United States Government Accountability Office

Report to the Chairman, Committee on Education and Labor, House of Representatives

March 2022

# DEFINED CONTRIBUTION PLANS

# 403(b) Investment Options, Fees, and Other Characteristics Varied

GAO-22-104439

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GAO Highlights

Highlights of GAO-22-104439, a report to the Chairman, Committee on Education and Labor, House of Representatives

## Why GAO Did This Study

Millions of teachers and other employees of public schools, universities, and tax-exempt organizations rely on savings they accumulate in 403(b) plans to provide income security in retirement. Like 401(k) plans, 403(b) plans are account-based defined contribution plans sponsored by employers, and individuals who participate in the plans make investment decisions and bear the investment risk. Private sector employer-sponsored retirement plans are generally subject to ERISA requirements intended to protect the interests of plan participants. However, some 403(b) plans are not covered by ERISA. This report addresses (1) the number and characteristics of 403(b) plans; and (2) fees charged to 403(b) plan participants.

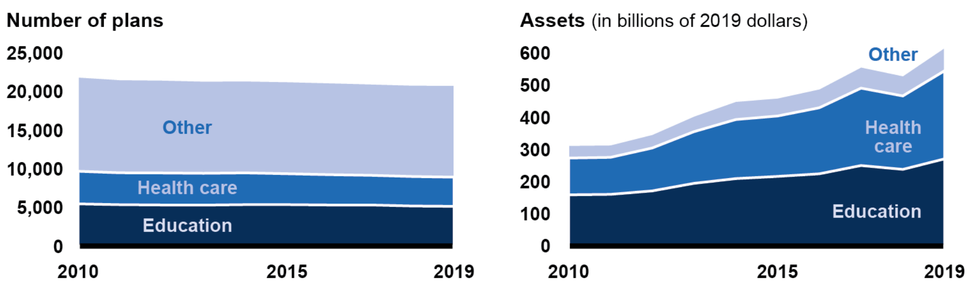
For this report, GAO analyzed plan-level characteristics—including the number of participants, the amount of plan assets, and available information on plan investment offerings from 2010 through 2019—the most recent year for which data are available—from the Department of Labor's (DOL) Form 5500 database as well as available industry data. GAO analyzed individual-level data from the Health and Retirement Study (HRS) of respondents over age 50 who reported participating in 403(b) plans. GAO also analyzed information on plan characteristics and fees from non-generalizable surveys GAO conducted of 403(b) plan sponsors and 403(b) service providers (a total of 45 survey responses), and interviewed DOL and other U.S. agency officials, industry stakeholders, and experts identified as being knowledgeable about 403(b) plans.

View GAO-22-104439. For more information, contact Tranchau (Kris) T. Nguyen at (202) 512-7215 or nguyentt@gao.gov.

## What GAO Found

Total assets held by 403(b) plans—retirement savings plans for certain public sector and tax-exempt sector employees—amounted to more than $1.1 trillion in 2020, according to industry data, and other characteristics varied. Industry data show that about half of these assets were held in plans covered by the Employee Retirement Income Security Act of 1974, as amended, (ERISA), which are generally required to submit an annual filing known as the Form 5500. ERISA 403(b) assets grew from 2010 to 2019, the most recent year for which 5500 data are available, while the number of plans declined, as shown in the figure.

**Number of 403(b) ERISA Plans and Value of Plans' Assets, by Sector, 2010-2019**




Source: GAO analysis of Form 5500 data. | GAO-22-104439

According to industry experts and 5500 data, these trends likely resulted from consolidation of firms in the health care sector, which represents a large portion of plan assets. The vast majority—93 percent—of ERISA 403(b) plans were the employer's sole or primary retirement plan. While less information is available for 403(b) plans not covered by ERISA (non-ERISA plans), which do not file a Form 5500, of the 21 plan sponsor respondents to GAO's survey, most stated their plans were supplemental to another retirement savings plan offered by the employer. Available data also show that the number of investment options, which may be annuities or mutual funds, offered by 403(b) plans varied but were generally higher than the number offered by 401(k) plans in the private sector.

Fees for 403(b) plans varied widely according to GAO's survey of ERISA and non-ERISA plan sponsors and service providers, as well as Form 5500 data. For example, plans that GAO surveyed reported record keeping and administrative service fees ranging from 0.0008 percent of plan assets to 2.01 percent of plan assets. In addition, fees for investment options offered by the plan ranged from 0.01 percent to 2.37 percent among plans GAO surveyed. Prior GAO work has shown that even seemingly small fees can significantly reduce participants' retirement savings over time. Available data also show that large 403(b) plans had lower administrative fees than smaller ones. In GAO's survey, university, state-sponsored, and plan sponsors with $1 billion or more in assets reported taking multiple steps to reduce fees, while other sponsors more often reported not having information that would help them monitor fees. For example, five public school district plan sponsors reported that they did not know expense ratios, which are measures of how much of a fund's assets are used for administrative and other operating expenses, for investment options offered by their plan that would also allow them to monitor fees.

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## Abbreviations

| | |
|---|---|
| DOL | Department of Labor |
| EBSA | Employee Benefits Security Administration |
| ERISA | Employee Retirement Income Security Act of 1974, as amended |
| HRS | Health and Retirement Study |
| ICI | Investment Company Institute |
| IRC | Internal Revenue Code |
| IRS | Internal Revenue Service |
| NAICS | North American Industry Classification System |
| NTSA | National Tax-Deferred Savings Association |
| TPA | third-party administrator |

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

March 4, 2022

The Honorable Robert C. “Bobby” Scott
Chairman
Committee on Education and Labor
House of Representatives

Dear Chairman Scott:

Millions of teachers and other employees of public schools, universities, and tax-exempt organizations rely on savings they accumulate in 403(b) plans to provide income security in retirement. Like 401(k) plans offered by many private sector employers, 403(b) plans are account-based defined contribution plans sponsored by employers, and individuals who participate in the plans make investment decisions and bear the investment risk.[1] Currently, 403(b) plans are estimated to hold more than $1 trillion in assets.[2] However, little is known about these plans' investment options and fee structures—features that can affect how much participants' retirement savings will grow.

Certain aspects of 403(b) plans' regulation differ from 401(k) and other defined contribution plans in key ways. While 401(k) plans are covered by the Employee Retirement Income Security Act of 1974, as amended (ERISA), only some 403(b) plans are covered by ERISA (ERISA plans). For example, 403(b) plans offered by state or local governments, such as public school districts or public universities are not covered by ERISA.

[1]A defined contribution plan is an employer-sponsored account based retirement plan, such as a 401(k) plan, that allows individuals to accumulate tax-advantaged retirement savings in an individual account based on employee and/or employer contributions, and the investment returns (gains and losses) earned on the account. While 401(k) plans can be offered by private sector employers, 403(b) plans can be offered by private sector tax-exempt employers or certain public school employers. A defined benefit plan is an employer-sponsored retirement plan that typically provides a lifelong stream of payments beginning at retirement, based on a formula specified in the plan that takes into account factors such as the employee's salary, years of service, and age at retirement. See GAO, *The Nation's Retirement System: A Comprehensive Re-evaluation Is Needed to Better Promote Future Retirement Security*, GAO-18-111SP (Washington, D.C.: Oct. 18, 2017).

[2]See Investment Company Institute, *The U.S. Retirement Market, Third Quarter 2021*. ICI is an association representing regulated funds globally, including mutual funds, in the United States, and similar funds offered to investors in jurisdictions worldwide. By contrast, the Department of Labor has estimated that in 2019 there were 91 million participants and $6.2 trillion in 401(k) plans. See the Department of Labor, *Private Pension Plan Bulletin: Abstract of 2019 Form 5500 Annual Reports* (September 2021).

ERISA establishes minimum standards and requirements intended to protect plan participants and beneficiaries in most private sector employer-sponsored retirement plans. 403(b) plans not covered by ERISA (non-ERISA plans) are not subject to ERISA's fiduciary requirements, although these plans may be subject to state consumer protection laws or other state-specific fiduciary laws.

This report addresses (1) the number and characteristics of ERISA and non-ERISA 403(b) plans; and (2) fees charged to 403(b) plan participants.

To describe the number and characteristics of 403(b) plans, we first analyzed plan-level characteristics—including the number of participants, the amount of plan assets, and available information on plan investment offerings for ERISA 403(b) plans from 2010 through 2019, the most recent year for which data are available—from the Department of Labor (DOL)'s Form 5500 Private Pension Plan data. DOL's Form 5500 Database captures information from ERISA-covered retirement plans—including ERISA 403(b) plans—on the number of plan participants, assets held by the plan, and fees paid by the plan, among other things. To identify 403(b) plans, we used self-reported plan type information as well as a string search on the name of the plan. For the purposes of this report, we generally defined the largest plans as those with $1 billion or more in assets, unless otherwise indicated. We defined small plans as those with either 99 or fewer participants, $1 million or less in assets, or as otherwise indicated. We also, where feasible, compared our results for 403(b) plans with those of 401(k) plans, which according to DOL data are the largest type of defined contribution plan by assets and number of participants. We reviewed documentation about how Form 5500 data are collected and conducted electronic data tests for completeness and accuracy, and contacted knowledgeable officials with specific questions about the data. We determined that the data for the variables we used were sufficiently reliable for the purposes of our reporting objectives.

Second, we analyzed individual-level data from the Health and Retirement Study (HRS) of respondents over age 50 who reported having a retirement benefit in ERISA or non-ERISA 403(b) plans from 2010 through 2016—the most recent year for which complete weighted data are available—including their household assets, education, and the industry in which they are employed.[3] We reviewed technical documentation, conducted electronic data tests for completeness and accuracy, and contacted knowledgeable experts with specific questions about HRS data. We determined that the data for the variables we used were sufficiently reliable for the purposes of reporting on the estimated number of individuals who reported participating in an ERISA or non-ERISA 403(b) retirement plan,[4] the extent to which the 403(b) plan was the participant's primary retirement plan or supplemental retirement plan, and the selected demographic characteristics of these individuals. In addition, we examined available data on ERISA and non-ERISA 403(b) plans from industry publications and third-party research. We also included relevant information obtained by our surveys, as described below.

To provide available information on what is known about fees charged to 403(b) plan participants, especially those in non-ERISA plans, we surveyed five selected key populations: four sets of 403(b) plan sponsors, as well as one set of 403(b) service providers.[5] We received 26 survey responses from plan sponsors and 19 survey responses from service providers, for a combined total of 45 survey responses overall. We conducted the surveys from May to November 2021 and obtained the following response rate from our populations:

[3]Since HRS respondents are asked only about the retirement accounts at their current job, the survey may not capture information regarding respondents' retirement accounts from previous jobs or from retirees.

[4]This question is only asked of those individuals who are currently employed; therefore, our results reflect the estimated population of current employees over age 50 and their spouses who have a retirement benefit, and does not reflect the more general population of currently employed or retired individuals aged 50 or older.

[5]Our plan sponsor survey respondents comprised five ERISA and 21 non-ERISA plans. For more information on how we identified 403(b) plans and service providers to survey and our response rates, see appendix I.

- Nine of 14 state-sponsored 403(b) plans identified and compiled in a list published by the National Tax-Deferred Savings Association (NTSA);[6]
- Five of 11 of the largest 403(b) plan sponsors, as identified by *Pensions and Investments;*[7]
- Five of 15 small 403(b) plan sponsors, as identified by a random sample of plans from DOL's 5500 filings of 99 or fewer participants and plans from the Form 5500 filings with $1 million or less in total assets;[8]
- Seven of 26 K-12 school districts, including five of the 10 largest districts as measured by the number of students in the district and selected by a certainty sample; as well as one of the 20 districts randomly selected out of the remaining districts in 50 states plus the District of Columbia, as measured by number of students in the district by the National Center for Education Statistics; as well as one other provider of services to a set of multiple school districts within one certain county that we included and counted as a school district; and
- Twelve of 18 companies who serve as major vendors or record keepers, or third-party administrators, as identified by *Pensions and Investments* or as identified as key 403(b) plan vendors or record keepers in our interviews with experts. We also included seven other

[6]The National Tax-Deferred Savings Association is an industry group whose members include 403(b) and 457 plan sponsors and service providers. Three states on NTSA's list have discontinued their plans in the last 3 years. One of the state's that discontinued its plan completed a survey, and we included this response in our analysis. We excluded the other two states from our count of those surveyed. In addition, two additional ongoing state-sponsored plans, which we included in our count of those surveyed, did not respond to our survey.

[7]*Pensions and Investments* is a news publication written for pension, portfolio, and investment management executives in the institutional investment market. Each year it publishes a list of the largest 403(b) plan sponsors. We examined its 2019, 2020, and 2021 lists; when combined, it totaled 11 distinct plan sponsors. We also excluded one sponsor that appeared on the list of state sponsored plans to avoid double counting.

