the plan year.
- This information goes to SSA and is not made available to the general public.

Schedule T—Qualified Pension Plan Coverage

- Schedule T is used by certain qualified pension plans to provide information concerning the plan's compliance with the minimum coverage requirements of Code section 410(b), including the number of employees as well as the number of employees who are excluded from the plan.

Source: 2004 Form 5500 Annual Report and its instructions.

Form 5500 schedules are used to collect more in-depth information, including data on assets, liabilities, insurance, and financial transactions. These schedules can be separated into two distinct groups: those that contain financial information on the plan and those that contain information on the benefits that the plan expects to pay out. For example, the Schedule H is a key financial schedule and includes an accountant's report along with an audited financial statement of the plan's operations. Information from the financial schedules helps to provide a picture of a plan's financial condition, while the benefit schedules collect information on the contributions to and distributions made from the plan in the current and future years. Information collected on the benefit schedules helps to provide a picture of the pension plan's benefits and benefit promises.

Different sizes and types of plans must meet different requirements. (See table 2.) For example, small defined benefit and defined contribution plans must file a Schedule I rather than the more detailed Schedule H required for a large pension plan.¹³ Additionally, unlike defined contribution plans, defined benefit plans are required to file Schedule B, including the signature of an Enrolled Actuary attesting to the completeness, accuracy, and reasonableness of the actuarial calculations, along with an attachment of any clarifying material not reported on the schedule itself.¹⁴

Table 2: Filing Requirements for Form 5500, Schedules, and Attachments

Quick Reference Chart for Form 5500, Schedules, and Attachments^a

	Large Pension Plan	Small Pension Plan
Form 5500	Must complete.	Must complete.
Schedule A (Insurance Information)	Must complete if plan has insurance contracts for benefits or investments.	Must complete if plan has insurance contracts for benefits or investments.
Schedule B (Actuarial Information)	Must complete if defined benefit plan and subject to minimum funding standards.	Must complete if defined benefit plan and subject to minimum funding standards.
Schedule C (Service Provider Information)	Must complete if a service provider was paid \$5,000 or more and/or an accountant or actuary was terminated.	Not required.
Schedule D (DFE/ Participating Plan Information)	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.	Must complete Part I if plan participated in a CCT, PSA, MTIA, or 103-12 IE.
Schedule E (ESOP Annual Information)	Must complete if ESOP.	Must complete if ESOP.
Schedule G (Financial Transaction Schedules)	Must complete if Schedule H, line 4b, 4c, or 4d is "Yes."	Not required.
Schedule H (Financial Information)	Must complete.	Not required.
Schedule I (Financial Information— Small Plan)	Not required.	Must complete.
Schedule P (Annual Return of Fiduciary of Employee Benefit Trust)	Must file to start running of statute of limitations under Code section 6501(a).	Must file to start running of statute of limitations under Code section 6501(a).

¹³Small pension plans are also not generally required to file Schedule C, Schedule G, and the Accountant's Report. A small plan is generally a plan that has fewer than 100 participants.

¹⁴An Enrolled Actuary is any individual who has satisfied the standards and qualifications as set forth in the regulations of the Joint Board for the Enrollment of Actuaries and who has been approved by the Joint Board to perform actuarial services required under ERISA.

Quick Reference Chart for Form 5500, Schedules, and Attachments^a

	Large Pension Plan	Small Pension Plan
Schedule R (Retirement Plan Information)	Must complete.	Must complete.
Schedule SSA (Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits)	Must complete if plan had separated participants with deferred vested benefits to report.	Must complete if plan had separated participants with deferred vested benefits to report.
Schedule T (Qualified Pension Plan Coverage Information)	Must complete if qualified plan unless permitted to rely on coverage testing information for prior year.	Must complete if qualified plan unless permitted to rely on coverage testing information for prior year.
Accountant's Report	Must attach.	Not required unless Schedule I, line 4k, is checked "No."

Source: 2004 Instructions for Form 5500.

^aThis chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 instructions for complete information on filing requirements.

Form 5500 Reports Are Used for Monitoring Compliance and Enforcement

Labor, IRS, and PBGC use Form 5500 Reports as a compliance tool to identify actual and potential violations of ERISA and the IRC. Each agency has a unique statutory responsibility and uses the information on the form for monitoring and enforcement purposes. Agency officials said that each agency has developed computerized systems that analyze the reported information to help them ensure that plans are in compliance with applicable laws.

Although Labor officials said that the most effective source of leads on violations of ERISA, such as delinquent participant contributions, were complaints from plan participants, computer searches and targeting of Form 5500 information on specific types of plans account for approximately 25 percent of case openings. Labor is currently using plan year 2002 and 2003 Form 5500 information for computer targeting. Labor officials told us that they open about 4,000 investigations into actual and potential ERISA violations annually. Labor officials said an early step when opening an investigation is to review the available Form 5500 Reports to identify names and contact information for the plan, its corporate sponsor, and its plan administrator. Labor officials said they use Form 5500 data to enforce ERISA reporting and disclosure provisions and fiduciary standards.

IRS officials told us that they use Form 5500 data to examine plan financial transactions and to target plans for examination. Pension law provides significant tax benefits for sponsors of certain retirement plans and the

employees that participate in them. IRS enforces certain minimum funding requirements of ERISA and the IRC. IRS officials said the purpose of IRS examinations is to ensure plan sponsors are making contributions to the plan as required, the assets truly exist to satisfy the liabilities and are classified properly, and that plans are operating in accordance with plan design. IRS can levy penalties, taxes, and interest charges as well as completely disqualify a tax-exempt plan from tax-exempt status if major violations are found.

In fiscal year 2004, IRS examined more than 10,700 plans and 91 percent of these examinations were based solely on Form 5500 information, and an additional 5 percent were based in part on Form 5500 information. IRS uses its Returns and Inventory Classification System (RICS) to select plans for review based on Form 5500 Reports. For example, after IRS had determined that a pension practitioner was involved with tax-abusive schemes, it used available contact information listed on the Form 5500 to create a list of over 400 sponsors who had filed their Form 5500 Reports using the address of the practitioner who allegedly designed these schemes.

PBGC uses Form 5500 information to monitor both single-employer and multiemployer defined benefit pension plan activities, focusing on assets, liabilities, number of participants, and funding levels. Form 5500 information is also used to forecast PBGC's potential liabilities. PBGC's data on multiemployer plans currently come only from Form 5500 Reports, while single-employer plan data are supplemented with information obtained from other filings and submissions with the government and from corporate annual returns.¹⁵ PBGC officials said the agency is particularly interested in single-employer and multiemployer plans with financial problems. For both types of plans, PBGC officials said they maintain a database of financial information about such plans drawn from Form 5500 Reports, premium filings, and other data in order to determine which plans may be at risk of requiring PBGC financial assistance.

PBGC officials also said they use the Form 5500 for participant notice and PBGC insurance premium compliance. For example, PBGC reviews Form 5500 filings to ensure that plan sponsors of underfunded plans report

¹⁵Corporate annual returns mentioned here refer to Securities and Exchange Commission (SEC) 10-K filings. The federal securities laws require certain publicly traded companies to disclose financial information on an ongoing basis. Domestic issuers (other than small business issuers) must submit such reports annually to the SEC on Form 10-K.

sending required participant notices to plan participants notifying them of the plan’s funding status and the limits of PBGC’s guarantee benefits. If a participant notice is not issued as required, agency officials said they may assess penalties. PBGC officials also said they use Form 5500 information on plan type and level of underfunding to help ensure that plans are making the appropriate premium payments (which vary by type of plan and the extent of underfunding). They also said the agency has an “intercept program” arrangement with the EFAST processor. Through this program, PBGC has identified over 2,000 plans it is most interested in and has made arrangements for copies of these Form 5500 filings to be mailed to PBGC before being processed.

Federal Agencies and Others Use Form 5500 Information for Research and Statistical Purposes

Form 5500 information is also used for research and statistical purposes. Labor and PBGC officials told us that Form 5500 information is an integral part of their policy research. Labor officials said that EBSA’s Office of Policy and Research (OPR) uses Form 5500 information to assist in developing regulations and to prepare its *Private Pension Plan Bulletin*. OPR also uses Form 5500 information to develop aggregate pension statistics and conduct economic research on relevant topics. OPR officials said they plan and administer an employee benefits research and economic analysis program to support EBSA policy and program priorities, respond to requests for data and findings, and provide technical assistance to EBSA offices, other Labor agencies, and external groups. Officials from PBGC’s Policy, Research, and Analysis Department said they use Form 5500 data to develop policies for PBGC’s insurance programs and conduct related research and modeling.

SSA is also a direct recipient of Form 5500 Reports. SSA officials said they receive information on name and address changes for plan administrators and information on mergers from pension plans. Plans file the Schedule SSA if they have vested participants who separated from the plan during the prior reporting period. SSA officials said they use the data to notify those participants or their survivors who apply for Social Security that they may have benefits from one or more private pension plans.

The Form 5500 is also a source of information that is used by other federal agencies. In our discussions with federal agency officials, we found they use Form 5500 information for government research and preparing government statistics. For example, some federal agencies use the information in assessing employee benefits and taxes, determining economic trends, and evaluating policies. As shown in table 3, different federal agencies use Form 5500 information for different purposes.

Table 3: Examples of Federal Agencies That Use Form 5500 Information

Bureau of Economic Analysis (Department of Commerce):

- Form 5500 data is incorporated into the compensation of employees segment of the National Income and Product Accounts.^a

Census Bureau (Department of Commerce):

- Matches Form 5500 data to the Census Bureau's Business Register.
- Is exploring how the Form 5500 can improve coverage estimates and reconcile inconsistencies in the current data collection (the Current Population Survey and the Survey of Income and Program Participation).

Congressional Budget Office:

- Uses Form 5500 information to evaluate the financial condition of PBGC.
- Uses information to assess pension reform issues.

Congressional Research Service:

- Uses Form 5500 information to conduct pension research.
- Answer questions from members of the Congress regarding private pension plans.

Employee Benefits Security Administration (Department of Labor):

- Uses Form 5500 information for enforcing ERISA pension requirements.
- Uses Form 5500 information for research and policy analysis.
- Discloses Form 5500 information to the public.
- Publishes aggregate summary information in its annual *Private Pension Plan Bulletin*.

