Highlights of GAO-23-105620, a report to the Ranking Member, Committee on Education and the Workforce, House of Representatives

June 2023

403(b) RETIREMENT PLANS

Department of Labor Should Update Educational Materials to Better Inform Plan Sponsors and Participants

Why GAO Did This Study

Like 401(k) plans, 403(b) plans are account-based defined contribution plans sponsored by employers. Many 403(b) plans are subject to ERISA requirements and are intended to protect the interests of plan participants. However, some 403(b) plans are not covered by ERISA.

GAO was asked to review (1) the extent of federal agencies' 403(b) plan oversight, (2) actions by selected states that could improve 403(b) participant outcomes, and (3) options stakeholders and experts have identified that could improve outcomes for 403(b) participants.

GAO analyzed DOL, SEC, and IRS data and documentation; reviewed documentation from five selected states identified as taking actions to improve participant outcomes; interviewed federal and state agency officials and experts; and conducted and analyzed results from surveys of plan sponsors and service providers about options to improve participant outcomes. The analysis of state actions and survey results offer a range of perspectives on improving participant outcomes but are not generalizable.

What GAO Recommends

GAO recommends that DOL update educational materials to contain information relevant to 403(b) plans, including information that could help participants understand plan fees. In commenting on the report, DOL neither agreed nor disagreed with our recommendation. DOL stated that it would review its relevant publications to see if they should more specifically reference 403(b) plans.

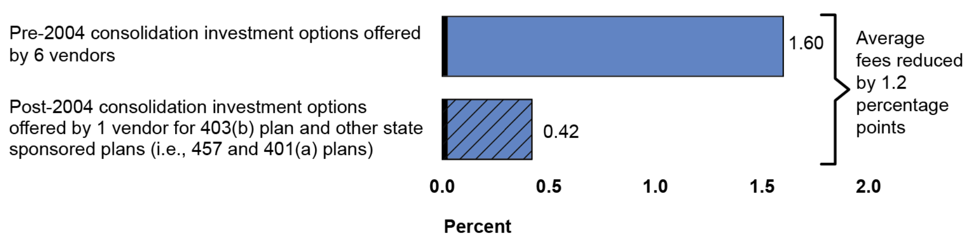
View GAO-23-105620. For more information, contact Tranchau (Kris) T. Nguyen at (202) 512-7215 or nguyentt@gao.gov.

What GAO Found

Millions of teachers and employees of tax-exempt organizations invest in 403(b) retirement plans. The Department of Labor (DOL), Securities and Exchange Commission (SEC), and Internal Revenue Service (IRS) take steps to oversee some 403(b) plans or their investment options, or both. Specifically, DOL oversees 403(b) plans subject to the Employee Retirement Income Security Act of 1974, as amended (ERISA), and uses a range of strategies to identify plans to investigate for compliance with the law. For example, DOL has investigated instances of self-dealing—when a plan fiduciary uses plan assets for the fiduciary's own interest or own account. The SEC's oversight focuses on compliance with securities laws and regulations, while the IRS's oversight focuses on compliance with the Internal Revenue Code. DOL, SEC, and IRS also conduct outreach and provide educational materials to 403(b) plan sponsors and participants. However, DOL's website does not contain targeted educational materials that could help participants understand 403(b) plan fees. Updated DOL information on 403(b) plans could help participants make more informed decisions.

GAO reviewed how five selected states worked to improve outcomes—including in some cases reducing fees participants pay—in 403(b) plans that are not subject to ERISA requirements. Officials in three of the states said they had consolidated the number of service providers offering investment options, which strengthened oversight by reducing the number of service providers they had to oversee. Officials in Connecticut told GAO consolidating service providers also resulted in lower annual fees for participants (see figure). Officials in four of the selected states said they enhanced transparency by providing participants with additional information on plans' investment options and fees or by making it available elsewhere.

Connecticut: Average Investment Fees Pre- and Post-2004 Consolidation



Source: GAO analysis of state provided documentation and interviews with state officials. | GAO-23-105620

Stakeholders and experts identified actions they said could improve 403(b) participant outcomes. For example, they suggested establishing fiduciary duties for non-ERISA plans in some states that are not subject to such protections can help protect participants' interests. Also, they said requiring distribution of standardized information on investment options' returns and fees for participants in non-ERISA plans would promote transparency. Multiple experts also suggested that allowing 403(b) plans to use certain other investment vehicles could reduce fees.