[8]We initially randomly selected 20 small plans—10 with 99 or fewer participants and 10 with $1 million or less in total assets according to Form 5500 data—however, we excluded six for various reasons (for example, plans that had apparently been terminated since the 2018 Form 5500 filing), as detailed in appendix I. We obtained responses from 5 of the 15 small plans we surveyed.

respondents, who operate as record keepers, third-party administrators, vendors, or consultants for 403(b) plans.[9]

We received 26 survey responses from plan sponsors and 19 survey responses from service providers, for a combined total of 45 survey responses overall. In addition, we analyzed available information on fees from DOL's Form 5500 data and conducted semi-structured interviews of stakeholders and experts. These stakeholders and experts included representatives of industry associations, research organizations, and service providers to 403(b) plans we identified as being knowledgeable about 403(b) plans based on their published research or other documentation or based on referrals from other organizations we interviewed. For more detailed information on our scope and methodology, see appendix I.

We conducted this performance audit from July 2020 through March 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

Retirement plans established under 26 U.S.C. § 403(b) are commonly referred to as 403(b) plans.[10] These plans are often sponsored by public schools and certain tax-exempt organizations. A 403(b) plan allows participants—including employees of tax-exempt organizations;[11] employees of public schools, including K-12 schools, public colleges, and universities; and certain ministers—to defer a portion of their salaries to be held in the participants' individual account within the plan. Employers may also contribute to the plan for employees. After regulations became

[9]For the purposes of this report, we refer to all such record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

[10]For purposes of this report, references to 403(b) plans include annuity arrangements under Internal Revenue Code (IRC) section 403(b)(1) and custodial account arrangements under IRC section 403(b)(7). 403(b) plans also include retirement income accounts maintained for employees of certain church-affiliated organizations under IRC 403(b)(9).

[11]See 26 U.S.C. § 403(b)(1)(A)(i) referencing "an employer described in section 501(c)(3) which is exempt from tax under section 501(a)." References in this report to "tax-exempt organizations" are to these organizations described in 26 U.S.C. § 501(c)(3).

effective in 2009, 403(b) plans generally transitioned from primarily individual employee-controlled accounts to more formally developed plans.[12] Some 403(b) plans are a participant's primary retirement account, in that the 403(b) account is the participant's sole retirement savings account or has the highest balance among the individual's other defined contribution retirement accounts and the individual did not have a defined benefit plan.[13] Other plans are supplemental, in that the 403(b) account is not the participant's primary source of retirement savings.

## 403(b) Plan Sponsors Contract with Service Providers

Sponsors of 403(b) plans may hire a variety of service providers to handle one or more aspects of managing the plan, including the following:

- *Plan administrators*: Plan administrators run the 403(b) plan on a day-to-day basis, assuring that the plans comply with relevant requirements concerning eligibility and participation, and conducting periodic reviews of the plan and its assets, among other things. Plan sponsors can perform some or even all of these functions themselves, but may hire a third-party administrator for some or all of the above functions. Administrators may also hire investment advisors to assist them with selecting investment options.
- *Vendors:* Vendors are entities that provide investment options—generally either annuity contracts or mutual funds.
- *Record keepers*: Record keepers are generally in charge of processing participants' enrollments in plans, tracking contribution types and participants' investments, providing plan sponsors and participants with account statements and other information to help participants manage their accounts.

[12]See BrightScope and Investment Company Institute (ICI), *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2017* (January 2021). Specifically, as of 2009, 403(b) plans are required to have a written program that describes eligibility, benefits, and investments, among other things. 26 CFR Parts 1, 31, 54 and 602. These regulations became effective Jan. 1, 2009.

[13]For the purposes of our report, we defined sole, primary, and supplemental based on the reported balances of a participant's various defined contribution plans in the HRS analysis and based off the number of participants in any other defined contribution plans in the Form 5500 analysis. If a plan sponsor offered or a survey respondent had a defined benefit plan, we defined the 403(b) plan as supplemental in accordance with DOL's general practice.

## Permitted Investments in 403(b) Plans

Investment options are generally more limited for 403(b) plans than they are for other qualified retirement plans.[14] Amounts contributed into 403(b) accounts may only be invested in annuity contracts or custodial accounts that hold mutual funds.[15] Thus, investments in individual stocks and bonds, bank savings accounts, individual treasury notes or bills, or similar types of investments traditionally available under employer-sponsored retirement plans are not permitted for 403(b) accounts.[16] Further, 403(b) plan assets invested in annuity contracts may be invested in fixed or variable annuities.[17] With a fixed annuity, participants are guaranteed a specified rate of return on their contributions.[18] With a variable annuity, participants can direct their plan contributions to different investment

[14]A qualified retirement plan is a retirement plan that meets certain IRC requirements. Generally, under a qualified plan, employers are able to take an income tax deduction for their contributions to the plan and participants are able to defer income taxation on their contributions to the plan, including any investment gains attributable to those contributions, until distribution.

[15]See 26 U.S.C. § 403(b)(1) & (7). Retirement income accounts provided by churches are able to include investment options other than annuity contracts and mutual funds. See 26 U.S.C. § 403(b)(9). These accounts are typically referred to as church plans. Church plans are plans that (1) have as their principal purpose or function the administration or funding of retirement or welfare benefits for employees of a church or convention or association of churches and (2) are controlled by or associated with a church or convention or association of churches. See 29 U.S.C. § 1002(33)(A)-(C). However, church plans can also elect to be subject to ERISA and its heightened requirements.

[16]In contrast, 401(k) plans can offer a wider range of investment products. In addition, 401(k) plans are allowed to offer investment options through a collective investment trust. 26 U.S.C. § 401(k).

[17]Owners of tax-deferred annuities pay taxes only when they make withdrawals, take a lump sum, or begin receiving income from the account. At that point, the money received is generally taxed at the participant’s ordinary income tax rate unless there is an unpermitted early withdrawal (which would subject the amount to additional taxation).

[18]There are also annuities that specify the amount of guaranteed monthly lifetime income (income annuities) rather than a rate of return.

options, usually mutual funds, to be held in their annuity account.[19] For fixed and variable annuities, the amount of money participants receive in retirement will vary depending on various factors, which can include how much participants contribute, the type of investment options offered by the plan and the options selected by participants, the rate of return on the investments, and plan fees and expenses.[20]

## Types of Fees That 403(b) Plan Services Providers Charge

Plan service providers charge various types of fees for different services. Administrative fees can cover services such as record keeping for the plan and communications with participants; as well as services incurred on an individual participant basis, such as fees for processing a participant loan or distribution. Investment-related fees are associated with buying, selling, and managing investments, but they can also include embedded costs of plan administration. Asset-based investment fees, a type of investment-related fee, are typically the largest fees a participant will pay. Often called the expense ratio, this fee expresses the percentage of assets under management that is deducted each year for fund expenses. For the purposes of this report, we surveyed plan sponsors and 403(b) service providers regarding the several types of fees that could be charged to 403(b) plan sponsors or participants, as described in table 1.

**Table 1: Examples of Administrative and Investment Fees That May Be Charged in 403(b) Plans**

| Fee type | Description |
|---|---|
| Record keeping and administrative services | Tracking individual contributions and reporting returns |
| Consulting and investment advice | Helping the plan sponsor select funds for the plan and monitor investments |
| Other administrative services | Trustee, legal, and audit services |

[19]A variable annuity has two phases: an accumulation phase and a payout phase. During the accumulation phase, individuals can typically transfer their money from one investment option to another without paying tax on their investment income and gains, although they may be charged by the insurance company for transfers. At the beginning of the payout phase, they may receive their purchase payments plus investment income and gains (if any) as a lump-sum payment, or they may choose to receive them as a stream of payments at regular intervals (generally monthly) for the remainder of their life (or the life of their spouse or other beneficiary); there can be other withdrawal options as well. Indexed annuities are a particular type of annuity that combines features of securities and insurance products. In this type of annuity, an insurance company promises that participants' contributions will grow at a rate of return based on a market index, such as the Standard & Poor's 500 Index. For more information see Securities and Exchange Commission, *Variable Annuities: What You Should Know*, SEC Pub. 011 (September 2007).

[20]Annuities are regulated by state insurance commissions.

| Fee type | Description |
|---|---|
| Investment management | Managing investment fund assets (fees are generally stated as a percentage of the amount of assets involved) |
| Marketing and distribution[a] | Commissions to brokers and other salespersons, for expenses such as advertising and other costs of promoting the fund to investors |
| Trading/transaction costs | Commissions and other fees associated with an investment manager's buying and selling of securities within a particular investment vehicle |
| Wrap fees | Aggregate fees that encompass multiple components, such as investment management fees, surrender fees,[b] and administrative expense fees. |

Source: GAO review of documentation. I GAO-22-104439

[a]Also known as 12(b)(1) fees, named for the Securities and Exchange Commission rule that authorizes a mutual fund to charge them. See 17 C.F.R. § 270.12b-1.

[b]Surrender fees are fees for selling or withdrawing money from an investment before a set period of time has passed. Surrender fees are often phased out over a period of years, and vary by specific investment options, but generally involve a reduction of 1 to 2 percent per year until the surrender fee is no longer charged. For example, an annuity with a 10-year, 10 percent surrender fee would charge 10 percent the first year to move money out of the annuity, 9 percent the second year, and so on, until there is no surrender fee after the 10-year period.

## Regulation and Oversight of 403(b) Plans

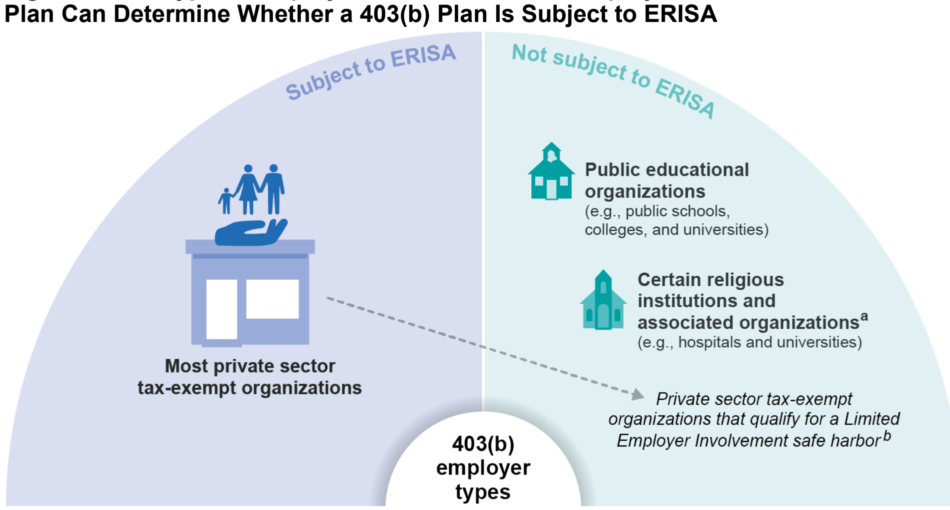
Most private sector employer-sponsored retirement plans are subject to ERISA requirements intended to protect the interests of plan participants. Specifically, among other things,

- plan fiduciaries are required to discharge their duties solely in the interest of participants and beneficiaries for the exclusive purpose of providing benefits and defraying reasonable expenses of plan administration and with the care, skill, prudence, and diligence under the circumstances then prevailing of a prudent person acting in a like capacity and familiar with such matters;
- plan fiduciaries are generally prohibited from entering into certain transactions with the plan, such as by dealing with plan assets in the fiduciary's own interest;
- plan administrators are required to provide participants with a summary plan description outlining their benefits, rights, and responsibilities under the plan, and notify participants of any material changes; and
- plan administrators are required to file annual reports including the Form 5500 and applicable schedules and attachments that collect information on particular plan aspects. This includes information on plan investments, fees paid to service providers, the plan's financial condition, annual participant contributions, and the number of participants.

DOL's Employee Benefits Security Administration's (EBSA) role includes overseeing the administration of 403(b) retirement plans and the fiduciary protections of such plans subject to ERISA. EBSA's mission is ensuring the security of retirement, health, and other workplace-related benefits of American workers and their families.

Not all 403(b) plans are subject to ERISA. The type of employer and, in certain cases, the extent to which the employer is involved in the plan can determine whether the plan is subject to ERISA. For example, plans sponsored by public schools are generally exempt from ERISA, as shown in figure 1.

**Figure 1: The Type of Employer and Extent of the Employer's Involvement in the Plan Can Determine Whether a 403(b) Plan Is Subject to ERISA**




Source: GAO analysis of Employee Retirement Income Security Act of 1974, as amended (ERISA); the Internal Revenue Code; and Department of Labor Regulations at 29 C.F.R. § 2510.3-2(f). | GAO-22-104439

[a]Retirement plans offered by religious organizations are referred to as church plans. Church plans are plans that (1) have as their principal purpose or function the administration or funding of retirement or welfare benefits for employees of a church or convention or association of churches and (2) are controlled by or associated with a church or convention or association of churches. See 29 U.S.C. § 1002(33)(A)-(C).