Federal Reserve Board:

- Primarily uses Form 5500 data for the Flow of Funds financial sectors.^b
- Form 5500 data is used as a benchmark for estimating current holdings of pension plans.
- Form 5500 data is also used for other research purposes.

Government Accountability Office:

- Uses Form 5500 data for pension research.
- Conducts studies and prepares testimonies for the Congress.

Internal Revenue Service (Department of the Treasury):

- Enforce ERISA and IRC pension requirements.
- Conducts studies to identify and monitor pension plan noncompliance.

Joint Committee on Taxation:

- Uses Form 5500 data in calculating revenue estimates.

Office of Tax Policy (U.S. Department of the Treasury):

- Uses Form 5500 data in calculating revenue.

Pension Benefit Guaranty Corporation:

- Uses Form 5500 information for enforcing ERISA pension requirements.
 - Uses Form 5500 information for research, and policy analysis.
 - Uses Form 5500 information to monitor single-employer and multiemployer plan activities.
 - Uses Form 5500 information for its Pension Insurance Modeling System and Multiemployer Evaluation System.
 - Annually prepares the *Pension Insurance Data Book* which reports summary information on pension plans and PBGC finances.
-

Social Security Administration:

- Uses Form 5500 and Schedule SSA information to comply with ERISA and Social Security Act requirements.
 - Uses information from the Schedule SSA to notify certain individuals that they may be eligible for deferred vested benefits from private pension plans.
-

Source: GAO analysis.

^aThe National Income and Product Accounts provides an aggregated view of the final uses of the nation's output, and the income derived from its production; two of its most widely known measures are gross domestic product (GDP) and gross domestic income (GDI).

^bThe flow of funds accounts measure financial flows across sectors of the economy, tracking funds as they move from those sectors that serve as sources of capital, through intermediaries (such as banks, mutual funds, and pension funds), to sectors that use the capital to acquire physical and financial assets. Federal Reserve Board officials said they estimate pension plan assets using the latest available information from EBSA's Office of Policy Research and are currently using 1999 Form 5500 information.

Finally, others outside of the federal government use Form 5500 information. Pension researchers told us they use Form 5500 information to determine employer contributions to defined benefit plans, employer pension costs for defined contribution plans, and data on the relationship between collective bargaining and pensions. Additionally, researchers said they have used information from the Form 5500 to determine the extent of cash balance defined benefit plans. Benefit consulting firms also use Form 5500 information. Consultants from one firm told us they use Form 5500 information for a variety of client-sponsored projects such as studying the time it takes an active participant to become vested and comparing single-employer with multiemployer pension plans. Others said that they repackage and sell information from Labor's Form 5500 data after editing it and verifying contact information for large plans.

Form 5500 Reports Are Made Available to the Public

The Form 5500 is also an important public disclosure document. The public disclosure of the form is a Labor function required by ERISA. According to Labor officials, the form is the only source of detailed financial information available to plan participants and beneficiaries, who upon written request must be furnished a copy of the plan's latest Form 5500 by the plan administrator. Moreover, the form serves as a basis for the Summary Annual Report (SAR), which plan administrators are generally required to furnish to each participant and beneficiary annually.

Labor also maintains a public disclosure room so that Form 5500 Reports and related plan information are available to public agencies, private organizations and individuals for review. Labor officials said in fiscal year 2004, EBSA's Public Disclosure Office received about 1,800 requests for Form 5500 Reports and provided about 5,200 documents in response to

these requests. Labor officials said making the form publicly available is intended to serve as a deterrent to non-compliance with the statutory duties imposed on plan fiduciaries. EBSA also makes its Form 5500 research file available in electronic format to individuals and groups for research purposes. In addition, separate from the research file, an electronic database of all available publicly disclosable filings is made available in response to Freedom of Information Act requests. Information from Form 5500 Reports is also made available through private parties. For example, electronic facsimiles of publicly available Form 5500 filings can be obtained free of charge at FreeErisa.com.

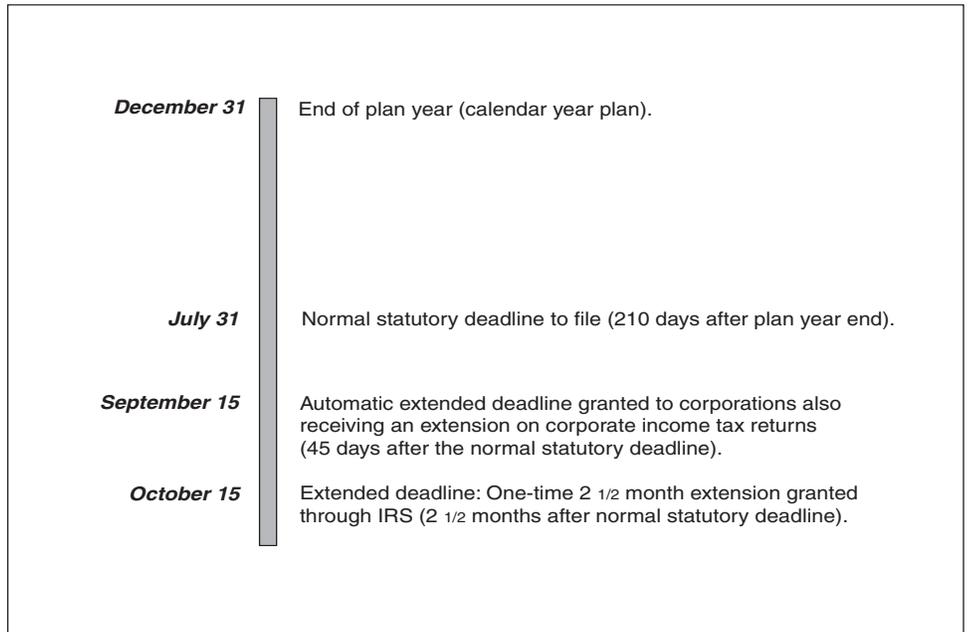
Statutory Reporting Requirements, Current Processing Methods, and Labor Practices Delay the Release of Form 5500 Information

Statutory reporting requirements, EFAST processing issues, and current Labor practices delay the release of Form 5500 information for up to 3 years in some cases. Current statutory requirements allow plan sponsors up to 285 days following the end of their plan year to file their Form 5500 Reports. Once the reports are filed, processing of the reports is slowed by some of EFAST's procedures. Labor's practice of not releasing the research file—Form 5500 information in its most practical form—until it has processed all forms from a plan year results in further delays. Agency officials told us that the timeliness of Form 5500 Reports affects their use of the information.

Current Statutory Reporting Requirements Limit the Timeliness of Form 5500 Information

The length of time plan sponsors have to file their Form 5500 Reports is determined by the statutory reporting requirements. Under ERISA, plan sponsors have a normal deadline of 210 days after the end of the plan year to file and may then apply to IRS for an annual automatic one-time 2 ½ month extension. Thus, plan sponsors can take up to 285 days from the end of the plan year to file their Form 5500 reports. For example, as shown in figure 4, for a calendar year plan that ends on December 31, a plan sponsor has until July 31 to file the Form 5500. If the plan sponsor requests an extension, the new deadline would be October 15.

Figure 4: Example of Statutory Deadlines to File Form 5500 for Calendar Year Plan



Source: GAO analysis of Form 5500 filing deadlines.

Note: Labor regulations operationalize the deadline to the end of the seventh month after the close of the plan year.

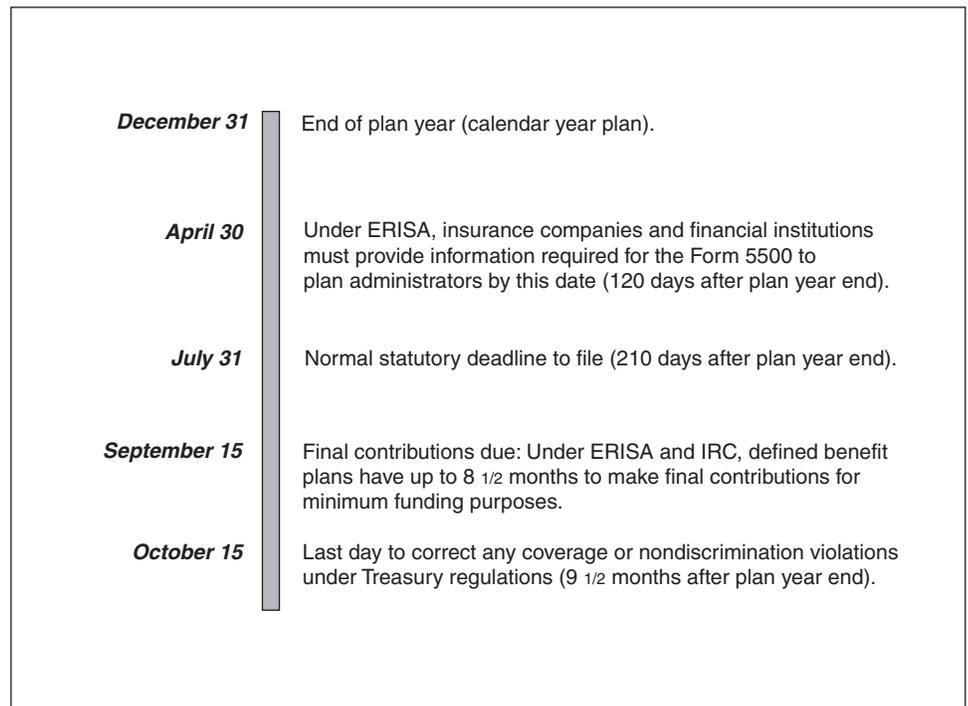
An additional 45-day extension from the normal statutory deadline is also automatically given to corporations receiving an extension on their federal income taxes.¹⁶ However, an extension granted by using this automatic extension procedure cannot be extended further by using the one-time 2 1/2 month extension. Labor, IRS, and PBGC may also grant special extensions of time, beyond the 285 day extended deadline, for events such as presidentially declared disasters or for service in, or in support of, the armed forces of the United States in a combat zone.

