

Highlights of [GAO-12-665](#), a report to the Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate

Why GAO Did This Study

GAO has reported that millions of U.S. workers lack access to employer-sponsored pension plans and that some small businesses, which offered plans at lower rates than large businesses, may be deterred by the cost of plan administration. MEPs, a type of pension plan maintained by more than one employer, have been supported as an option that could expand coverage by lowering administrative costs. For this report, GAO examined (1) the characteristics of private-sector MEPs, (2) the advantages and disadvantages of MEPs and how their perceived advantages are used to market them, and (3) how IRS and Labor regulate MEPs.

GAO interviewed MEP sponsors, pension experts, officials at the Department of Labor (Labor), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC), and analyzed the primary source of pension data reported to the government—the Form 5500.

What GAO Recommends

GAO recommends that Labor lead an effort to collect data on the employers that participate in MEPs. GAO also recommends that Labor and IRS formalize their coordination with regard to statutory interpretation efforts with respect to MEPs. Furthermore, Labor and IRS should jointly develop guidance on the establishment and operation of MEPs. Agencies generally agreed with GAO's recommendations.

View [GAO-12-665](#). For more information, contact Charles Jeszeck at (202) 512-7215 or jeszeck@gao.gov.

PRIVATE SECTOR PENSIONS

Federal Agencies Should Collect Data and Coordinate Oversight of Multiple Employer Plans

What GAO Found

Little is known about the characteristics of private sector multiple employer plans (MEP), especially information regarding the employers that participate in them. Although no participating employer information is currently collected in the Form 5500, the primary source for pension information reported to the government, some plan-level information on MEPs is available. GAO's analysis of 2009 plan-level data shows that the bulk of MEP participants and assets resided in the largest 25 private-sector MEPs. Three major sponsor types emerged among the top 25 plans: large corporations, associations, and professional employer organizations (PEO), which are firms that provide payroll and other human resources services to clients. These sponsor types differ in various ways, but notably, associations and PEO sponsors GAO interviewed tended to have a large number of employers participating in their plans. Little is also known about a fourth category of sponsor type called "open" MEPs, a type of MEP in which employers in the plan share no common relationship or affiliation with the other employers in the plan. This sponsor type appears to have come about in response to 2002 IRS guidance that allowed certain PEOs to avoid tax disqualification of their pension plans if they were converted to MEPs. Soon after this guidance was issued, practitioners began offering open MEPs.

MEPs are marketed as providing several advantages for employers over single-employer plans, but GAO found that these advantages may not always be unique to MEPs. MEPs are marketed as providing reduced fiduciary liability, administrative responsibility, and cost. However, other types of single-employer plans may also offer reduced fiduciary responsibility and third-party administrators can reduce administrative responsibilities. Overall, among MEP representatives and pension experts, there was no consensus on whether or not open MEPs or PEO-sponsored MEPs could substantially expand pension coverage. Given that employers do not directly oversee the plan, there was also some concern from Labor officials regarding the risk of MEP abuses, such as charging excess fees or mishandling the plan's assets. Additionally, because all of the participating employers are responsible for maintaining the MEP, if one employer becomes noncompliant with the tax requirements the plans of all the employers in the MEP may lose their tax-qualified status.

Labor regulates MEPs for participant protections under the Employee Retirement Income Security Act of 1974 (ERISA), while the IRS regulates them for preferential tax treatment under the Internal Revenue Code (IRC). However, ERISA places requirements on plans that are not required under the IRC, and Labor and IRS do not coordinate to reduce the impacts of defining a MEP differently. For example, although Labor recently opined that open MEPs are a collection of single plans, each separately sponsored by participating employers for their employees, open MEPs still qualify for preferential tax treatment under the IRC. Pension experts told GAO that such differing treatment can create compliance challenges. For example, an open MEP may be able to file a single annual report for the IRS but may also have to file annual reports for each of its component plans for Labor. Pension experts agreed that compliance guidance from either agency would be helpful.