[b]In certain circumstances, a 403(b) plan that meets certain criteria may qualify for a safe harbor exemption and as such not be subject to ERISA. In order to fall under what we will refer to in this report as the "Limited Employer Involvement" safe harbor, employer involvement in the plan must be limited. See 29 C.F.R. § 2510.3-2(f); see also Department of Labor (DOL) Field Assistance Bulletin 2007-02 (July 24, 2007).

More specifically, in certain circumstances, a 403(b) plan that meets certain criteria may qualify for a safe harbor exemption and as such not be subject to ERISA. In order to fall under what we refer to in this report as the "Limited Employer Involvement safe harbor," employer involvement in the plan must be limited as described in DOL regulations.[21] For example, to qualify for the safe harbor, employers are not allowed to contribute to the plan or make discretionary determinations in administering the plan, such as processing distributions, authorizing plan-to-plan transfers, or making determinations of eligibility for loans or hardship distributions; and participant involvement in the plan must be voluntary (i.e., participants elect to participate in the plan, instead of being automatically enrolled by the employer).

In addition to DOL's EBSA, a number of federal and state agencies have a role in regulating and overseeing 403(b) plans or investment options provided to participants. Specifically:

- Internal Revenue Service (IRS) administers the Internal Revenue Code (IRC), including provisions related to 403(b) retirement plans. Among its responsibilities, IRS ensures that taxpayers comply with the tax law and develops monitoring mechanisms to enforce retirement plans' compliance with IRC requirements for tax qualification.
- The Securities and Exchange Commission administers and enforces federal securities laws and regulations that govern the sales and marketing of variable annuities, mutual funds, and certain other investment products in part through Regulation Best Interest.[22] This regulation establishes a standard of conduct for brokers or dealers who provide recommendations regarding securities, investment strategies for securities, and other investment products used to fund 403(b) plans.
- State Insurance Commissioners administer and enforce state regulations regarding fixed, variable, and indexed annuities that may be offered in 403(b) plans. In addition, State Insurance Commissioners may be in charge of administering and enforcing individual state laws for 403(b) plans sponsored by a state, subdivision, or instrumentality thereof covering employees of public-supported schools.

## Reporting Requirements for ERISA 403(b) Plans

The Form 5500 and a series of supplemental forms known as "schedules" are the primary source for the federal government to collect information regarding most private sector employer-sponsored retirement plans, and

[21]See 29 C.F.R. § 2510.3-2(f); see also Department of Labor Field Assistance Bulletin 2007-02 (July 24, 2007).

[22]17 C.F.R. § 240.15l-1.

were jointly developed by DOL, IRS, and the Pension Benefit Guaranty Corporation.[23] The Form 5500 collects information from each retirement plan on the number of plan participants, assets held and benefits paid by the plan, and administrative fees paid by the plan, among other things.

The Form 5500 is part of ERISA's overall reporting and disclosure framework, which is intended to ensure that retirement plans, including those 403(b) plans subject to ERISA, are operated and managed according to certain prescribed standards and that participants, beneficiaries, and federal agencies are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries. EBSA uses the Form 5500 to monitor and enforce the requirements of title I of ERISA. IRS uses the form to monitor and enforce standards of compliance with the tax code, which relate to, among other things, how employees become eligible to participate in benefit plans, and how they become eligible to earn rights to benefits.

All 403(b) plans that are subject to ERISA are required to file a Form 5500. Plans with 100 or more participants at the start of a calendar year are generally required to file a Form 5500, and have their financial statements audited by an independent qualified public accountant and submitted to DOL when filing Form 5500. Plans with fewer than 100 participants may generally file a shorter form called the Form 5500-SF and are generally exempt from the independent qualified public accountant audit requirement.

**Form 5500 Data Do Not Represent All 403(b) Plans**

Form 5500 data do not represent all 403(b) plans because not all plans are subject to the Employee Retirement Income Security Act of 1974, as amended (ERISA), including its reporting requirements. ERISA does not cover governmental plans, certain church plans, and 403(b) annuities and custodial accounts that meet the conditions of the safe harbor under 29 CFR 2510.3-2(f), which is based on limited employer involvement.

Source: GAO analysis of 29 C.F.R. 2510.3-2(f). I GAO-22-104439

DOL and other federal agencies collect information on fees in several different supplemental schedules attached to Form 5500 for retirement plans covered by ERISA, including 403(b) plans. These include Schedule C, in which sponsors of large retirement plans (including 403(b) plans) are required to disclose both direct and indirect compensation paid to service providers in connection with their services to the plan that

[23]The Pension Benefit Guaranty Corporation serves as trustee for certain terminated pension plans that are underfunded and unable to pay guaranteed benefits.

exceeds a $5,000 threshold; and include Schedule H, in which sponsors provide financial information, including a series of line items for administrative expenses paid directly by the plan to service providers.

## Available Data Show That Total 403(b) Plan Assets Have Increased since 2010 and Other Characteristics, such as Plan Participation, Varied Among Plans

### Total 403(b) Plan Assets Increased from 2010 to 2020, Driven by an Increase in ERISA Plan Assets, Which Are Concentrated in the Education and Health Care Sectors

Total assets in both ERISA and non-ERISA plans increased from 2010 to 2020, and the majority of participants were in the education and health care sectors, as described below.

**Assets in plan.** The amount of assets held by participants in 403(b) plans has grown considerably since 2010, according to available data. Data from the Investment Company Institute (ICI) quarterly reports shows total (ERISA and non-ERISA) 403(b) plan assets grew from $851 billion in 2010 to more than $1.1 trillion in 2020, driven by an increase in ERISA plans.[24] According to our analysis of available data, the ERISA plan share of total assets increased from 37 percent to 57 percent from 2010 to 2019.[25] According to our analysis of DOL's Form 5500 data, the value of ERISA 403(b) plan assets increased from $313 billion in 2010 to $617 billion in 2019, the most recent year for which these data are available.[26] Although no comprehensive data exist on non-ERISA 403(b) plans, which are not subject to federal reporting requirements, using ICI total 403(b)

[24]We applied an inflation adjustment to present ICI's nominal dollar estimates in 2019 real dollars. See Investment Company Institute, *The U.S. Retirement Market, Third Quarter 2021.*

[25]These data represent our analysis of ICI's estimates of the total (ERISA and non-ERISA) 403(b) market as detailed in its quarterly retirement total market reports, and our analysis of Form 5500 data, and calculating the annual ERISA percentage of assets.

[26]All analyses of Form 5500 data are presented in 2019 adjusted dollars.

plan asset estimates and GAO's analysis of ERISA plan assets, we estimated that the amount of non-ERISA plan assets decreased from $538 billion in 2010 to $469 billion in 2019.[27] This represented a decrease in the share of non-ERISA assets from 63 percent to 43 percent during the time period.

**Sector.** Participants in ERISA 403(b) plans were concentrated in the education or health care sectors, but the number of plans was similar across sectors. Specifically, our analysis of Form 5500 data found that 56 percent of ERISA plan participants were in health care and another 27 percent of participants were in education in 2019.[28] On a plan basis, our analysis of DOL's Form 5500 data for 2019 found a fairly even distribution across the number of ERISA plans in the education, health care, social assistance, and religious sectors.

**Number of plans.** The number of ERISA 403(b) plans has declined since 2010, while the trend in the number of non-ERISA plans is unknown. According to our analysis of DOL's Form 5500 data, the number of ERISA 403(b) plans declined from 21,900 in 2010 to 20,900 in 2019, a decrease of 5 percent.[29] Experts from a large nonpartisan retirement research entity, as well as a retirement plan sponsor association, told us that the health care sector has seen significant merger and acquisition activity, which may, in part, be driving the decline in the number of ERISA plans, given that many ERISA 403(b) plans are health care-related companies and hospitals. Similarly, our analysis of Form 5500 data found that the health care sector experienced the largest decline in the number of

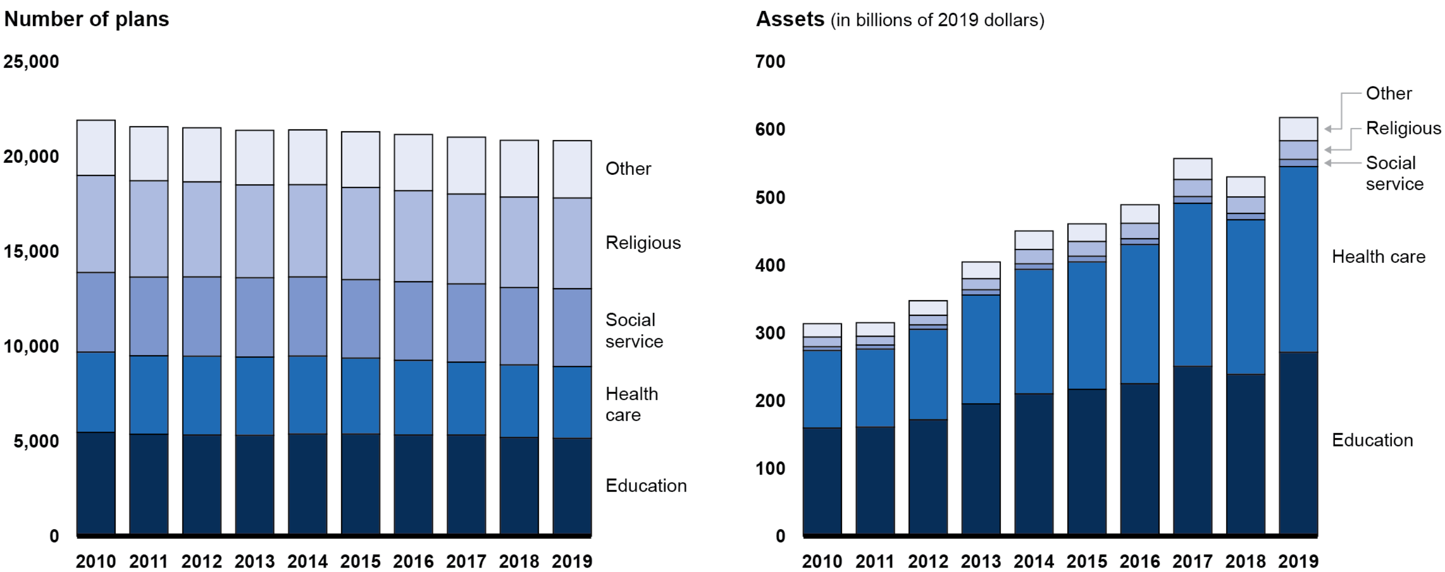
[27]Non-ERISA asset estimates are based on ICI's estimates of annual (ERISA and non-ERISA) total 403(b) market assets, less our ERISA asset values as determined through our analysis of Form 5500 data. We applied an inflation adjustment to ICI's nominal dollar estimates to present in 2019 real dollars.

[28]Plan sponsors report the North American Industry Classification System (NAICS) code corresponding to their principal business activity on the form 5500. We categorized as follows: educational services including schools, colleges, & universities, business code 611000; health care, business codes from 621111 to 623000; social assistance, business codes from 624100 to 624410; religious and similar (includes religions, grant making, civic, professional, and similar organizations), business code 8130000; all other – all other NAICS codes. In addition, our analysis of HRS data—which covers ERISA and non-ERISA 403(b) plans—found similar results, and also found that a higher percentage of 403(b) participants were employed in the education or healthcare and social assistance sectors, compared to 401(k) retirement account holders. See appendix II for detailed results of our HRS analysis.

[29]BrightScope/ICI's annual reports on 403(b)s published from 2016 to 2021 and covering 2012 to 2017 show a similar trend in terms of decreasing number of ERISA plans from 2012 to 2017, and increasing number of participants and plan assets.

ERISA 403(b) plans, with a 10.4 percent decrease from 2010 to 2019, and had the largest increase in inflation-adjusted total 403(b) assets, an increase of 140 percent between 2010 and 2019. Figure 2 shows the decline in number of plans, by sector, and the increase in plan assets, by sector.

**Figure 2: Number of 403(b) ERISA Plans and Value of ERISA Plans' Assets, by Sector, 2010-2019**




Source: GAO analysis of Form 5500 data. | GAO-22-104439

Note: ERISA refers to the Employee Retirement Income Security Act of 1974, as amended. Plan sponsors report the North American Industry Classification System (NAICS) code corresponding to their principal business activity on the form 5500. We categorized as follows: education, including schools, colleges, and universities, business code 611000; health care, business codes from 621111 to 623000; social service, business codes from 624100 to 624410; religious and similar (includes religions, grant making, civic, professional, and similar organizations), business code 8130000; other–all other NAICS codes.