The current statutory filing requirements are also intertwined with other statutory deadlines relating to private pension plans (See fig. 5). For example, under ERISA, certain providers, such as insurance companies

¹⁶This extension is granted as long as the following three conditions are met: (1) the plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its federal income tax return to a later date than the normal due date for filing the Form 5500; and (3) a copy of the application for extension of time to file the federal income tax return is attached to the Form 5500.

and financial institutions, have 120 days after the plan year to provide information to the plan administrator.¹⁷ Then, under IRC and ERISA, defined benefit plans have up to 8 ½ months after the plan year end to make contributions for minimum funding purposes.¹⁸ Finally, under Treasury regulations, a plan has up to 9 ½ months after the end of the plan year to correct any coverage or nondiscrimination violations,¹⁹ which enables any corrections to be made and timely reflected on Schedule T of Form 5500.

Figure 5: Timeline of Statutory Deadlines for a Calendar Year Plan



Source: GAO analysis of ERISA, IRC, and Treasury requirements.

Note: Labor regulations operationalize the deadline to the end of the seventh month after the close of the plan year.

¹⁷ERISA § 103(a)(2).

¹⁸IRC § 412(c)(10).

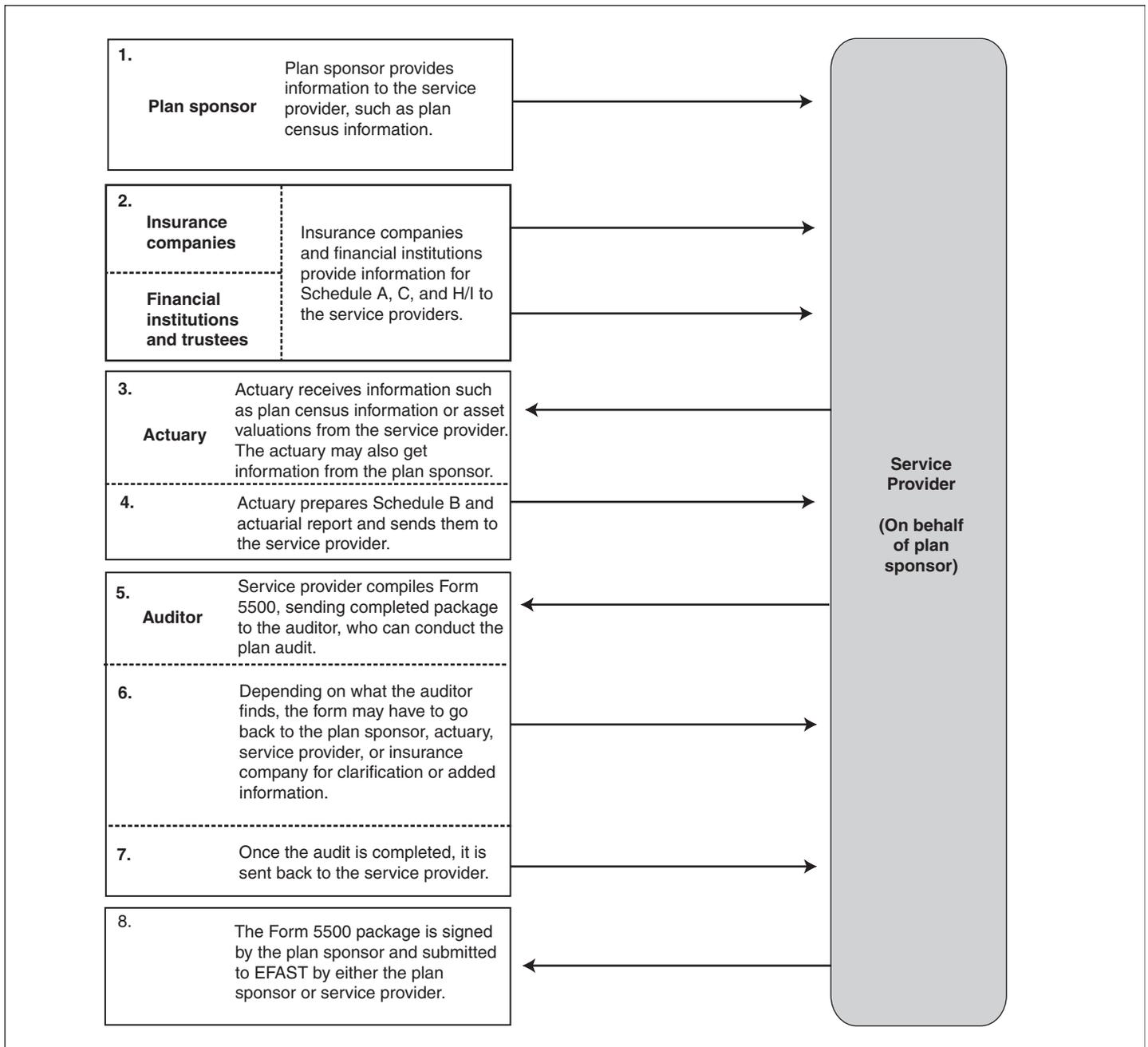
¹⁹26 C.F.R. § 1.401(a)(4)-11(g)

Service providers and plan sponsor representatives said that the 210 day time frame with extensions is necessary, given the amount of coordination with other parties that is needed to prepare the form and the obstacles that exist. Plan sponsors are ultimately responsible for filing the Form 5500. However, industry association representatives told us that many plan sponsors are relying heavily on service providers to help them prepare the form. In addition, there are numerous parties that must provide information to the plan sponsor or service provider in order to complete the Form 5500. For example:

- Financial institutions provide information on plan assets held in their custody.
- Insurance companies provide information about any benefits provided through or investments made with them, including commissions and fees paid by the plan sponsor for the year.
- Actuaries are responsible for preparing the Schedule B and attesting that the information and any assumptions being presented are both reasonable and represent the best estimates of anticipated experience under the plan.
- Auditors are required to review plan financial statements as well as any books or records of the plan that they deem necessary. This review enables them to form an opinion as to whether the financial statements and the schedules provided as part of the Form 5500 are presented fairly according to generally accepted accounting principles. They also provide an opinion as to whether the schedules present the information about the plan fairly when examined in conjunction with the financial statements as a whole.

Figure 6 shows an example of the coordination and information flow that must occur for service providers or plan sponsors to obtain information necessary to complete the Form 5500.

Figure 6: Example of Coordination and Information Flow Required for Form 5500 Preparation



Source: GAO analysis of ERISA requirements and testimonial evidence from service providers, actuaries, insurance companies, financial institutions, and accountants.

Parties involved in filling out the Form 5500 told us they face obstacles that limit the timeliness of form preparation. For example, some officials said that plan sponsors are busy preparing their corporate taxes, closing their books for the year end, and preparing appropriate SEC filings during the first quarter of the year and that these things cause them to be unable to provide information for Form 5500 preparation until March or April at the earliest.

Service providers, who often prepare the Form 5500 on behalf of plan sponsors, told us that gathering information from many different parties creates numerous obstacles that can delay preparation. Service providers said that it can be difficult to receive timely information from insurance companies, which is needed to complete the Schedule A. Service providers also said that receiving complete census data from plan sponsors can be difficult and often leads to delays in form preparation because of such problems as merging information from different databases, dealing with non-computerized retiree data, and identifying vested participants who have left the company. The data collection and the analysis of census data are further complicated when companies go through mergers, acquisitions, or divestitures, which can result in further delays. In addition, service providers said that many plan sponsors have outsourced their payroll function, which means that they have to get data from another party, which adds additional time.

Actuaries said they face certain obstacles that can affect the timeliness of Schedule B preparation for defined benefit plans. These officials said the biggest delay is due to funding rules that allow plan sponsors to make contributions up to 8 ½ months following the close of a plan year. Actuaries said they need to know all of the contributions that have been made in order to certify Schedule B of the form. In addition, actuaries said they must wait for plan sponsors to give them information such as asset valuations, which can take a long time to prepare; as a result, they are generally unable to begin preparing the Schedule B until May or June at the earliest for calendar year plans. In general, actuaries said that once they have all the information they need, it typically takes them up to 2 months to complete the Schedule B.

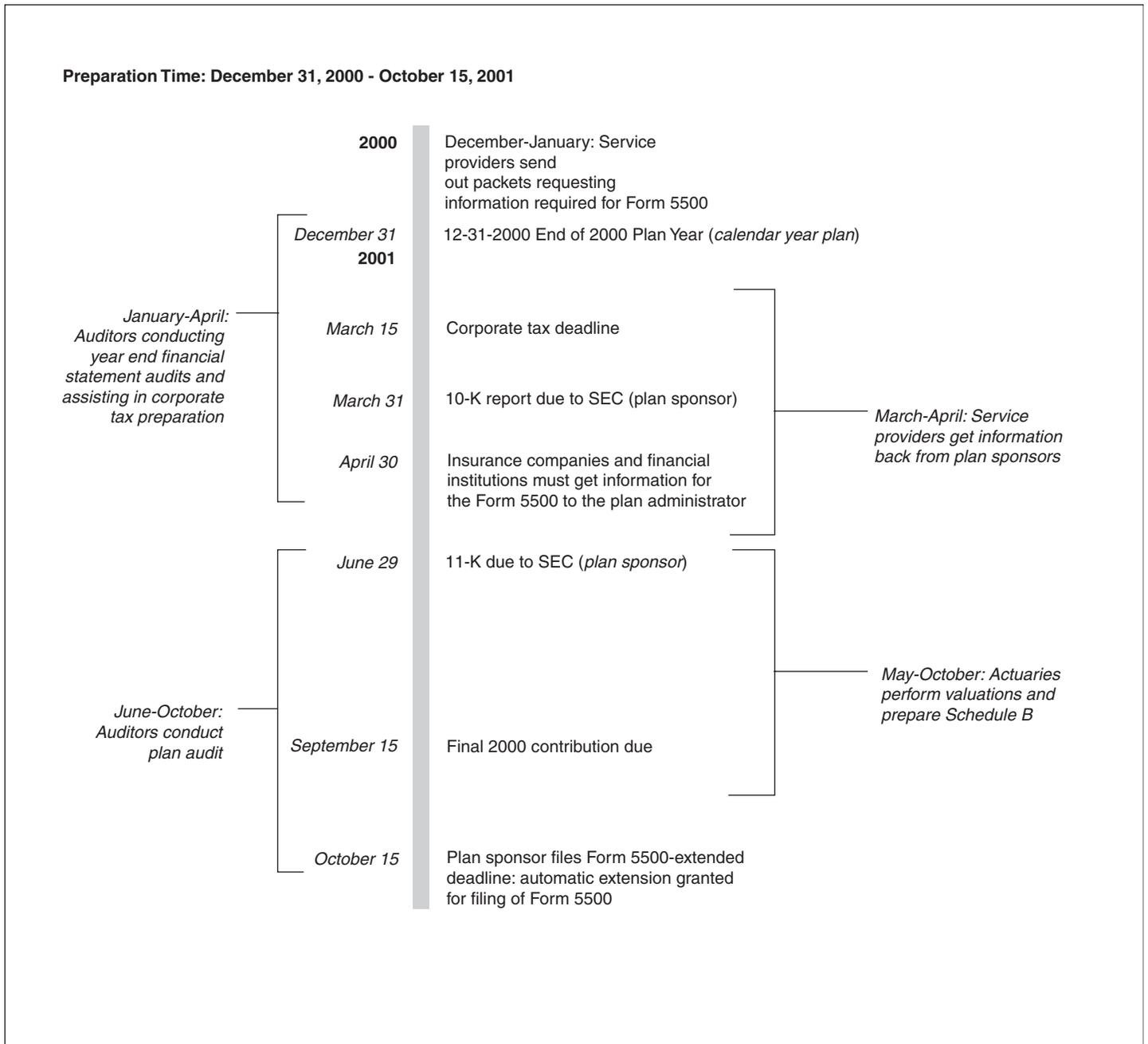
Audits are typically the last step in the preparation of the Form 5500 and can hold up submission of the form in many cases.²⁰ Auditors said that

