Ekon Explains -
The Dreaded Census Questionnaire

Part Four. Fidelity Bond Requirements

Why are you asking so many questions? Is this really necessary?
Why do I have to do this year after year?

As a Plan Sponsor, you likely ponder these questions every time your TPA sends out the yearly census questionnaire. The truth is the census questionnaire is a key piece of your Plan's administration and compliance. The information requested is used to help ensure that your Plan's operation conforms to your Plan Document and with current laws and regulations.

To clarify the significance of the information requested, we are breaking down the census questionnaire piece by piece in our new series, Ekon Explains - The Dreaded Census Questionnaire.

Part Four. Fidelity Bond Requirements

The annual census questionnaire will likely request information regarding your Plan's ERISA section 412 bond, also referred to as a fidelity bond. To protect employee benefit plans from risk of loss, ERISA section 412 and related regulations generally require that anyone handling funds in an employee benefit plan be bonded. In most cases, the bond should represent at least 10% of plan assets, subject to a minimum bond amount of $1,000 per plan and a maximum amount of $500,000. Plans that hold employer securities are subject to a maximum amount of $1,000,000.

A fidelity bond is a type of insurance that protects the plan from loss resulting from fraudulent or dishonest acts in handling funds. According to the Department of Labor, fraudulent or dishonest acts include, but are not limited to, "larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, wrongful conversion, (or) willful misapplication".[1] A fidelity bond is only required to cover plan officials that handle plan funds. The DOL deems a person as handling funds when "his duties or activities with respect to given funds or other property are such that there is a risk that such funds or other property could be lost in the event of fraud or dishonesty on the part of such person, whether acting alone or in collusion with others". DOL guidelines consider general criteria for determining "handling" which include, but are not limited to:

- Physical contact with cash, checks, or similar property;
- Power to transfer funds or other property from the plan to oneself or a third party, or power to negotiate such property for value;
- Disbursement authority;
- Authority to sign checks; or
- Supervisory authority over activities that require bonding

[1] Field Assistance Bulletin No. 2008-04. United States Department of Labor. 25 November 2008. http://www.dol.gov/ebsa/regs/fab2008-4.html

If a person does not handle plan funds in any manner, regardless of fiduciary status, they are not required to be covered by the fidelity bond. In example, a person who renders investment advice to the plan would not need to be bonded solely by reason of rendering such investment advice. However, if the person had discretionary authority with respect to selecting investments, this would constitute a need for a fidelity bond.

The Bottom Line
ERISA fidelity bond coverage is necessary protection for your employee benefit plan. Inadequate fidelity bond coverage, as listed on the annual Form 5500, could trigger a DOL audit. Your TPA is requesting this information ensure that your Plan's fidelity bond meets the bond amount requirements and that all plan officials requiring coverage are properly bonded.