Information on the total number of non-ERISA plans, which may be sponsored by states, localities, school districts, or religious organizations, among others, was not available. At the state-level, an industry group reported that, as of August 2020, 16 states sponsored non-ERISA 403(b) state-wide plans for certain public school workers. However, three states from this list told us they had discontinued their state-sponsored 403(b) plans.

**Number of participants**. Although the number of 403(b) ERISA plans decreased from 2010 to 2019, our analysis of Form 5500 data found that the number of participants in these plans grew from about 7.1 million to

9.9 million over the same time period, an increase of 39 percent.[30] In addition, our analysis of data from the Health and Retirement Study (HRS), a nationally representative survey of respondents who are over age 50, indicates that the number of individuals who reported having an ERISA or non-ERISA 403(b) retirement account was statistically unchanged between 2010 and 2016, the most recent year for which complete data are available. Specifically, the estimated number of individuals over age 50 who reported they had a 403(b) account was 1.9 million in 2010 and 2.0 million in 2016. This change is not statistically significant at the 95 percent confidence level.[31] No comprehensive data exist regarding the number of non-ERISA 403(b) participants.[32]

**Coverage rate.** Other available data indicate that the share of older Americans who were employed and participating in 403(b) plans (both ERISA and non-ERISA) was statistically unchanged between 2010 and 2016. Our analysis of HRS data shows that an estimated 4.3 percent of Americans over age 50 reported having a 403(b) plan in 2010, and 3.9 percent had a 403(b) plan in 2016, although this change is not statistically significant at the 95 percent confidence level.[33]

By contrast, available data indicate 401(k) plans and participation have increased across all measures. Our analysis of Form 5500 data shows that the number of plans, number of participants, and plan assets for 401(k) plans all increased during this period. More specifically, the number of 401(k) plans and participants increased by 17 percent and 27 percent, respectively.[34] In addition, the amount of 401(k) plan assets

[30]As noted earlier, an expert told us there has been significant merger and acquisition activity in the healthcare market, which may, in part, be the driver of the decline in the number of ERISA plan, given that many ERISA 403(b) plans are healthcare related companies and hospitals. This may also account for the increase in the number of participants in each plan.

[31]The associated lower and upper bound confidence intervals with these estimates are +/-290,000, and +/-360,000, respectively.

[32]We reviewed the Current Population Survey and the Survey of Income and Program Participation datasets but did not identify any data fields relating to 403(b) retirement accounts.

[33]The associated confidence intervals at the 95 percent level are +/-0.6 percent for 2010 and +/-0.6 percent for 2016 403(b) account participants.

[34]Specifically, from 2010 to 2019 the number of 401(k) plans increased from 510,000 to 595,000 and the number of participants in such plans increased from 71 million to 90 million.

increased by 72 percent.[35] However, our analysis of HRS data shows that the share of Americans over age 50 with a 401(k) plan was statistically unchanged between 2010 and 2016.[36] Specifically, the estimated percent of individuals over age 50 with a 401(k) plan through their current job was 28.4 percent in 2010 and 30.0 percent in 2016, although this change was not statistically significant at the 95 percent confidence level.[37]

**Demographic characteristics of 403(b) participants over age 50**. Our analysis of data indicate some differences in the demographic characteristics of 403(b) and 401(k) participants over age 50.[38] Specifically, HRS data show that a greater estimated percentage of 403(b) participants—in either an ERISA or non-ERISA plan—were female; were in the education or health care and social assistance sectors; and had $300,000 or more in household assets, compared to 401(k) participants. In addition, a greater percentage of 403(b) participants earned $50,000 or more annually. Some of our results did not show statistically different results—for example, our estimates regarding the extent to which 403(b) account holders are 65 years of age or older, and by race. See appendix II for more detailed additional results of our analyses of HRS data.

[35]The amount of 401(k) plan assets increased from $3.6 trillion to $6.2 trillion from 2010 to 2019.

[36]The HRS contains a data field to identify those respondents in its representative sample of people in the United States who are 50 years of age or older that report having a 403(b) retirement account. An analysis of HRS data yielded 279 403(b) plans identified by 270 HRS respondents for the 2016 wave, the most recent year for which complete data are available. We selected 401(k) account holders as a comparison group here and elsewhere in the report because, according to DOL data and reporting, 401(k) accounts comprise the largest share of defined contribution retirement accounts on a plan basis.

[37]The associated confidence intervals for these estimates at the 95 percent level are +/-1.8 percent for 2010, and +/-1.7 percent for 2016 for 401(k) account participants.

[38]The Form 5500 does not capture demographic information on ERISA 403(b) plan participants, such as race, gender, income, and education. Our surveys of plan sponsors and service providers were not designed to capture this information.

## Available Data Show That Non-ERISA Plans Are Often Supplemental to Other Forms of Retirement Savings and That Other Characteristics, such as Contribution Rates and Participation, Vary among 403(b) Plans

Certain characteristics of ERISA and non-ERISA 403(b) plans varied; for example, based on the results of our non-generalizable survey, non-ERISA plans were more likely than ERISA plans to be supplemental to other forms of retirement savings.[39]

**Primary versus supplemental plan status.** The best available data sources, while not directly comparable, seem to indicate that ERISA 403(b) plans tend to be the sole or primary plan offered by an employer, while non-ERISA plans are mostly supplemental to another retirement savings plan offered by an employer. According to HRS data—which do not differentiate between ERISA and non-ERISA plans—an estimated 61 percent of individuals over age 50 with a 403(b) plan reported that the 403(b) plan was their only retirement plan, and another 13 percent reported it was their primary plan. With respect to ERISA plans, our analysis of Form 5500 data found that 93 percent of ERISA 403(b) plans are the employer's sole or primary retirement plan. By contrast, most (18 of 21) of the non-ERISA plan sponsors who responded to our survey said that the 403(b) plan was a supplemental plan.[40] With respect to ERISA plans, our analysis of Form 5500 data found that 93 percent of ERISA 403(b) plans are the employer's sole or primary retirement plan.[41] By contrast, most (18 of 21) of the non-ERISA plan sponsors who responded

[39]Our analysis was based on available data, including the Form 5500, industry reports, and our surveys of 403(b) plan sponsors. More information is available about ERISA 403(b) plans, which are subject to federal reporting requirements, than for non-ERISA 403(b) plans. We relied exclusively on the results of our surveys of non-ERISA plans to provide some information regarding the non-ERISA 403(b) market; however, this information must be considered non-generalizable due to the small numbers of respondents to our survey. For the purposes of this report, we refer to 403(b) record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

[40]For the HRS analysis, we considered a plan to be primary if the respondent reported having multiple defined contribution plan types and the 401(k) or 403(b) plan had the largest reported balance. We considered a plan supplemental if the respondent did not have the largest reported balance in that plan account among multiple defined contribution plan types or if the respondent also reported a defined benefit plan (the defined benefit plan was assumed to be primary).

[41]For our analysis of Form 5500 data for ERISA plans, we considered a plan to be a primary plan if there was no other defined benefit plan sponsored by employer and no other defined contribution plan type (e.g. money purchase) that covered a larger group of participants. We also analyzed Form 5500 data to determine the extent to which employers made contributions to 403(b) and 401(k) plans, and found that 74 percent of 403(b) plan employers reported they made a contribution to participants' accounts, while a higher percentage of 401(k) plans (80 percent) reported they made contributions to participants' accounts.

to our survey said that the 403(b) plan was a supplemental plan, meaning that it was not the retirement plan holding the greatest share of assets for most participants.[42] Experts told us that many public plans—such as those offered by a university or state—usually have a defined benefit plan and the 403(b) plan is typically a supplemental plan. The National Tax-Deferred Savings Association noted that supplemental savings in 403(b) plans have become increasingly important with widespread reductions in benefits of state retirement system plans.[43]

**Contribution rates.** While no comprehensive data exist on contribution rates—the percentage of earnings participants or employers contribute to a 403(b) plan—available data seem to indicate 403(b) employers contribute less than 403(b) plan participants to 403(b) accounts. Specifically, industry survey data from 2021 indicates that 403(b) plan sponsors in 2020 on average contributed 4.6 percent of annual payroll, and 403(b) participants on average contributed 6.2 percent of annual earnings; those numbers represent a decrease from, respectively, 6.3 percent and 7.2 percent from 2019.[44] In a separate report regarding K-12 school plan sponsors, the National Tax-Deferred Savings Association (NTSA) estimated in 2018 that only 6 percent of these non-ERISA 403(b) K-12 school plan sponsors offered matching contributions. According to NTSA, contribution rates in 403(b) plans are lower than rates in 401(k) plans, in part, because many of these plans are supplemental to other forms of retirement savings and very few employers offer matching

[42]For our surveys, by primary, we mean that the respondent's 403(b) plan had the largest balance of all the respondent's two or more reported defined contribution plans and there was no defined benefit plan. By supplemental, we mean that the 403(b) or 401(k) plan does not have the largest reported balance of multiple defined contribution plan types or if the respondent also reported a defined benefit plan (e.g., the defined benefit plan is assumed to be primary).

[43]See National Tax-Deferred Savings Association, *Improving Retirement Savings for America's Public Educators: A Comprehensive Survey of Public Education 403(b) Retirement Plans* (2018).

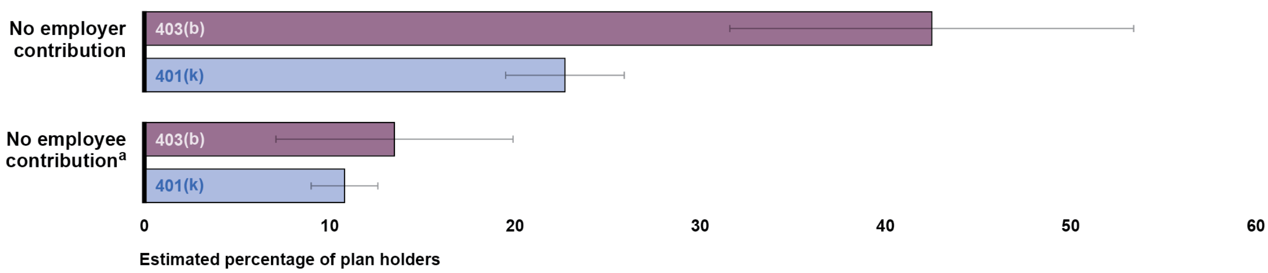
[44]Tax-exempt associations, foundations and universities had the highest average employer contribution rates as a percentage of gross annual payroll at 8.8 percent and 7 percent, respectively. The "research, science, and environmental organizations" and "associations/foundations" sectors had the highest average participant elective deferral contribution rates at 9.1 percent and 8.3 percent, respectively. This survey was of both ERISA and non-ERISA plan sponsors. For more information, see Plan Sponsor Council of America, *2021 403(b) Survey, Reflecting 2020 Plan Experience (2021)* and *2020 403(b) Survey, Reflecting 2019 Plan Experience* (2020).

contributions.[45] NTSA's report also found that contribution rates in these non-ERISA 403(b) K-12 school plans nationally roughly averaged 6.9 percent of the average teacher's salary of about $56,000.

We also analyzed HRS data from 2016 to determine the extent to which employers and employees made contributions to 403(b) or 401(k) accounts. The text box below describes the extent to which employers or participants made contributions to 403(b) accounts, compared to 401(k) accounts, in 2016.

**Extent to Which Employers or Employees Opted to Not Contribute to Their 403(b) or 401(k) Accounts**

We found that a higher percentage of individuals over age 50 who had a 403(b) account reported there was no employer contribution to their 403(b) account, compared to individuals over age 50 who reported they had a 401(k) retirement account. There was no statistically significant difference in the percentage of 403(b) and 401(k) participants over age 50 who reported they made no employee contribution. Our results are shown in the figure below.




Source: GAO analysis of Health and Retirement Study data I GAO-22-104439

Note: Results are generalizable to individuals over age 50 in the United States. With respect to employer contribution, the estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) no employer contribution, 42.5 percent, +/-10.9 percent; 401(k) no employer contribution, 22.7 percent, +/-3.2 percent. With respect to employee contribution, the estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) no employee contribution, 13.5 percent, +/-6.4 percent; 401(k) no employee contribution, 10.8 percent, +/-1.8 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

[a]The estimated difference for no employee contribution was not statistically significant at the 95 percent confidence level.

[45]In its report, NTSA stated 403(b) savings rates are generally lower than 401(k) savings rates because: (1) in the corporate market, 401(k) plans are the primary retirement savings plan and usually with no accompanying defined benefit savings program; (2) few school districts match participant contributions whereas about half of corporate 401(k) plans have such a match; (3) very few school districts auto-enroll employees into 403(b) programs; and (4) two-thirds (66 percent) of school districts also offer employees a 457(b) savings plan alternative. (A 457(b) plan is a tax-advantaged, compensation-deferred savings plan similar in nature to a 401(k) plan, except they are mainly for state and local public workers, together with highly paid executives at certain tax-exempt organizations.) See NTSA, *Improving Retirement Savings for America's Public Educators: A Comprehensive Survey of Public Education 403(b) Retirement Plans* (2018).