²⁰Most pension plans with 100 or more participants have an audit requirement for the Form 5500.

scheduling a pension plan audit is often delayed because auditors are busy performing corporate year-end audit work and preparing corporate tax filings, and therefore they lack the time and resources to begin auditing pension plans until after April at the earliest. Officials from the larger auditing firms said that once they start working on pension plan audits, corporate work still takes precedence and if issues relating to a corporate audit arise, the pension plan audit will be put on hold. In addition, depending on any issues uncovered during the pension plan audit, auditors said they may need to go back to the plan sponsors, service providers, actuaries, or even the insurance companies and financial institutions to seek clarification or additional information. Auditors also said that this back and forth can be very time consuming, and sometimes small issues can hold up an entire audit. Once the audit is completed, it is typically sent back to the service provider, and then the completed Form 5500 Report is signed by the plan sponsor and submitted to EFAST for processing.

Figure 7 shows an example of the preparation timeline for all the parties involved in providing information to the service providers in order to prepare Form 5500 Reports, as well as the other requirements that the various parties must meet during this time frame.

Figure 7: Example of a Timeline of Form 5500 Preparation for a Calendar Year Defined Benefit Plan



Source: GAO analysis of ERISA, IRC, and SEC requirements and testimony from service providers, auditors, actuaries, insurance companies, financial institutions, and accountants.

All of the service providers, actuaries, and auditors we talked to said that given all the various commitments of the parties involved in preparing the Form 5500, it would be very difficult to shorten the Form 5500 filing deadline. Even given the current time frame, filings can get held up past the deadline and sponsors may be forced to file late. For example, if the actuarial report is not prepared in time to finish the plan audit by the October 15 deadline, a plan will have no choice but to file late or file an incomplete filing. According to statistics provided by Labor, 11 percent of all filers in 2001 filed late.

Paper Filings and EFAST Processes Further Affect the Timeliness of Form 5500 Information

The submission of numerous paper filings and certain EFAST processes limit the timeliness of Form 5500 report processing. Labor officials reported that the EFAST system processes approximately 25 million paper pages annually and that 98 percent of filers used paper forms in 2001, the most recent year for which data are available; this figure is consistent with prior years. EFAST officials said that under the current system, all filings are sent by the filers to a central processing facility in Lawrence, Kansas, operated by an outside contractor. Paper filings, once received and properly sorted, are scanned using advanced data capture software,²¹ and in some cases must be entered manually if the software is unable to process the form. After the forms are processed and scanned, they are run through edit checks and any errors are corrected. When the processing of the form is considered final, meaning any necessary corrections have been made, the information from the form is posted to the EFAST database. From there the information is then distributed to Labor, IRS, and PBGC on digital media. According to Labor officials, paper filings take more than three times as long as electronic filings to process and have nearly twice as many errors. As shown in figure 8, the abundance of paper filings results in long processing times, which delay the availability of the forms to the agencies.

²¹EFAST uses optical character recognition (OCR) software and 2D bar code technology to capture data from paper Form 5500 filings.

Figure 8: Form 5500 Reports



Source: Department of Labor.

According to Labor officials and the ERISA Advisory Council's²² working paper on electronic reporting, the electronic filing option of the current EFAST system has been underutilized by plan sponsors largely because of the fact that electronic filing is entirely voluntary.²³ In addition, service providers told us there are some obstacles to electronic filing. First, they said the current process of obtaining an electronic signature and personal identification number (PIN) is burdensome and time consuming. For example, in order to receive a PIN, a plan sponsor must file a paper application with Labor, a process that takes from 3 to 4 weeks. Second, plan sponsors also reported that currently there is little economic benefit to filing electronically because purchasing the software needed for electronic filing can be more costly than generating paper filings, with no corresponding benefit. Third parties such as actuaries and accountants must sign certain portions of the Form 5500 filings, which complicates the electronic filing process. These officials said they want to ensure that any information developed by them and attributed to them is not changed or altered after it leaves their control. Labor and others have made attempts to address these issues. In 2002, the ERISA Advisory Council issued a report recommending the use of Web-based technologies and requiring that Form 5500 Reports be filed electronically.²⁴

Resolving errors on Form 5500 filings, another paper-based process, can add up to 120 days to the processing of a form. EFAST officials said that whether a form is submitted in a paper format or electronically, the process for resolving errors or problems is paper based. We found that the EFAST system locates errors only after a form has been processed and seeks to resolve the error by mailing letters to plan sponsors. Labor will send up to two letters to receive clarification, providing plan sponsors up to 30 days to respond to each letter. In addition, Labor officials estimate

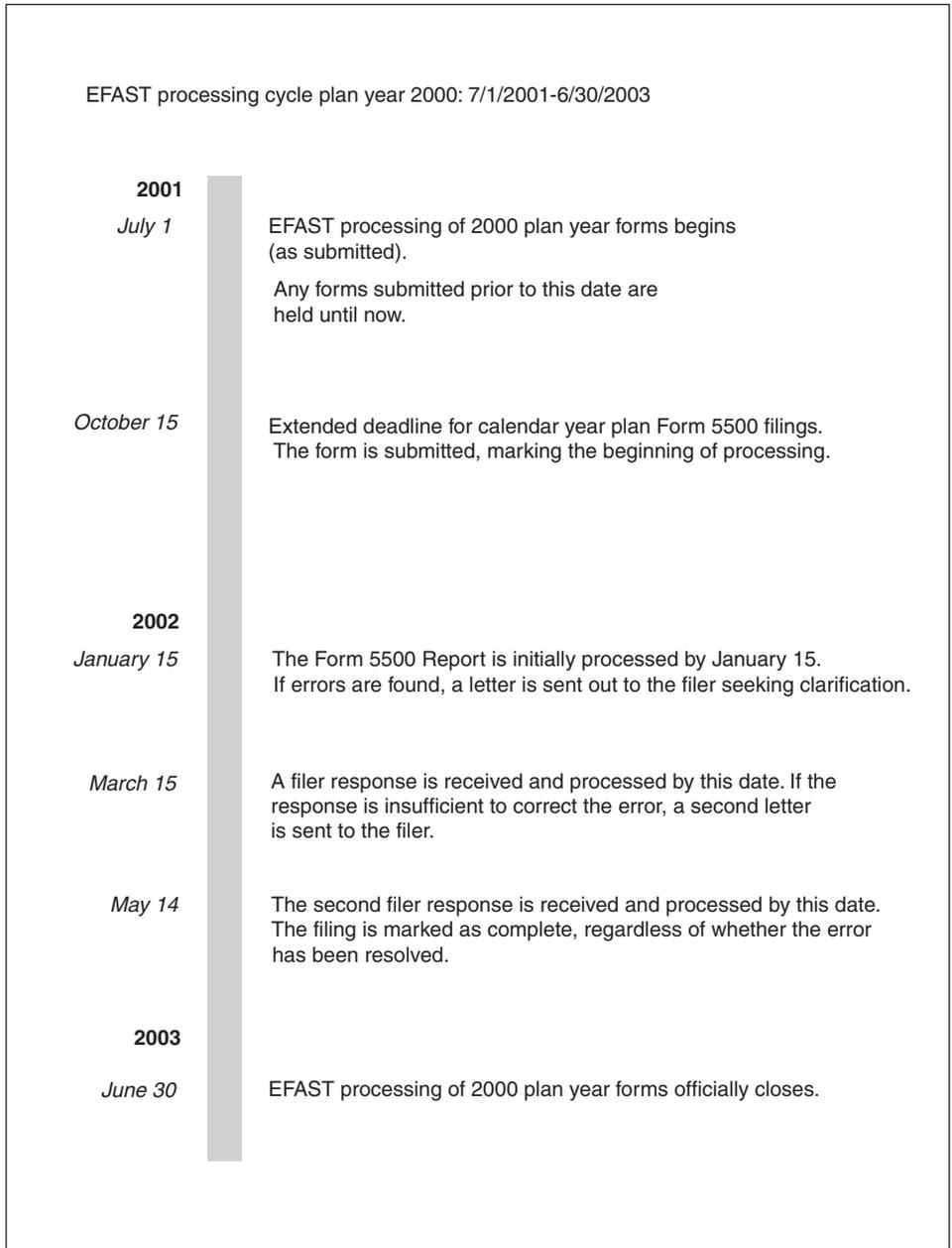
²²Section 512 of ERISA provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans. The council consists of 15 members appointed by the Secretary of Labor: three representatives of employee organizations (at least one of whom represents an organization whose members are participants in a multiemployer plan), three representatives of employers (at least one of whom represents employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three members of the general public.

²³"Report of the Working Group on Electronic Reporting," ERISA Advisory Council, November 8, 2002.

²⁴"Report of the Working Group on Electronic Reporting," ERISA Advisory Council, November 8, 2002.

that it takes roughly 30 days for mailing and processing, thereby adding up to 60 days in total for each letter to the overall processing time of Form 5500 Reports. Once two letters are sent, a filing is marked complete whether a resolution was achieved or not. As shown in figure 9, a Form 5500 Report can be initially processed by January 15, but if there are errors it may not be completed until May 14.

Figure 9: Example of a Form 5500 Being Processed through EFAST with Errors



Source: GAO analysis of EFAST procedures manual.

Note: The processing cycle remains open for 2 years to account for all filings, including non-calendar year filings that may be due up to a year after the filing used in the above example.

Labor officials said they initiated EFAST with the hope of achieving certain advantages provided by an electronic system, including better dissemination of information to the public, better access to data for regulatory agencies, and availability of more current data for participants and beneficiaries. Currently, Labor is looking into a new system to replace EFAST when its contract ends. The new system would build on the gains achieved through EFAST, utilizing Web-based technologies and mandatory electronic filing, as recommended by the 2002 ERISA Advisory Council Working Group report on electronic filing.

Labor's Need for Complete and Accurate Filing Records for a Plan Year Also Delays the Release of Certain Form 5500 Information

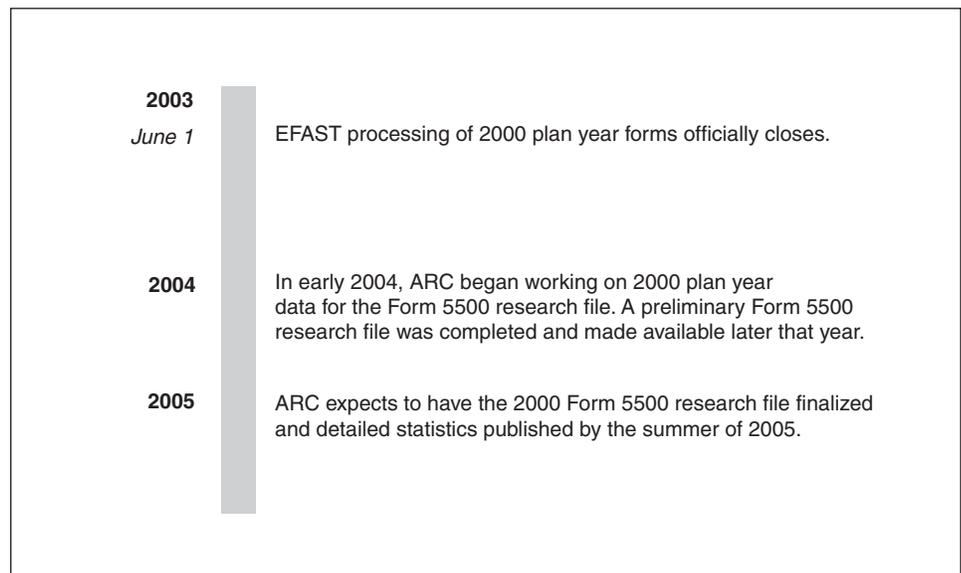
We found that currently Labor waits until EFAST has processed all filings for a plan year before finalizing work on the Form 5500 research file—Form 5500 information in its most practical form for producing aggregate statistics and conducting policy research. Labor officials said that waiting for all processing to be completed allows Labor to be more accurate and not be forced to use estimates for information in the research file. Under EFAST, the processing cycle for a plan year lasts 2 years to account for all types of filings, including non-calendar year plan filings. Since non-calendar year plan filings can be due up to a year later than calendar year plan filings,²⁵ the research file is often not available to end users until about 3 years after the end of the plan year. For example, in plan year 2001, 74 percent of all filings were calendar year plans, and for those plans that were filed on time, processing under the EFAST contract standards was to be completed by May 13, 2003. Labor began work on the 2001 research file in mid-2004. The long delay in releasing the research file results in a lack of timely information on the current state of pension plans for policy makers and researchers.

The need for adjustments to the EFAST system and the switch to an outside contractor, Actuarial Research Corporation (ARC), to prepare the research file have also delayed the release of the research file. Officials from ARC told us that part of the recent delays in releasing the 1999 Form 5500 research file is that the switch to EFAST in 1998 resulted in changes to the way that the data are collected and therefore new processes were required to develop the research file. In addition, Labor has included new

²⁵For example, under the current deadlines for plan year 2001, a calendar year filer must file its Form 5500 by July 31, 2002. However, a non-calendar year plan, for example, that has a plan year that runs from October 1, 2001 to September 30, 2002, would have until April 30, 2003 to file a Form 5500, or even longer if the filer receives available deadline extensions.

variables that are not in the raw dataset, adding more time. Plan year 2000 marks the first year that the research file will be produced by ARC; previously the file was produced within Labor. Because of the long delay in releasing the 1999 research file, ARC has gotten off to a delayed start on subsequent years. ARC officials said that they are currently working on the 2000, 2001, and 2002 research files. ARC officials also said that there is a significant learning curve associated with preparing the research file, and therefore they expect the time frame needed to prepare the research file to be shorter in the future. They estimated that once the processes for developing the file are in place, it should take roughly 4 months to produce a preliminary version. As shown in figure 10, they began work on the 2000 research file in early 2004 and expect to release it in the summer of 2005.

Figure 10: Timeline for the Preparation of the 2000 Form 5500 Research File



Source: GAO analysis of testimonial evidence from ARC.

The Timeliness of Form 5500 Reports Affects Federal Agencies' Use of the Information

Although Labor, IRS and, PBGC have access to the Form 5500 information sooner than other federal agencies and the general public, the agencies are affected by the long processing times for paper filings and EFAST's paper-based correction process. Each agency receives processed Form 5500 information on individual filings on a regular basis once a form is completely processed, which means that any necessary corrections have been made. As stipulated in the EFAST contract, IRS and PBGC receive weekly updates of processed Form 5500 information, while Labor and SSA receive updated information on a monthly basis. These agencies are also

able to view images of the forms immediately after being scanned by EFAST. However, agency officials told us that as with the release of the Form 5500 research file, they still have to wait for a sufficiently complete universe of plan filings from any given plan year to be processed in order to begin their compliance targeting programs.

Federal agency officials said that old Form 5500 information may paint a distorted picture of the current financial condition of defined benefit pension plans. The value of plan assets can change significantly over a period of time, and the value of plan liabilities can also change because of changes in interest rates, plan amendments, layoffs, early retirements, and other factors. For plans that experience a rapid deterioration in their financial condition, the funding measures may not reveal the true extent of a plan's financial distress to relevant federal agencies and plan participants.

Federal agency officials also said that it would be useful to have certain Form 5500 information reported prior to the lengthy Form 5500 filing deadline. For example, Labor, IRS and PBGC officials told us that Form 5500 Schedule B information, including information about a defined benefit pension plan's funding status, is outdated by the time it is filed. As a result, these agencies are not notified of a plan's funding status until almost 2 years after the actual valuation date. These officials said this makes the Form 5500 an unreliable tool for determining a plan's current funding financial condition. They also told us other information could be reported earlier than the filing deadline, including Schedule H and I information, which would provide them with more timely plan financial information, including plan assets and liabilities.

Labor, IRS, and PBGC officials told us that because of the timeliness of the information received, their ability to carry out various statutory responsibilities is hampered. Labor officials said that, in some cases, untimely Form 5500 Reports affects their ability to identify financially troubled plans whose sponsors may be on the verge of going out of business and abandoning their pension plans, because these plans may no longer exist by the time that Labor receives the processed filing or is able to determine that no Form 5500 was filed by those sponsors. IRS officials said the timeliness of Form 5500 Reports also affects their enforcement efforts, because the IRS has a 3 year statute of limitations. These officials said that working with older Form 5500 information raises the time and cost required to complete an investigation because retrieving the required information becomes more difficult with each passing year. Finally, the timeliness of Form 5500 reporting affects PBGC's ability to monitor

multiemployer plans. PBGC officials said that it is a challenge to get current information on the stability of defined benefit pension plans, especially multiemployer plans, because of the unavailability of current Form 5500 data. Multiemployer plan data come only from Form 5500 Reports and are much less current and complete than single-employer plan data—such data are generally 2 to 3 years older. According to PBGC officials, a major reason for this is that PBGC can identify the corporate sponsor of a single-employer plan from the Form 5500 and is often able to obtain financial information from the sponsor’s corporate 10-K filing. They said obtaining such data is not possible for multiemployer plans because participating corporate employers cannot be identified from Form 5500 information.

Officials from other federal agencies that use Form 5500 information also told us that the information is not current, a fact that affects their ability to use the information to conduct program activities, inform policy makers, and evaluate the condition of the private pension plan universe. Some federal agency officials told us that they would develop modeling programs to explore more uses of Form 5500 information if it were available in a timelier manner.

Despite Efforts to Improve Its Content, the Form 5500 Lacks Key Information

Labor, IRS, and PBGC have taken steps to improve the content of the Form 5500, including reviewing the form annually and revising the content as needed to ensure that the form is collecting all required information while not overburdening plan sponsors. Despite the content changes that have been made, the Form 5500, in its current form, lacks key information that could better assist Labor, IRS, and PBGC in tracking and identifying plans from year to year and monitoring multiemployer plans. In addition, federal agency officials and researchers that use Form 5500 information said the form has not kept pace with changes in the private pension universe. Although federal agency officials and others said the form lacks certain information, pension practitioners and service providers told us that it could be further streamlined by removing certain items and consolidating schedules.