In addition, our plan survey results indicate that non-ERISA 403(b) plans included an employer contribution to the plan less frequently than ERISA 403(b) plans. More specifically, our survey results show the following:

- Employer basic or minimum contribution: Three of five ERISA plans provided a minimum contribution to a participant's account, compared to four of 21 non-ERISA plans.
- ERISA plans' employer matching contribution: Four of five ERISA plans matched a percentage of a participant's contributions to an account, compared to four of 21 non-ERISA plans.

**Participation rates.** Participation rates in 403(b) plans have steadily increased over time, according to one industry survey, and plan sponsors that responded to our survey reported wide ranges in plan participation rates. Specifically:

- A 2021 study of 403(b) plan sponsors reported that, among those who were eligible, the percentage of employees with a 403(b) account balance increased from 77.4 percent in 2012 to 82.6 percent in 2020. The percentage of employees that contributed to the plan increased from 66.2 to 77.2 percent during the same time period.[46]
- An industry study of public school employees found a wide range of participation rates within plans offered by school districts. The study found that the participation rates for the 4,473 school districts in the survey ranged from less than 7.6 percent to more than 99 percent. The study noted that the choices that each school district makes available to employees and the resources that they provide to help employees understand the benefits of participation are key differences in driving participation rates.[47]
- Respondents to our plan sponsor survey reported a wide range in employee participation, from 2.5 percent to 100 percent. About half of survey respondents (11 of 21) reported a participation rate

[46]See Plan Sponsor Council of America, *2021 403(b) Survey, Reflecting 2020 Plan Experience*.

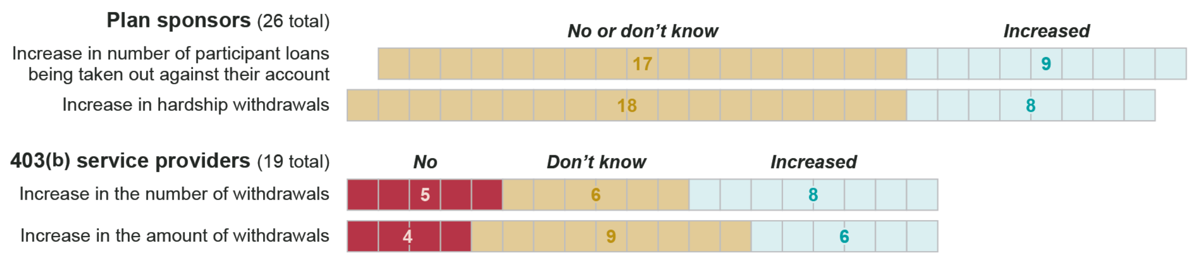
[47]See National Tax-Deferred Savings Association, *Improving Retirement Savings for America's Public Educators: A Comprehensive Survey of Public Education 403(b) Retirement Plans* (2018).

of 50 percent or higher.[48] This participation rate for those plan sponsors that responded to our survey did not appear to vary by plan size, as measured by the number of participants.[49]

Our survey results also identified some impacts due to the COVID-19 pandemic on 403(b) participant activities, as noted in the text box.

**Impact of the COVID-19 Pandemic on 403(b) Participant Activity**

Our survey data of ERISA and non-ERISA 403(b) plan sponsors found some reported an increase in participant loans and hardship withdrawals due to the COVID-19 pandemic, while most reported there was no increase or they did not know. Our plan sponsor survey asked plan sponsors to identify observed effects due to the pandemic by checking yes on a certain option. Alternatively, respondents could check "do not know" to all options. As such, we are not able to discern the extent to which plan sponsors would report "no" to a certain potential effect. Our survey of service providers found that eight of 19 service providers reported an increase in the number of withdrawals due to the pandemic, while five of 19 reported no such increase, as shown in the graphic below




In addition, six service providers reported an increase in the amount of withdrawals, while four service providers reported no such increase. Some plan sponsors reported that 403(b) plan participation rates or contributions decreased (in both cases, four of 26); a few service providers also reported decreases in participation rates (three of 19). Respondents to our surveys reported minimal other potential impacts of the pandemic on 403(b) participant activity. For example, two plan sponsors reported decreases in participation due to layoffs, while four service providers reported decreases in employers' matching contributions. Seven service providers reported no such decrease in employer matching programs, and eight reported they did not know. We did not ask service providers about plan sponsors' reported participation impacts due to layoffs.

Source: GAO analysis of GAO survey results. I GAO-22-104439

Note: Our plan sponsor survey asked plan sponsors to identify observed effects due to the pandemic by checking yes on a certain option. Alternatively, respondents could check "do not know" to all options. As such, we are not able to discern the extent to which plan sponsors would report "no" to a certain potential effect or "do not know" for all potential effects. We refer to all record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

[48]We excluded five survey respondents who provided participation data that did not allow us to calculate a participation rate.

[49]More specifically, the six smallest plans, with 2,000 or fewer participants, reported a similarly large range of participation from 2.5 to 100 percent, and the six largest plans in terms of participants—those with more than 20,000 participants each—reported a large range of participation, from 9.9 to 78 percent. We note that one plan had a lower reported participation rate of 0.13 percent; however, that plan is a recently discontinued state sponsored plan, so we chose to not report that result as the lowest.

**Number of participants within plan.** The majority of ERISA 403(b) plans are small plans with 99 or fewer participants. Specifically, our analysis of Form 5500 data found that 63 percent of ERISA 403(b) plans have 99 or fewer participants. This is a smaller share than for 401(k) plans, as 88 percent of 401(k) plans have 99 or fewer participants. No comprehensive data exist regarding plan size in terms of participants in non-ERISA 403(b) plans, and accordingly we cannot quantify the percentage of non-ERISA 403(b) plans that may have fewer than 99 participants. The non-ERISA plan sponsors who responded to our survey reported a range of plan sizes measured as the number of participants within the plan, from two to 315,000 participants.[50]

## 403(b) Plans Generally Have a Greater Number of Investment Options than Do 401(k) Plans, but Some 403(b) Plan Sponsors Reported They Did Not Know the Numbers and Details of Investment Options Offered by Their Plans

Available data indicate that ERISA and non-ERISA 403(b) plans had a larger number of investment options compared to 401(k) plans. According to reports published by BrightScope and the Investment Company Institute, the ERISA 403(b) plans in its sample had an average of 32 investment options in 2017, compared to an average of 21 investment options for its sample of 401(k) plans.[51] A 2021 survey from the Plan Sponsor Council of America, which surveyed both ERISA and non-ERISA plans, found that 403(b) plans consistently averaged having between 23 and 31 investment options available to 403(b) plan participants between 2011 and 2020.[52] In comparison, the Plan Sponsor Council of America 2020 survey of 401(k) plans found that 401(k) plans consistently

[50]These numbers may include some inactive participants who are no longer contributing to the plan.

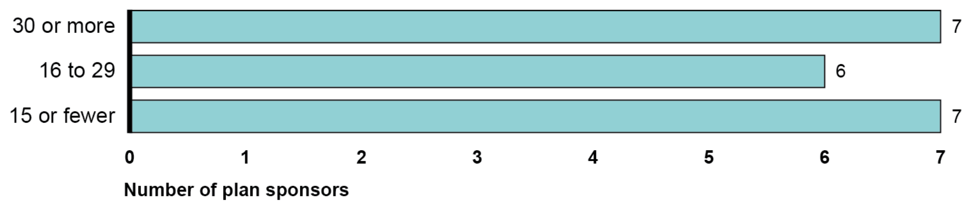
[51]For the purposes of this analysis and our report, a suite of target-date funds is counted as a single investment option. Target-date funds are pooled investment products that invest in a mix of assets and shift from higher-risk to lower-risk investments as a participant approaches their target retirement date. BrightScope/ICI relies, according to ICI representatives, on a manual review of the attachments provided by a firm in its audited Form 5500 submission since the Form 5500 data do not include information regarding the number of investment options; we did not conduct a similar analysis of Form 5500 audited files. BrightScope/ICI's audited sample is generally of plans with 100 or more participants. See BrightScope and Investment Company Institute, *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans*, 2017 (Washington, D.C.: January 2021) and The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2017 (Washington, D.C.: August 2020).

[52]The Plan Sponsor Council of America received responses from 379 non-profit (tax-exempt) entities that sponsor a 403(b) plan. It is not generalizable. See Plan Sponsor Council of America, *2021 403(b) Survey Report, Reflecting 2020 Plan Experience* (2021).

averaged having between 18 and 20 investment options available to 401(k) participants.[53]

Among the plan sponsors we surveyed, the number of investment options they made available varied widely, as shown in figure 3.

**Figure 3: Reported Number of Investment Options Offered by 403(b) Plan Sponsors Surveyed by GAO**




Source: GAO survey data. | GAO-22-104439

Some plan sponsors offer a large number of investment options. For example, one respondent representing a large state university system reported that its non-ERISA plan offers on average 42 investment options to participants,[54] while one respondent of a smaller plan reported that its ERISA plan currently offers 48 options. Our survey results, however, did not indicate a strong correlation between plan size measured in terms of assets held and the number of available investment options. Specifically, the largest eight plan sponsors in terms of assets reported offering a median of 30 investment options, while the smallest seven plans reported offering a median of 28 investment options.[55]

[53]The time period for the number of investment options for 401(k) participants was from 2010 to 2019. See Plan Sponsor Council of America, *63rd Annual Survey, Reflecting 2019 Plan Experience* (2020).

[54]The plan sponsor reported that this number was an average across four platforms. The sponsor noted that its program is based on annuities, so every participant has a direct account with its four investment providers. As a result of this setup, the plan is unable to map assets, and while it has worked to decrease the number of options available to new participants to about 40, it is unable to close accounts that are invested in the legacy options. As such, other information provided by the plan sponsor showed the total number of investment options for the plan was 216.

[55]One plan sponsor in the larger group and two plan sponsors in the smaller group did not know how many investment options were offered in their 403(b) plans, and we therefore excluded those plans in calculating the median.

While some 403(b) plans have a large number of investment options, several of the plan sponsors we surveyed reported significantly reducing the number of investment options they offer over the last 10 years. Specifically, eight of 17 plan sponsors who provided information on how the number of investment options had changed over the last 10 years reported that the number of investment options offered in their plans decreased—including four who previously had hundreds of investment options but had significantly reduced the number of options. The current number of investment options for these plans ranged from 10 to 22. Experts we interviewed noted that some plan sponsors had consolidated the number of investment options to ensure better outcomes for participants, including lower fees. For example, one official noted that his state had consolidated the number of 403(b) investment options for state educator and other government employees from over a dozen providers with 1,600 investment options, to a single provider with 14 investment options.[56]

Five public school 403(b) plan sponsors who responded to our survey reported they did not know the number of investment options their plans offered, although we were able to identify and obtain this information through public sources for three of these school districts. An expert told us that local school districts often will not have certain information regarding their plans' investment offerings because they are effectively delegating the plan administration to a third- party administrator. For example, representatives from one large school district reported its district, with about 15,000 participants as of August 2021, listed the names and phone numbers of 27 providers of 403(b) investment options on its website. Each provider may offer multiple investment options with varying expense ratios, and it is unclear from the information how many investment options the school district might offer. As another example, an official at a school district with 21,000 participants in its 403(b) plan stated in written communication to us, that it has a list of the vendors who offer 403(b) investment options in the school district, but the school district does not have a list of the number of investments offered or the expense ratios that are associated with the investment options. This situation also applied to some small schools. For example, the plan administrator at one small school district reported that in 2020 the district's 403(b) plan had two participants and was administered by a large third-party

[56]The official noted the state was responsible for continuing to provide record keeping services for investment options from the former 403(b) plans that are no longer offered; however, 85 percent of participants had moved into investment options through the state-sponsored plan.

administrator, and also reported that she had not had contact with the third-party administrator in years and did not know how to locate them or how to determine any other information regarding the plan.