Federal Agencies Have Taken Steps to Improve the Content of Form 5500 Information

Labor, IRS, and PBGC annually review and revise Form 5500 content as needed to ensure that the form is collecting all information required under ERISA. These agencies conduct a review of the Form 5500 as part of the process by which they publish updated versions of the form and its instructions on an annual basis. The agencies receive public input throughout the course of the year from interested parties, such as plan sponsors and service providers, either asking questions about the form or

suggesting areas where the instructions can be improved. Federal agency officials told us that these questions and comments are taken into account as part of the annual process of reviewing the Form 5500.

Agency officials said the process of revising the form, which can include adding or removing items, can be triggered by a number of events, such as a statutory requirement to change the form or a requirement for agencies to collect certain information. Revisions to the form can also result from recommendations from entities such as the ERISA Advisory Council. After the triggering event, if the respective agency deems that a change is appropriate, it starts the process of developing the proposed change. The proposed change then goes through an approval, public comment, and clearance process at the agency level and the Office of Management and Budget (OMB). The process provides the general public and federal agencies an opportunity to comment on the proposed changes as well as helping to ensure, among other things, that any additional information can be reported in a way that minimizes respondent reporting burden (time and financial resources). The process to change the Form 5500 can take anywhere from 1 to 2 years, depending on the nature of the revisions.

Efforts to minimize plan sponsors' reporting burden may limit the collection of Form 5500 information. Legislation requires OMB to review forms before they are used to collect data. The Paperwork Reduction Act of 1995 (Pub. L. No. 104-13) and similar previous legislation²⁶ are designed to minimize the paperwork burden on the public while at the same time recognizing the importance of information to the successful completion of agency missions. The act requires OMB to approve all existing and new collections of information by federal agencies. In approving agency collection efforts, OMB must weigh the burden to the public against the practical utility of the information to the agency. Revisions to the Form 5500 can also include eliminating duplicate or obsolete items. Agency officials said that they were reluctant to propose additional Form 5500 data collection unless they could clearly establish that the benefit outweighed the perceived burden. They also said that efforts to reduce existing data collection requirements sometimes result in a loss of information.

²⁶Previous legislation includes the Paperwork Reduction Act of 1980 (Pub. L. No. 96-511) and the Paperwork Reduction Reauthorization Act of 1986 (Pub. L. No. 99-500).

Over the years Labor, IRS, and PBGC have made revisions to the Form 5500. The last major revision occurred in 1999, as part of a multiyear project, and followed Labor, IRS, and PBGC's evaluation of public comments on their 1997 proposal from employer groups, employee representatives, financial institutions, service providers, and others.²⁷ This resulted in these three agencies, in an effort to streamline the form, replacing the Form 5500, Form 5500-C, and Form 5500-R with one Form 5500 (the current form) to be used by all filers as well as more detailed schedules customized to each filer's type of plan. In addition, the revisions eliminated duplicate or obsolete items. Since 1999, other annual revisions have included clarifying the Form 5500, its schedules, and instructions; adding items on Employee Stock Ownership Plans, frozen plans, and floor offset plans; removing items concerning delinquent participant contributions and fringe benefit plans; and changing the small plan audit requirements.

Other changes have been proposed that relate to information associated with the Form 5500. In January 2005, the Secretary of Labor announced the Administration's proposal to improve retirement security. The proposal presented three areas of change, one of them to increase the disclosure of information about private, single-employer defined benefit pension plans to workers, investors, and regulators.²⁸ The proposal would increase disclosure in four ways: (1) reporting ongoing and at-risk liability on the Form 5500, (2) shortening the deadline for the Schedule B report of the actuarial statement, (3) publicly disclosing Section 4010 information, and (4) expanding the information reported on the SAR.

The Form 5500 Still Lacks Key Information

The Form 5500 lacks key information that could better assist Labor, IRS, and PBGC in monitoring plans and ensuring that they are in compliance with the law. Federal agency officials and pension researchers acknowledge that the form does not collect certain information, such as information that could help them to better track plans from year to year,

²⁷A Notice of Proposed Forms Revisions soliciting public comments on proposed revision of the Form 5500 was published in the *Federal Register* on September 3, 1997 (62 Fed. Reg. 46556).

²⁸The three areas to strengthen retirement security for Americans in private defined benefit pension plans are (1) reforming the funding rules to ensure that employer fully fund their retirement promises, (2) reforming the PBGC premiums to better reflect the real risks and costs, and (3) increasing the disclosure of information about private defined benefit to workers, investors, and regulators.

and certain information on multiemployer plans and defined contribution plans.

Labor, IRS, and PBGC officials said that they have experienced difficulties when relying on Form 5500 information to identify and track all plans across years. Although these agencies have a process in place to identify and track plans filing a Form 5500 from year to year, problems still arise when plans change employer identification numbers (EIN) and/or plan numbers. Currently, Labor, IRS, and PBGC use the EINs and plan numbers listed on the form to identify and track individual plans from one year to the next.²⁹ However, officials from these agencies reported they are having problems using EINs and plan numbers to consistently and accurately track all plans because many employers have numerous plans and each plan files Form 5500 Reports using the same EIN. As a result, only the three-digit plan number assigned by the plan administrator uniquely identifies plan filings that have identical EINs. However, when plan administrators do not file their Form 5500 with the same plan number each year, absent a unique EIN, it is difficult for federal agencies to track the same plan from year to year. Identifying plans is further complicated when plan sponsors are acquired, sold, or merged. In these cases, agency officials said that there is an increased possibility of mismatching of EINs, plans, and their identifying information.

Agency officials also told us that without a reliable way to identify and track plans a number of problems occur. For example, Labor officials said they are unable to (1) verify if all required employers are meeting the statutory requirement to file a Form 5500 annually, (2) identify all late filers, and (3) assess and collect penalties from all plans that fail to file or are late. IRS officials said that EINs reported on the Form 5500 do not always match EINs listed on a corporate tax return of a business; this makes it difficult for IRS to individually match businesses' Form 5500 Reports with their corporate tax returns. PBGC officials said they must spend additional time each year trying to identify and track certain defined benefit pension plans so that they can conduct their compliance and research activities. Furthermore, other federal agencies and researchers said that the inability to identify and track plans limits their ability to effectively identify all of the pension plans associated with a particular company, track changes over time in certain types of pension plans, and match Form 5500 information with other data sources. Labor, IRS, and

²⁹The EIN is also used in a wide variety of employer tax filings.

PBGC officials said they are considering measures to better track and identify plans but have not reached any conclusions.

We were also told that the Form 5500 lacks certain information on multiemployer plans that would enable PBGC, other federal regulators, and pension researchers to (1) identify all of the participating employers in a particular multiemployer plan; (2) determine a multiemployer plan's basis for making contributions; and (3) determine the amount of unfunded liabilities attributable to each participating employer. Currently, the form does not collect information that identifies the employers participating in a particular multiemployer plan. Thus, PBGC and other regulators are unable to identify all the employers upon whose financial health multiemployer plans depend or link the financial health of these employers to the condition of the particular multiemployer plans that these employers are participating in. PBGC officials said they are unable to gauge the full impact that events such as employer bankruptcies, withdrawals, and labor strikes would have on multiemployer plans, their participants, and the agency's multiemployer insurance program, which they emphasized as important, given that with multiemployer plans, an employer's pension liabilities can be affected by the financial health of other employers in the plan. The form also lacks information that shows a multiemployer plan's basis for employer contributions, which means that PBGC cannot determine the impact that events, such as labor strikes, would have on an employer's ability to make plan contributions and its effect on the financial condition of that particular plan. Finally, the Form 5500 does not capture information on each participating employer's responsibility for unfunded liabilities. Thus, PBGC is unable to assess the financial risk to an insured multiemployer plan posed by the financial collapse or withdrawal of one or more contributing employers, which PBGC officials said is an important piece of information because of its role in monitoring multiemployer plans for financial problems, providing financial and technical assistance to troubled plans and guaranteeing a minimum level of benefits to participants in insolvent multiemployer plans.³⁰ PBGC officials said that the agency needs relevant information on multiemployer plans to fully assess the financial health of and potential risks faced by multiemployer plans, and they said that this information is currently lacking on the Form 5500. PBGC officials also said they are exploring ways to obtain more useful information on multiemployer plans.

³⁰ A multiemployer plan is insolvent when its available resources are not sufficient to pay the level of benefits at PBGC's multiemployer guaranteed level.

However, their plans are still in the developmental stages. In addition, officials from Labor, IRS, and other federal agencies and pension researchers said it would be useful if the Form 5500 captured more information on multiemployer plans.

Federal and Private Sector Researchers Said the Form 5500 has Not Kept Pace with Changes in the Private Pension Universe

Federal and private sector researchers said the Form 5500 has not kept pace with changes in the private pension universe, where defined contribution plans have become the more prevalent type of private pension plan offered by employers and more employees are increasingly being covered by defined contribution plans. They said the Form 5500 is geared more toward defined benefit plans rather than toward defined contribution plans and suggested that the form could collect detailed information on the range of investment options that are available to participants (employer securities and mutual funds), 401(k) plan matching contributions, employee contribution limits, as well as more detailed information on the asset allocations of pooled accounts. They also said that the form could collect better information to determine the true cost of administering a defined contribution plan and 401(k) plan fees. For example, the ERISA Advisory Council Working Group recently reported that the Form 5500, as currently structured, does not reflect the way that the defined contribution plan fee structure works. The Advisory Council concluded that Form 5500s filed by defined contribution plans are of little use to policy makers, government enforcement personnel, plan sponsors, and participants in terms of understanding the cost of a plan. The Advisory Council also recommended that Labor modify the Form 5500 and the accompanying schedules so that total fees incurred either directly or indirectly by these plans can be reported or estimated.³¹ This information could be used for research or regulatory purposes.

In addition to having more information on defined contribution plans, federal and private sector researchers also said that it would be useful if information reported on Section 4010 filings, such as information about the ability of a defined benefit plan to meet its obligations to participants if

³¹One of Labor's objectives in requiring a plan to file a Form 5500 report is to ensure that plan fiduciaries are monitoring the operations of the plan, including costs. This is consistent with the overarching fiduciary responsibility provisions of ERISA, which require plan fiduciaries to review and monitor fees for reasonableness on a periodic basis.

the plan were to be terminated,³² were captured on the Form 5500. Section 4010 filings (named after the ERISA section that requires companies to submit such reports) also include proprietary information about the plan sponsor and its pension assets. However, this information is available only to PBGC and by law may not be publicly disclosed. Some officials told us that participants should be provided with the necessary information, including Section 4010 data, to inform them when their plan is underfunded and when the sponsor's financial condition may impair the ability of the company to fund or maintain the plans.

Pension Practitioners and Others Said the Form Can Be Further Streamlined

Despite federal agencies' attempts to streamline the form, pension practitioners and service providers said that the Form 5500 can be further streamlined by removing duplicate items and consolidating certain schedules. Pension practitioners and service providers told us that opportunities exist to modify and consolidate certain financial schedules and provided us with recommendations that in their opinion would better capture relevant information about pension plans for the federal government, participants, plan sponsors, and pension practitioners, as shown in table 4. However, Labor, IRS, and PBGC officials told us that, to some extent, they use all of the information reported on the Form 5500. In addition, pension researchers told us that removing certain information from the form, such as plan financial information, may limit their ability to use the form for research and statistical purposes.

³²Terminating an underfunded single-employer defined benefit plan is termed a distress termination if the plan sponsor requests the termination or an involuntary termination if PBGC initiates the termination. PBGC assumes responsibility for terminated underfunded plans and pays the pension obligations to plan participants up to the amount guaranteed under Title IV of ERISA. PBGC also makes a claim on the employer's assets in bankruptcy proceedings as an unsecured creditor. However, PBGC officials told us that the agency's claims usually amount to only a few cents per dollar claimed.

Table 4: Recommendations from Pension Practitioners and Service Providers for Further Streamlining the Form 5500

Financial Schedules
Schedule A—Insurance Information
<ul style="list-style-type: none">• Schedule A commission information could be captured on the Form 5500.• Items relating to the reporting of Pooled Separate Accounts on Schedule A could be removed since the information is already required to be reported for Schedule D.
Schedule D—Direct Filing Entities/Participant Plan Information
<ul style="list-style-type: none">• Schedule D could be limited to reporting information by Direct Filing Entities.• Plans that invest in Direct Filing Entities should not file Schedule D because the current reporting format is very cumbersome and it does not appear to provide useful information to plan sponsors, participants, and the government.
Schedule G—Financial Transaction Schedules
<ul style="list-style-type: none">• Schedule G should be discontinued because this information appears in supplemental schedules that is a required part of the auditor’s report.• Information that appears in the auditor’s report, including footnotes and supplemental schedules, should not be duplicated on the Form 5500 or its schedules since its considered part of the Form 5500 filing.
Schedule P—Annual Return of Fiduciary
<ul style="list-style-type: none">• Schedule P should be removed and have the filing of the Form 5500 start the statute of limitations instead of the signing of Schedule P. However, eliminating the Schedule P would require changes to the current statutory framework.
Schedules H and I—Financial Information
<ul style="list-style-type: none">• Schedules H and I can be simplified into a single format because some information on these schedules is already provided in the auditor’s report.
Benefit Schedules
Schedule B—Actuarial Information
<ul style="list-style-type: none">• Schedule B attachments could be eliminated or the actuarial valuation report substituted for the attachments.
Schedule E—ESOP Annual Information
<ul style="list-style-type: none">• Schedule E could be streamlined by capturing some of its information using codes on the Form 5500.
Schedules R (Retirement Plans Information) and T (Qualified Pension Plan Coverage)
<ul style="list-style-type: none">• Schedules R and T could be modified to codes on the Form 5500.• Questions 1 and 2 on the Schedule R relating to distributions could be moved to Schedules H and I, which would eliminate the need to file the Schedule R for every plan.

Source: Pension practitioners and service providers.

Conclusions

The Form 5500 is the primary source of information available concerning the operation, funding, assets, liabilities, and investments of private pension plans. Because these data are important to enforcement of federal pension laws and to pension policy development, it is important that Form 5500 information be timely and useful. Changes in the private pension world illustrate why improvements to the Form 5500 and its processing are so important. For example, the private pension environment has been changing fundamentally in the types of plans offered today’s workers, yet little has been done to reflect these changes in the types of data collected.

In addition, the sudden deterioration in funding levels for some large defined benefit plans has brought financial pressures to PBGC and led to calls for comprehensive reforms, but Form 5500 data are not timely enough to help policy makers in developing effective responses. Untimely pension plan information forces policy makers to make key pension policy decisions based on data that are about 3 years old. It also hampers regulators' ability to enforce ERISA and other laws and results in users getting an outdated picture of the financial condition of the private pension plan environment.

Although Labor has made significant progress in implementing EFAST, more should be done to reduce the time it takes to process and release usable computerized Form 5500 information. Changes to the current system, such as utilizing its electronic filing capabilities and improving its paper-based correspondence process, could speed up the processing of Form 5500 Reports and provide more timely data for all users. Alternatively, certain types of information could be reported earlier than the current filing deadline, such as information on a plan's funding status, which could also provide regulators with more timely information.

Content issues also remain a problem, despite Labor's, IRS's, and PBGC's periodic revisions to the form. Information currently collected on the form, while useful to some extent, does not permit these agencies to be in the best position to ensure compliance with federal laws and accurately assess the financial condition of private pension plans. Given the increase in the number of defined contribution pension plans and the need for relevant information on multiemployer plans, providing better information on these plans would help policy makers and others make informed decisions about the financial risks posed by private pension plans. However, any improvement to the content of the Form 5500 must be done in such a way that does not pose an undue burden on plan sponsors.

Recommendations

Given the improved timeliness and reduced errors associated with electronic filing, Labor, IRS, and PBGC should require the electronic filing of the Form 5500. In doing so, Labor should also make improvements to the current electronic filing process to make it less burdensome, such as revising the procedure for signing and authenticating an electronic filing.

To improve timeliness, reduce errors, and maximize efficiency, Labor should modify its current EFAST processing methods. In doing so, the following steps should be considered:

-
- Labor should streamline its data correction processes by ensuring that filings are checked for errors before they are accepted for processing by the EFAST system.
 - It should develop an electronic-based correspondence process, whereby the agencies can notify filers of errors electronically, thereby eliminating the 30 days that officials at Labor estimate it takes to mail the paper-based correspondence back and forth. Also this will allow for filers to be notified of errors on a more timely basis.

Considering the need for federal agencies, Congress, and the public to have access to timely and usable Form 5500 information as soon as possible, we recommend that Labor evaluate ways to speed up the release of its research file, including considering making information available from the file on an interim basis prior to its completion and final release to the public.

To more effectively identify and track individual plans across years, especially when plans change EINs and plan numbers, and to take into account Labor's need to be able to verify if all required employers are meeting the statutory requirement to file a Form 5500 annually, we recommend that Labor, IRS, and PBGC work collectively to better identify and track the same plan from one year to the next.

To improve the federal government's ability to regulate multiemployer defined benefit pension plans and improve participant information, we recommend that Labor, IRS, and PBGC modify the Form 5500 to collect additional information on multiemployer pension plans that would enable Labor, IRS, and PBGC to monitor and manage potential risks associated with events such as employer bankruptcies, withdrawals, and labor strikes and the attendant consequences for these plans, plan participants, and PBGC's multiemployer insurance program. In doing so, Labor, IRS, and PBGC should consider requiring multiemployer plans to report the following information on the Form 5500:

- information sufficient to identify all of the employers associated with a particular plan and their annual contributions to the plan,
- plan specifics on determining employer contributions (per hour, per unit of output, etc.), and
- the distribution by employer of responsibility for unfunded or underfunded plan liabilities.

Agency Comments

We provided a draft of this report to Labor, PBGC, IRS, and SSA. Labor, PBGC, and IRS provided written comments, which appear in appendix I, appendix II, and appendix III. Labor's, PBGC's and IRS's comments generally agree with the findings and conclusions of our report. Labor, PBGC, IRS, and SSA also provided technical comments on the draft. We incorporated each agency's comments as appropriate.

Labor suggested that we clarify our assertion that the Form 5500 could collect information that could help agencies better identify and track plans across years. Labor stated that the Agencies currently apply computerized "entity control" tests to Form 5500 filings as part of the EFAST processing system that are designed to track individual plans and determine if consistent identifying data are reported each year for a particular filer in order to maintain accurate year-to-year records for each filer. We have clarified that section of our report by noting that the agencies' have a system in place to identify and track plans and the shortcomings of this method. However, although a system is in place to track plans from year to year, officials from all the principal agencies said that it is very difficult to track plans from year to year if plans change EINs and plan numbers.

Labor and PBGC suggested that the section of our report on the timeliness of available Form 5500 information further clarify that generally individual Form 5500 filings are made available for enforcement and for public disclosure as soon as they are processed by EFAST. We agree and did note that in the appropriate section of the report. We have also revised our report in various sections to state that Form 5500 information is available for enforcement and public disclosure purposes prior to the release of the Form 5500 research file.

PBGC proposed an additional recommendation regarding the timeliness of defined benefit pension plan funding information reported on Form 5500 Schedule B. The Administration's pension reform proposal includes a provision that would advance the reporting date for the Schedule B to February 15 for certain large defined benefit plans. We agree with PBGC that advancing the reporting date for the Schedule B to provide more timely information on such plans to Labor, IRS, and PBGC could be an important piece of comprehensive pension reform.

IRS specifically stated that, with electronic filing, EFAST can validate filings as received, reject filings with errors or incomplete responses, and minimize or eliminate error correction using electronic correspondence. IRS also stated its support for our recommendations to require the electronic filing of Form 5500 Reports, evaluate ways to better identify and

track plans from year to year, and to modify the Form 5500 to collect additional information on multiemployer pension plans.

We are sending copies of this report to the Secretary of Labor, the Commissioner of Internal Revenue, the Executive Director of the Pension Benefit Guaranty Corporation, the Commissioner of Social Security, appropriate congressional committees, and other interested parties. We will also make copies available to others on request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions concerning this report please contact me at (202) 512-7215 or Tamara Cross at (202) 512-4890. Other contacts and acknowledgments are listed in appendix IV.

A handwritten signature in black ink that reads "Barbara D. Bovbjerg". The signature is written in a cursive style with a large, stylized initial "B".