## 403(b) Plans' Asset Allocations to Annuities and Mutual Funds Varied by Plan, and Some Plan Sponsors Reported They Did Not Know Asset Allocation of Their Plans

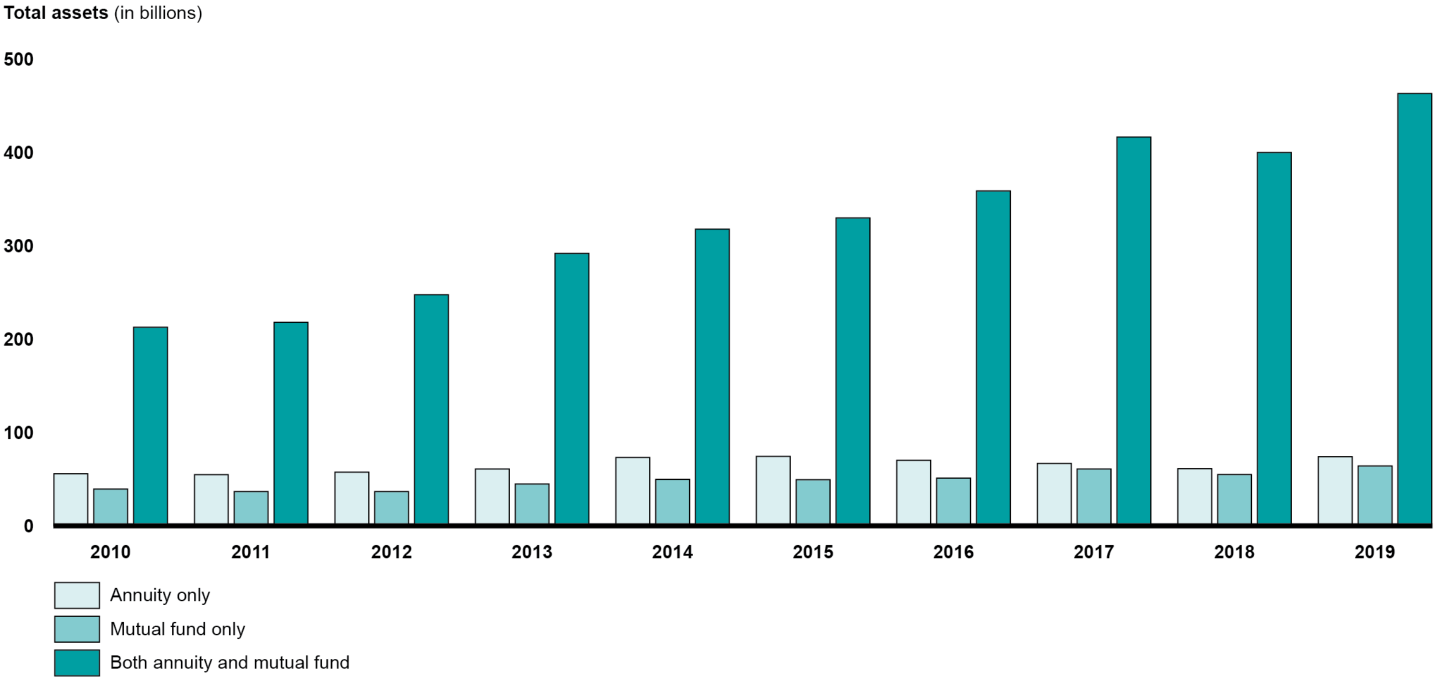
The majority of assets across 403(b) plans were in fixed or variable annuities according to ICI quarterly reporting, but asset allocations varied considerably among individual service providers and plans, according to our survey respondents. At an aggregate level, according to ICI's quarterly reporting, at the end of 2020, 48 percent of total ERISA and non-ERISA 403(b) assets were in life insurance products (excluding mutual funds held inside variable annuities), 24 percent were in variable annuity mutual funds,[57]and 28 percent were in non-variable annuity mutual funds.[58]

According to Form 5500 data from 2019, the majority of ERISA 403(b) plan assets—$463 billion of $617 billion—were held by plans that reported offering both annuity and mutual fund investment options. Moreover, our analysis of Form 5500 data found that the amount of assets held by ERISA 403(b) plans that exclusively offer annuity products increased from $56 billion in 2010 to $74 billion in 2019, while the amount of assets held by plans that exclusively offer mutual fund products increased from $40 to $64 billion, as shown in figure 4.

[57]According to ICI, the mutual fund component excludes assets attributable to the life insurance wrapper as well as underlying variable annuity holdings which are not mutual funds; both of those are in the life insurance category.

[58]ICI produces a quarterly report, based on data collected from its members, the Board of Governors of the Federal Reserve System, and the American Council of Life Insurers.

**Figure 4: Trends in ERISA 403(b) Plans Offering Annuities Only, Mutual Funds Only, or Both Annuities and Mutual Funds, by Asset Value, 2010-2019**




Source: GAO analysis of Department of Labor Form 5500 data. | GAO-22-104439

Note: ERISA refers to the Employee Retirement Income Security Act of 1974, as amended.

In comparison, non-generalizable industry surveys of plan sponsors including ERISA and non-ERISA plans reported that the share of plans allowing annuities as permitted investments has increased from about 45 percent in 2013 to about 54 percent in 2020, and the share allowing mutual funds as permitted investments increased from about 76 percent to about 95 percent during the time period.[59]

Among our service provider survey respondents, who provide administrative services to both ERISA and non-ERISA plans, fewer reported that their 403(b) plan clients offer fixed annuities compared to

[59]The non-generalizable survey reported that in 2013, the year for which these data are first available, about 45 percent of 403(b) plans sponsors allowed participants to invest in annuities, and about 76 percent allowed them to invest in mutual funds. Fifteen percent of respondents in 2013, as noted in the 2014 report, stated that they were unsure what types of investments were permitted for the plan. See Plan Sponsor Council of America, *2014 403(b) Plan Survey, Reflecting 2013 Plan Experience (2014), and* Plan Sponsor Council of America, *2021 403(b) Survey, Reflecting 2020 Plan Experience* (2020).

variable annuities or mutual funds. According to one expert we interviewed, generally speaking, non-ERISA plans with multiple product vendors, which include most public school districts, offer both annuities and mutual funds. This expert said that ERISA 403(b) plans are more likely to offer only mutual funds compared to non-ERISA 403(b) plans. Service providers we surveyed also reported a wide range in the asset allocation within plans. Specifically, a slight majority of service providers reported that the plans to which they provided services offered both annuities and mutual funds, as shown in table 2.

**Table 2: Extent to Which Service Providers Surveyed by GAO Reported 403(b) Plan Clients Offered Annuities and/or Mutual Funds**

| Plan investment offering | Number of providers servicing such plans |
|---|---|
| Fixed annuities[a] | 11 of 19 |
| Variable annuities | 13 of 19 |
| Mutual funds[b] | 16 of 19 |
| Both mutual funds and annuities | 11 of 19 |

Source: GAO survey data. | GAO-22-104439

[a]One service provider reported they did not know whether the plans for which they provided services offered fixed annuities.

[b]More specifically, of the 16 service providers reporting that the plans they provided services to offered mutual funds, 14 reported the plans they provide services to offered institutional mutual funds, which are mutual funds that are available to plans with certain asset thresholds and are generally not available to the general public. In addition, of the 16 service providers reporting that the plans they provided services to offered mutual funds, 14 service providers reported that the plans they provided services to offered retail mutual funds, which are mutual funds that are available to the general public. Twelve of the 16 service providers that reported plans they provide services to offer mutual funds reported that the plans they provide services to offered both institutional and retail mutual funds.

In addition, 10 of 19 respondents reported that variable annuities and mutual funds comprised 63 percent or more of the value of the assets held.[60] Eight of the 11 service providers that reported that the plans they service offer fixed annuities also reported the percentage of assets in fixed annuities ranged from 1 to about 65 percent. Three of the service providers reported that the plans they provide services to held a very small share—3 percent or less—of plan assets in fixed annuities.

[60]Eight service providers did not provide the percentage of assets held in variable annuities or retail or institutional funds by the plans for which they provide services.

However, eight of 21 non-ERISA plan sponsors among those we surveyed reported not knowing the distribution of assets between fixed annuities and variable annuities or mutual funds in the plans they sponsor. For example, table 3 shows the number of public school district plans who responded to our survey who did not know the share of plan assets by investment type.

**Table 3: Investment Offerings and Knowledge of 403(b) Asset Allocation Reported by the Eight Public School District Plans That Responded to GAO's Survey**

| Investment offering | Number of public school district plans that reported offering investment type | Number of public school district plans that reported they did not know percentage of plan assets in this investment type |
|---|---|---|
| Fixed annuities | 5 | 5 |
| Variable annuities | 5 | 5 |
| Institutional mutual funds | 4 | 3 |
| Retail mutual funds | 6 | 5 |

Source: GAO survey data. | GAO-22-104439

Note: Among our 26 403(b) plan sponsor survey respondents were eight public school districts, including one 403(b) plan sponsor whose plan covers multiple school districts. One of these plan sponsors did not know what types of investments were included in their 403(b) plan assets. Institutional mutual funds are available to plans with certain asset thresholds and are generally not available to the general public. Retail mutual funds are available to the public.

Among the 12 state or public university sponsors who responded to our survey were 11 who reported that they offered institutional grade mutual funds—mutual funds that are available to plans with certain asset thresholds and are generally not available to the general public—as an investment option.[61] Of those 11 plan sponsors, nine of them reported that they knew the percentage of plan assets in that category. By contrast, two of the 12 state or public university sponsors who responded to our survey reported offering retail mutual funds, one of whom knew the percentage of plan assets in that category.

[61]One plan sponsor who we characterized as a public school district (and are therefore is not included in these numbers) reported having higher education faculty and staff, in addition to public school teachers, among its participants. We nonetheless characterized the sponsor as a public school district since, as of 2020, teachers accounted for 62.3 percent of plan participants while higher education faculty and staff combined accounted for 6.6 percent of plan participants.

## Fees for 403(b) Plans Varied Widely, and Some Plans Reported They Lacked Knowledge of Investment Fees

### Available Data Show That 403(b) Plans Had a Wide Range of Fees, and Some Plan Sponsors Reported They Did Not Know the Expense Ratios for Their Plans' Investment Options

Available data, including an industry study and our survey of ERISA and non-ERISA 403(b) plan sponsors and service providers, indicate that fees for 403(b) plans varied widely. For example, record keeping and administrative fees ranged from less than 0.1 percent to more than 2 percent for the plan sponsors we surveyed.

According to BrightScope/ICI, in 2017—the most recent year for which this analysis is available—ERISA 403(b) plans in their sample had an average total plan cost of 0.81 percent of assets, but these costs varied widely by plan.[62] For example, 10 percent of plans had a total plan cost of 0.45 percent or less of assets, while another 10 percent had a total plan cost of 1.34 percent or more. We surveyed key populations of both ERISA and non-ERISA 403(b) plan sponsors and service providers to obtain additional information, and found that the types and amounts of fees paid by plans varied widely, as discussed below.

**Record keeping and administrative service fees.** Plan sponsors reported a wide range of fees paid for record keeping and administrative services, such as tracking and reporting contributions. The 17 of 26 plan

[62]BrightScope/ICI's study examined 2017 plan fees based on audited information on 31 percent of ERISA 403(b) plans, covering about 87 percent of ERISA 403(b) plan participants and 91 percent of ERISA 403(b) plan assets. In addition, it analyzed the employer contribution structures for a randomly selected sample of 1,131 large ERISA 403(b) plans for plan year 2017. BrightScope/ICI's audited sample is generally of plans with 100 or more participants. Total plan cost includes asset-based investment management fees, asset-based administrative and advice fees, and other fees (including insurance charges) from the Form 5500 and audited financial statements of 403(b) plans covered by ERISA. According to BrightScope/ICI, when plans use products registered under the Investment Company Act of 1940—such as mutual funds—they use expense ratio data from Lipper to calculate fees. See BrightScope, *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2017* (January 2021). While the BrightScope/ICI study examined data on ERISA 403(b) plans, similar information on non-ERISA plans were not available.

sponsors that provided plan fee data in our survey reported record keeping and administrative service fees ranging from 0.0008 percent of plan assets to 2.01 percent of plan assets, with seven plan sponsors reporting record keeping and administrative service fees above 0.1 percent.[63] These record keeping and administrative fees were the most common type of fee reported by plan sponsors.[64] Another six of 26 plan sponsors either reported they did not know their record keeping and administrative or other plan-level fees, or did not report this information. For complete information on plan sponsors' survey responses regarding record keeping and administrative fees, see table 5 appendix III.

Of 19 403(b) service providers—who generally provide services to both ERISA and non-ERISA plans—10 reported record keeping and administrative fees they charged to plans.[65] Consistent with plan sponsors' survey responses, these fees also varied widely, ranging from 0.03 to 1.26 percent of plan assets per year among those who reported those fees in terms of percentages of plan assets.[66] Eight service

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[63]These 17 plan sponsor respondents included 14 out of 20 non-ERISA plans and three out of five ERISA plans. In addition, one plan sponsor of a non-ERISA plan, a large school district, did not report their administrative fees but reported information about other plan-level fees. Of these 17 respondents, 14 reported an average number and three reported their numbers in the form of a range. The highest reported number among those who reported a range was 2.01 percent, while the lowest was 0 percent. For detailed information, see appendix III.

[64]DOL has stated that, when paid directly by the plan, administrative fees are either allocated among participants' individual accounts in proportion to each account balance (i.e., participants with larger account balances pay more of the allocated expenses) or passed through as a flat fee against each participant's account.