Barbara D. Bovbjerg
Director, Education, Workforce,
and Income Security Issues

List of Congressional Committees

The Honorable Charles E. Grassley
Chairman

The Honorable Max S. Baucus
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Michael B. Enzi
Chairman

The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John A. Boehner
Chairman

The Honorable George Miller
Ranking Minority Member
Committee on Education and the Workforce
House of Representatives

The Honorable William M. Thomas
Chairman

The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Appendix I: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employee Benefits Security Administration
Washington, D.C. 20210



May 20, 2005

Barbara D. Bovbjerg
Director, Education, Workforce
and Income Security Issues
United States Government Accountability Office
Washington, D.C. 20548

Dear Ms. Bovbjerg:

Thank you for affording the Department of Labor the opportunity to review the Government Accountability Office's (GAO) draft report entitled "Government Actions Could Improve the Timeliness and Content of the Form 5500 Pension Information." This letter provides comments on the recommendations contained in the draft report; technical comments were provided directly to you and your staff.

In general, we believe the subject report provides a good overview of the Form and its use by the Department of Labor, Pension Benefit Guaranty Corporation (PBGC) and Internal Revenue Service (IRS), as well as plan participants and beneficiaries, other Federal agencies and members of the research community. We also believe the report provides a good overview of the current forms processing system (EFAST) and the impediments to receiving timely information.

With regard to the content of the Form 5500, we note the GAO's assertion that the form "lacks key information that could better assist [the] three agencies in monitoring plans and ensuring that they are in compliance with the law." The Agencies review the Form 5500 annually and revise the content as needed to ensure the collection of relevant information. As part of this review, the Agencies individually and collectively determine what information they need on the Form 5500 to carry out their respective responsibilities and adjust the Form as appropriate. This review necessarily entails consideration of the benefits of the requested information to the Agencies, as well as plan participants and beneficiaries, and the costs and burdens on filers attendant to filing the requested information and the costs to the government of systems and other modifications attendant to receiving and processing the requested information. In no event, however, would the Agencies not include information on the form determined to be necessary to the carrying out of their respective statutory obligations.

GAO recommends in its report that the Agencies work collectively to develop a system that helps them track individual plans from year to year and verify if all required employers are meeting their statutory obligation to file a Form 5500 annually. We note that the Agencies currently apply computerized "entity control" tests to Form 5500 filings as part of the EFAST processing system that are designed to track individual plans and

determine if consistent identifying data are reported each year for a particular filer in order to maintain accurate year-to-year records for each filer. The Agencies will continue to work together to explore means by which to monitor compliance with the annual reporting requirements. In this regard, we should note that over the last three years 36,600 delinquent filers have been brought into the filing system through our Delinquent Filer Voluntary Compliance Program.

GAO also recommends that the Form 5500 be modified to collect additional information on multiemployer defined benefit pension plans, including information sufficient to identify all of the employers associated with a particular plan and their annual contributions; plan specifics on determining employer contributions (per hour, per unit of output, etc.) and the distribution of employer responsibility for unfunded or underfunded plan liabilities. As noted in the report, the PBGC is currently exploring ways to obtain more useful information about multiemployer plans and we will consider GAO's recommendation in that context.

Concerning the Form 5500 research file, the report emphasizes the importance of the Form 5500 research file and says that this file is "often not available to end users until about 3 years after the end of the plan year." The Department agrees that the research file is an essential product. The research file is a specialized version of Form 5500 information designed to support the production of aggregate pension statistics and conduct of pension-related economic and policy research. Its annual production generally involves editing, assembling and assigning statistical weights to a year's worth of EFAST-processed pension filings. The Department is undertaking efforts to eliminate avoidable delays in its production and release, and is confident that substantial improvements can be made. The Department agrees with GAO that elimination of paper filings in favor of universal electronic filing has the potential to help improve the timeliness of the research file.

It is important to note, however, that the Department currently delivers Form 5500 information more promptly for other purposes through other pipelines. Generally, individual filings are made available for enforcement and for public disclosure as soon as they are processed by EFAST. (They are also made immediately available to PBGC and IRS.) As part of EBSA's public disclosure program, an electronic database of all disclosable EFAST-processed filings is available to the staff of EBSA's Public Disclosure Office to respond to public requests for filings and to FOIA requests for data files. The research file is neither intended nor suited for enforcement or public disclosure purposes, and the timing of its release does not hinder the Department's performance of its pension enforcement and public disclosure functions.

To reduce filer errors and improve the timeliness of filed information, the GAO recommends that the Agencies require the electronic filing of the Form 5500. In doing so, the GAO indicates that the current filing process (EFAST) should be improved to make the electronic filing process more streamlined and less burdensome. Specific steps identified in the report include: revising the electronic signature process; streamlining the data correction process by ensuring filings are checked for errors prior to submission;

development of an electronic-based correspondence system for notifying filers of errors; and evaluating ways to speed up the release of Form 5500 data to the public.

The Department, in coordination with the IRS and PBGC, is reviewing the current EFAST system. EFAST, in its current form, is outdated and needs to be replaced. The current EFAST system receives and processes approximately 1.4 million filings annually. As noted in the report, these filings translated into approximately 25 million paper pages for the 2002 plan year. While 87 percent of the 2002 filers used some form of software to prepare their filings, only 1 percent actually submitted their filing electronically. As also noted in the report, the rate of errors in non-electronically submitted filings is more than twice that in electronically filed documents. It is clear that there are inefficiencies inherent in the maintenance of any form of a paper filing system – a large number of filer errors, increased likelihood of correspondence and penalties, and delays in reviews of filings and release of data to the public. These inefficiencies not only result in increased costs to filers, the government and taxpayers generally, but also result in increased risks to the benefit security of participants and beneficiaries due to erroneous data or delayed enforcement.

Consistent with GAO's recommendation, the Agencies believe that the only effective means by which to address the inefficiencies in the current EFAST system is to move to a wholly electronic system for the receipt and processing of Form 5500 data. As part of the EFAST review process, the Agencies currently are considering approaches to implementing a wholly electronic filing system. As we move forward to update the EFAST system, we are committed to addressing impediments to electronic filing, such as the process by which electronic signatures are obtained, and streamlining the data correction and correspondence processes. An updated and streamlined process will ensure that timely and useable employee benefit plan data is available to the Agencies, participants and beneficiaries, researchers and the general public as soon as possible.

Again, thank you for the opportunity to submit comments on the report.

Sincerely,



Ann L. Combs

Appendix II: Comments from the Pension Benefit Guaranty Corporation



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

Office of the Executive Director

MAY 20 2005

Barbara D. Bovbjerg
Director, Education, Workforce
And Income Security Issues
U. S. Government Accountability Office
Washington, D.C. 20548

Dear Ms. Bovbjerg:

Thank you for providing the Pension Benefit Guaranty Corporation with a draft copy of your report "Private Pensions: Government Actions Could Improve the Timeliness and Content of Form 5500 Pension Information." We appreciate the opportunity to comment.

The report fairly describes the content of the Form 5500 and Schedules and of the EFAST processing procedures. In general, the report presents an accurate picture of the issues related to the current Form 5500 package. We especially agree that electronic filing of the Form 5500 will reduce errors and speed processing time after the forms are received.

However, we believe an even more important issue is the timeliness of the pension funding information required to be reported as part of the Form 5500. Electronic filing does not address the problem that the pension funding data needed to monitor the financial condition of the plans we insure may be almost two years old when filed. Given the dynamic nature of financial markets and rapidly changing business conditions, it is critically important that all stakeholders in the defined benefit system have more timely information about the financial status of pension plans. In this regard, the Administration's pension reform proposal includes a provision that would advance the reporting date for the Schedule B to February 15th for large defined benefit plans that are subject to quarterly contribution requirements. While some of these Schedule B's would have to be amended to account for subsequent employer contributions, PBGC would have timelier access to the asset and liability data it needs to better monitor the financial condition of these plans. We would strongly encourage the GAO to include this needed change as part of its recommendations.

We are pleased that the report recognizes the need for better information about multiemployer plans. The PBGC currently is considering what information it needs concerning such plans and the best means for the collection of that information.

Barbara B. Bovbjerg

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We have several technical comments that will be provided directly to your staff. Thank you again for providing us the opportunity to comment on this important study.

Sincerely,



Bradley D. Belt

Appendix III: Comments from the Internal Revenue Service



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 20, 2005

Ms. Barbara D. Bovbjerg
Director, Education, Workforce, and Income Security Issues
United States Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Ms. Bovbjerg:

We appreciate the opportunity to review your draft report entitled *Private Pensions: Government Actions Could Improve the Timelines and Content of Form 5500 Pension Information*. We believe the draft report fairly represents both the progress made and the remaining challenges of administering the Form 5500 process.

The Internal Revenue Service (IRS) is committed to working collaboratively with the Department of Labor (DOL), the Pension Benefit Guaranty Corporation (PBGC), and the Social Security Administration (SSA) to ensure that Form 5500 is processed in a timely manner and collects all relevant information.

The IRS, DOL, PBGC, and SSA have been working together to improve timeliness and reduce errors in Employee Retirement Income Security Act Filing Acceptance System (EFAST) processing. We support your recommendation that the Form 5500 be filed electronically. With electronic filing, EFAST can validate filings as received, reject filings with errors or incomplete responses, and minimize or eliminate error correction using electronic correspondence.

Similarly, we support your recommendations to improve EFAST to track more effectively plans from year to year and to modify Form 5500 as necessary to collect all relevant information, particularly with respect to multiemployer pension plans. We will continue to work with our partner agencies to improve all aspects of pension data collection and processing.

In closing, thank you for reviewing this critical process. If you have any questions please contact me or Steven T. Miller, Commissioner, Tax Exempt and Government Entities at (202) 283-2500.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Everson".

Mark W. Everson

Appendix IV: GAO Contacts and Staff Acknowledgments

Contacts

Tamara Cross, Assistant Director (202) 512-4890
Raun Lazier, Analyst-in-Charge (202) 512-8386

Staff Acknowledgments

In addition to those named above, Joseph Applebaum, Richard Burkard, Scott Heacock, Gene Kuehneman, Michael Maslowski, Robert Parker, Roger J. Thomas, and Gail Vallierers made important contributions to this report.

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