[65]Thirteen of 19 403(b) service providers indicated on our survey that they provide services to both ERISA and non-ERISA plans, to varying degrees; respondents reported between 1 percent and 89 percent of the 403(b) plans for which they provide record keeping or administrative services were ERISA plans. Two other service providers responded that they did not provide services to any ERISA 403(b) plans. Four others responded that they did not know the extent to which their clients were ERISA or non-ERISA plans. For detailed information, see appendix III. As noted earlier, some administrative fees may be paid at the plan-level or may be included in the expense ratio for each investment option. According to DOL officials, when plans report administrative fees of zero it may be because there were no direct fees—only indirect fees—paid by the plan. In addition, DOL officials said a plan may report total administrative fees of zero if the employer or plan sponsor pays for plan-related fees out of their own pocket, rather than charging the fees to the plan itself to be paid by participants.

[66]Some respondents expressed their record keeping and administrative fees in flat dollar or dollar per participant amounts rather than percentages.

providers did not report this information.[67] For complete information on service providers' survey responses regarding record keeping and administrative fees, see table 6 in appendix III.

**Other plan-level fees.** In addition to record keeping and administrative fees, plan sponsors reported other plan-level service fees such as retirement plan consultant and investment advisor fees, and legal and audit fees, which also varied. For example, eight of our 21 non-ERISA plan sponsors reported paying retirement plan consultants in amounts ranging from 0.00108 percent to 0.43010 percent of plan assets per year. Further, eight of our 21 non-ERISA plan sponsor survey respondents reported paying legal or audit fees, ranging from 0.00035 percent to 0.34695 percent of plan assets.[68] For complete information regarding what each of our plan sponsor survey respondents reported regarding other plan-level fees, see table 5 in appendix III.

**Expense Ratios**

Individual investment options available to participants commonly express fees through an expense ratio, which are typically the largest fees borne by a participant. An expense ratio measures how much of a fund's assets are used for management, administrative, and other operating expenses charged by the fund manager and incurred by the fund. An expense ratio is a fund's operating expenses divided by the average dollar value of its assets under management. Operating expenses reduce the fund's assets, thereby reducing the return to investors.

Source: GAO analysis of Securities and Exchange Commission and other public information. I GAO-22-104439

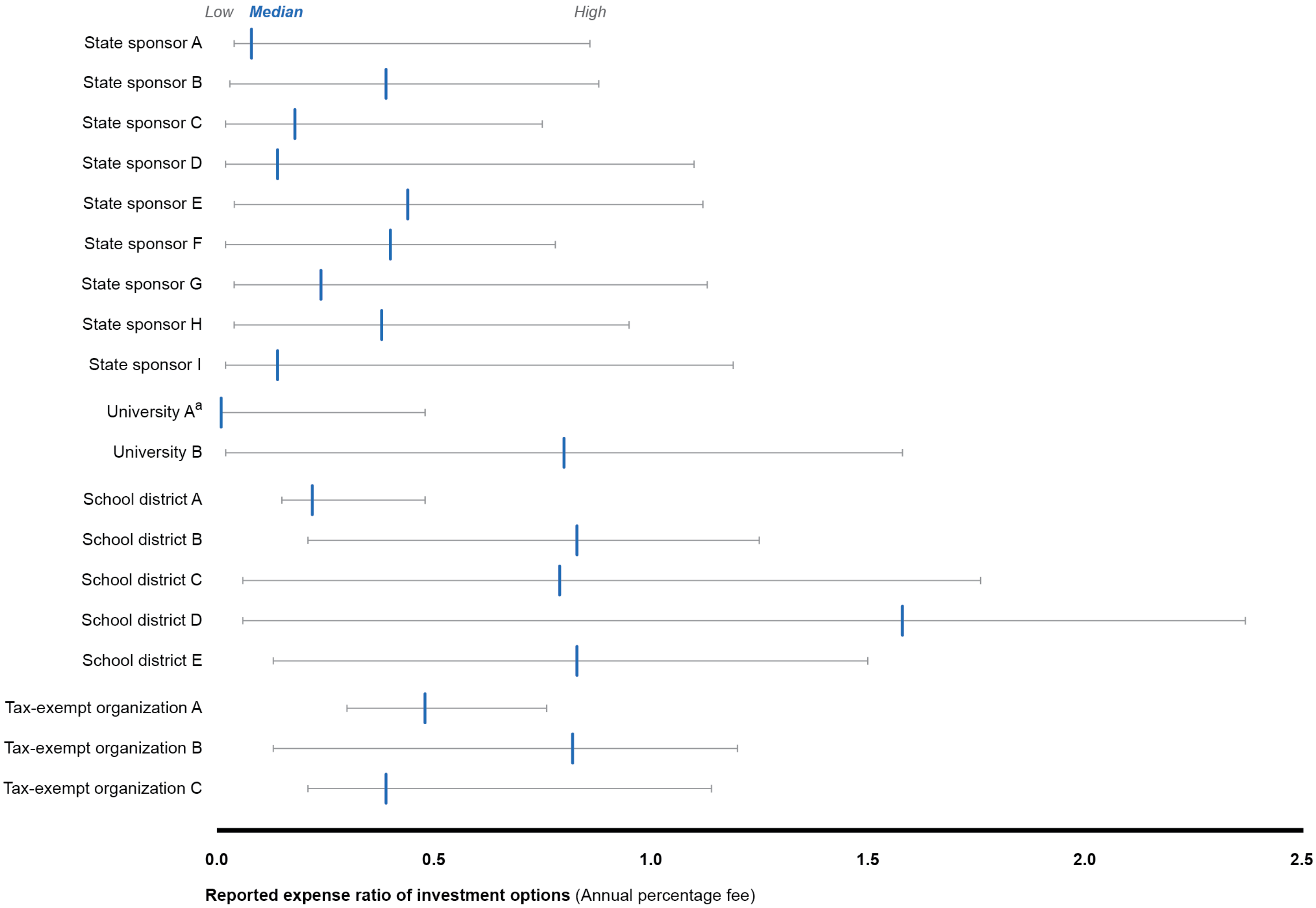
**Expense ratios for investment options.** Asset-based fees for investment options—known as expense ratios—also varied widely according to survey respondents and administrative data from a state that maintains a registry of investment options available to 403(b) participants.[69] Specifically, reported expense ratios from seven non-ERISA plan sponsors that responded to this survey question ranged from 0.02 percent to 2.37 percent, as shown in figure 5.

[67]One service provider expressed their fees in terms of a "wrap fee," an aggregate fee that encompasses multiple components, which can include administrative fees. This wrap fee amount to 2.10 percent of plan assets per year.

[68]See appendix III for detailed results from each plan sponsor and service provider.

[69]The source of the administrative data was a survey respondent.

**Figure 5: Reported Ranges and Calculated Medians of Expense Ratios for Investment Options for Plan Sponsors Surveyed by GAO**




Source: GAO surveys and other available public documentation. | GAO-22-104439

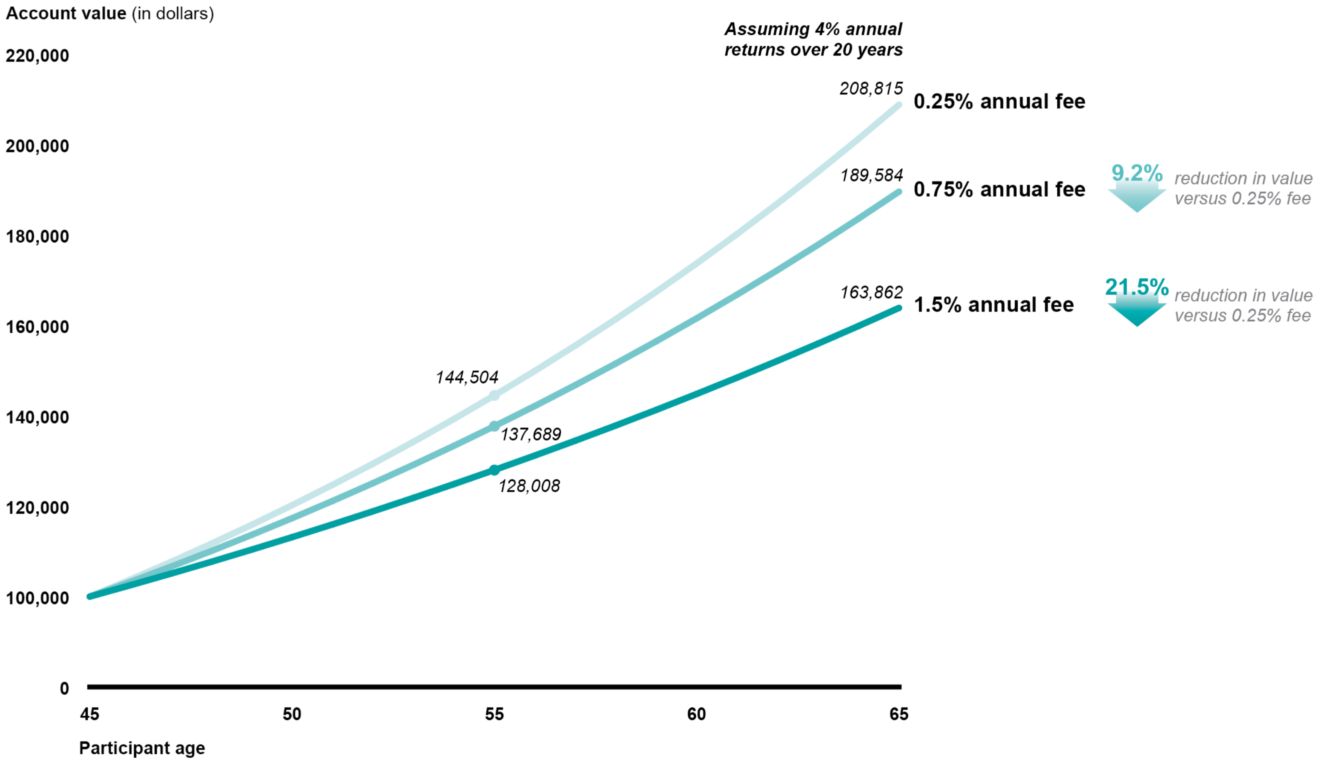
Note: Twenty-six plan sponsors responded to our survey. We omitted one plan sponsor with a reported range of 0 to 1.93 percent because the zero referred to an annuity product that did not have an expense ratio-based fee. None of the plan sponsors in the figure reported an investment option with an expense ratio of zero. In addition, nine of 26 plan sponsors—including six public school districts—reported in our survey they did not know the expense ratios for the investment options in their plans, although we were able to find expense ratio information for three of the public school districts through other public sources of information.

[a]This plan sponsor reported a total of 10 investment option expense ratios. Six of those 10 investment options had expense ratios of 0.01 percent, and two others between 0.01 and 0.04 percent. Consequently, the median of these options ended up being 0.01 percent.

In addition, administrative data from one state that maintains a public registry of investment options available in its state, and which was also a survey respondent, reported expense ratios from 403(b) plans purveyed by vendors in its state ranged from 0.02 percent to 3.74 percent, with a median of 0.90 percent, for the 6,064 mutual funds offered to 403(b) participants in non-ERISA plans in the state. The text box below demonstrates how higher fees can erode a participant's savings over time.

**Illustrative Example of How Fees Can Erode a Participant's Retirement Savings**

In a 403(b) plan, a participant's account balance will affect the amount of retirement income the participant can receive from the plan. While contributions to a participant's account and positive returns on the investments will increase the retirement income, negative returns and fees paid by the plan may substantially reduce the growth in the account, which will reduce the amount of retirement income that can be generated from the account. Our prior work has shown that even seemingly small fees, such as a 1 percent annual charge can significantly reduce plan participants' retirement savings, even as investment returns may grow the savings overall.[70] The graphic below illustrates how fees can impact a participant's retirement savings account.




Source: GAO analysis. | GAO-22-104439

Note: The amount of savings a participant accumulates depends on contributions, fees, and investment returns. Higher fees can substantially reduce a participant's savings over time compared to what they may have accrued in lower fee options unless the higher fees are offset by higher investment returns. This figure illustrates an initial $100,000 contribution and contrasts total fees of 25 basis points (higher line) with total fees of 75 basis points (middle line) and 150 basis points (lower line), and assumes a 4 percent nominal investment return in each case.

[70]GAO, *Private Pensions: Changes Needed to Provide 401(k) Plan Participants and the Department of Labor Better Information on Fees*, GAO-07-21 (Washington, D.C.: Nov. 16, 2006).

In addition, seven non-ERISA plan sponsors—six public school districts and one state-sponsored plan for its state-funded universities—along with sponsors of two of five ERISA plans reported in our survey that they did not know the amount of fees associated with their plans' investment options, although we were able to identify and analyze such investment option fee information for three of the public school districts through other public sources.[71] An expert told us that local school districts often will not have information regarding the fees associated with their plans' investment options, or other information regarding the plans' investment offerings, because they are effectively delegating the plan administration to a third-party administrator. Another representative from a large plan told us information on investment fee expense ratios is a key factor in determining which investments the large plan his organization sponsors chooses to include, in order to ensure participants' savings are not eroded by high fees. Information on investment fees can be helpful to plan sponsors and participants because it enables them to make comparisons across similar investment options and determine if such fees are reasonable.[72] See appendix III for the complete results of reported fees for all plan sponsors and 403(b) service providers who responded to our survey.

**Surrender fees.** 403(b) participants that invest in annuity options may also pay surrender fees—fees for selling or withdrawing money from an investment within a set period of time—which can significantly lower a participant's account balance should the participant decide to deselect the

[71]Two of five ERISA plan sponsors that responded to our survey provided expense ratio information regarding the investment options in their plan. Those expense ratios ranged from 0.12 percent to 1.23 percent. For detailed information for all plans that responded to our survey, see appendix III.

[72]Our previous work has shown that, based on responses to a GAO generalizable survey, an estimated 64 percent of 401(k) participants believed they were either not paying any 401(k) fees—administrative or investment fees—or did not know if they were paying such fees. See GAO, *401(k) Retirement Plans: Many Participants Do Not Understand Fee Information, but DOL Could Take Additional Steps to Help Them*, GAO-21-357 (Washington, D.C.: July 27, 2021).

annuity before the phase-out period is complete.[73] Surrender fees are often phased out (i.e., gradually reduced) over a certain number of years.

Among 403(b) plans and service providers we surveyed that reported surrender fees, these fees varied and ranged as high as 10 percent with phase-out periods as long as 15 years. Administrative data we obtained from one large, non-ERISA state sponsor with both fixed and variable annuities among its investment options indicate that the most common combination of surrender fee and phase-out period was 7 percent phased out over 8 years.[74] Ten of 19 of the 403(b) service providers that responded to our survey reported the plans they provide services to offer annuities that charge surrender fees. For example, one 403(b) service provider reported 75 percent of the annuity products for which it provides record keeping and account services have surrender fees, with a maximum of a 10 percent surrender fee with a phase-out period of 10 years.[75] Seven of the 26 plan sponsors, one of which reported not offering annuities as an investment option in 2020, reported that some annuities in the plans they sponsor charge a surrender fee. For example, one plan sponsor reported that 60 percent of the plan's annuity investment options have surrender fees, with a maximum of a 10 percent surrender fee and a

[73]For example, an annuity option may have a surrender fee where participants would be charged a 7 percent fee if they want to take their 403(b) contributions out of that annuity and move it to another investment option within the first year. Surrender fees are often phased out over a period of years, and vary by specific investment options, but generally involve a reduction of 1 to 2 percent per year until the surrender fee is no longer charged. For example, an annuity with a 10-year, 10 percent surrender fee would charge 10 percent the first year to move money out of the annuity, 9 percent the second year, and so on, until there is no surrender fee after the 10-year period.

[74]More specifically, seven out of 26 fixed annuity and 467 out of 1,885 variable annuity investment options had surrender charges of 8 percent or more, and six out of 26 fixed annuity and 1,235 out of 1,885 variable annuity investment options had a phase out period of 8 years or more. The most common specific surrender fee value was 5 percent. The second most common surrender fee and phase- out combination was 5 percent with a phase-out period of 6 years. Individual schedules for the phase out period vary by specific investment options, but generally involve a reduction of 1 to 2 percent per year until the surrender fee is no longer charged. For example, an annuity with a 10-year, 10 percent surrender fee would charge 10 percent the first year to cancel plan participation, 9 percent the second year, and so on, until there is no surrender charge after the 10-year period.

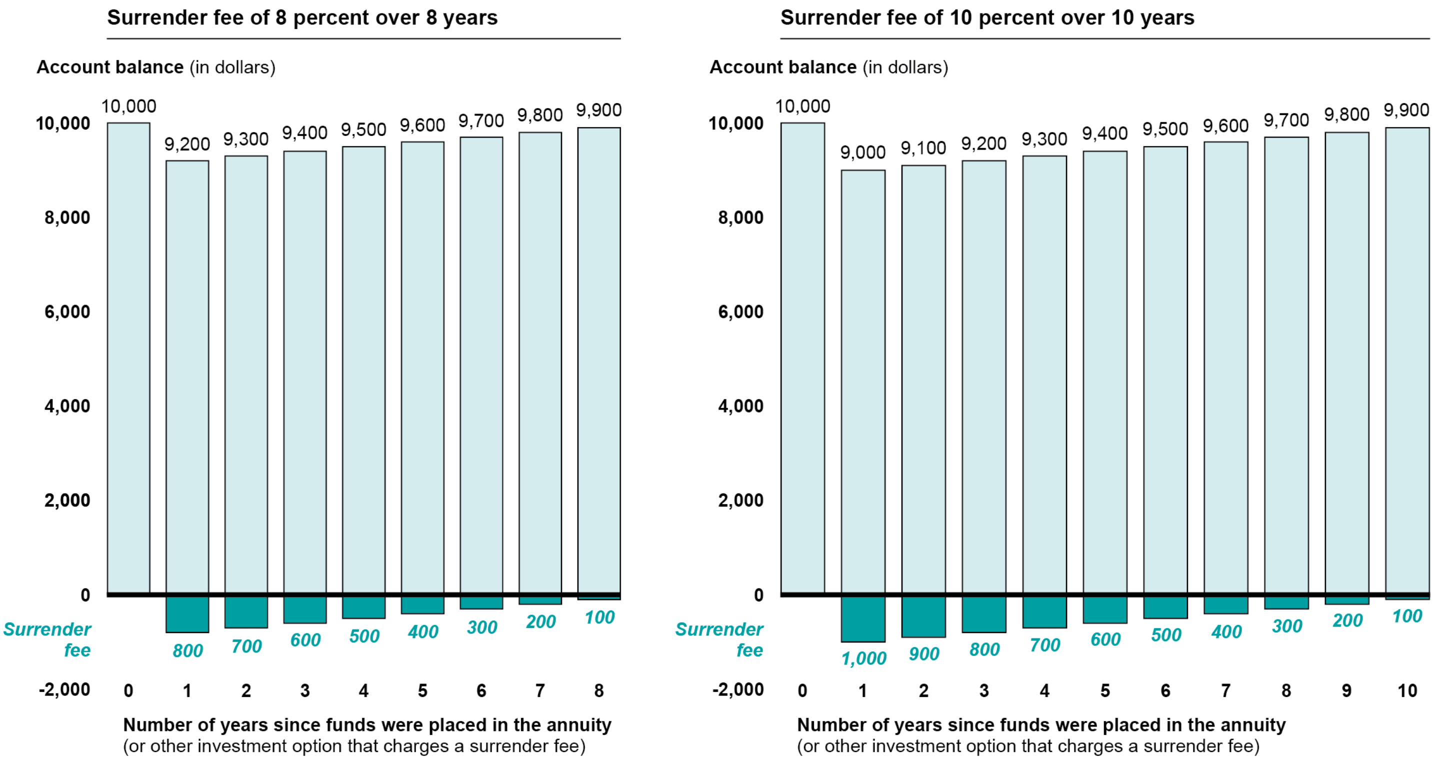
[75]Additionally, five of 19 403(b) service providers reported not charging surrender fees, and four of 19 service providers reported that they did not know whether they charged surrender fees. For detailed responses for each 403(b) service provider, see appendix IV.

phase-out period of 6 years.[76] For detailed responses from each plan and 403(b) service provider who responded to our survey, see appendix IV.

Surrender fees can significantly reduce a participant's savings, should the participant decide to switch investment options. Because the amount of the surrender fee is generally phased out over a certain time period, the potential cost is higher the sooner a participant opts to leave the annuity option. For example, as shown in figure 6, if participants withdraw their investments from an annuity with a 10 percent surrender fee that phases out over 10 years, the fee would be higher if they made such a withdrawal in the first year (10 percent fee) compared to the tenth year (1 percent fee). Further, an expert stated that high surrender fees may discourage some participants from leaving annuities that may charge annual fees or not be in their best financial interest.

[76]In addition, nine of 26 plan sponsors reported that they do not offer annuities, and had no investment options subject to surrender fees. Six of 26 plan sponsors reported that they offer annuities, but did not know whether or not these investment options carried surrender fees. In addition, plan sponsors may offer or service providers may service products, typically mutual funds, which are subject to short-term trading fees. These fees are charged to an investor when shares are sold from a fund, and typically are only applied within a certain time frame, in order to discourage short-term trading. Seven of 19 service providers reported the plans they provide services to charge short-term trading fees for mutual funds, while eight reported that they did not, with four not knowing. Service providers who specified the terms of short-term trading fees listed periods up to one year and fees as high as 2 percent.

**Figure 6: Illustrative Examples of Surrender Fees on a Hypothetical Participant's Account Balance, with an Initial Account Balance of $10,000**




Source: GAO analysis. | GAO-22-104439

Note: These examples illustrate the impact of a surrender charge on the initial account balance over time and do not include an annual rate of return.

## Available Form 5500 Data Show an Increase in Administrative Fees Paid Directly by ERISA 403(b) Plans from 2010 to 2018, among Other Things, but Many Smaller Plans Did Not Pay Such Fees

403(b) fees may be paid directly, where fees are paid directly to a service provider; or they may be paid indirectly, where fees or compensation are received by the service provider from sources other than directly from the plan or plan sponsor, including amounts service providers receive from charges against a mutual fund for things such as portfolio management or brokerage commissions.[77] When fees are paid indirectly, fees or compensation are received from a source other than the plan, plan sponsor, or an affiliate. As an example, indirect fees may be deducted from the investment funds held by the plan. While the Form 5500 provides limited information on ERISA 403(b) plans for both directly paid and indirectly paid fees, available data show that the share of ERISA 403(b) plans paying administrative fees directly out of plan assets from a covered plan has increased over time. During the time period between 2010 and 2019, plans that reported directly paid administrative fees on the Schedule H (generally plans with 100 or more participants) increased from 69 percent to 89 percent during the time period.[78]

**Limitations of Form 5500 Data**

While the Form 5500 captures information on 403(b) plan fees for plans subject to the Employee Retirement Income Security Act of 1974, as amended (ERISA), these data have several limitations and lack comprehensive information about service providers and their fees. For example, Schedule C collects information on compensation paid to a plan's service providers. However, this does not include compensation below $5,000 and reported fees are not itemized by the type of service provided. In addition, 63 percent of all ERISA 403(b) plans are small—with 99 or fewer participants—and do not file the Schedule C. According to Department of Labor (DOL) officials, there is no authoritative way to identify all the fees a plan pays for direct or indirect administrative services through the Form 5500 and its reporting schedules. GAO has previously reported that the Form 5500 series has several key limitations and does not capture total plan fees. In a 2014 report,[a] we noted there were longstanding concerns regarding the quality and usefulness of the Form 5500 data collected on plan investment and service provider fees, especially from those who prepare and use the data.[b] We recommended that DOL make several revisions to the 5500 to provide better information on plan fees. While DOL previously proposed changes to improve information on fees collected through the Form 5500,[c] these changes have not been implemented as of December 2021 and our recommendation to DOL remains open. In September 2021, DOL officials told us revisions to the Form 5500 series, including to Schedules A, C, I, and the Short Form, were under agency consideration.

Source: GAO review of DOL documentation and interviews with DOL officials. | GAO-22-104439

[a]GAO, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information, GAO-14-441, (Washington, D.C.: June 5, 2014).

[b]In that report, more than half of stakeholders who responded to a GAO survey said, among other things, that the form's information on service provider fees was misaligned with other required fee disclosures. In that report, stakeholders also identified issues with the completeness of service provider and fee information.

[c]DOL and IRS proposed changes to Schedules C and H in 2016 to, among other things, decrease the threshold for many categories of service providers from $5,000 to $1,000 for reporting on the Schedule C.

[77]Generally, fees are ultimately borne either by the plan sponsor or by participants. Our analyses of fees does not distinguish between the proportions borne by participants or plan sponsors, which is beyond the scope of our work because of data limitations. In addition, Form 5500 data on fees only capture those fees either paid directly by the plan or indirectly; it does not capture fees paid directly by the plan sponsor.

[78]During the time period, the percentage of Form 5500 short form filers—generally for plans with 99 or fewer participants—reporting directly paid administrative fees increased from 29 percent to 43 percent.

As more plans paid for administrative fees directly out of plan assets, the amount of these fees reported by ERISA 403(b) plans also increased. Our analysis of Form 5500 data found that total administrative fees paid directly by the plan increased from about 0.05 percent of plan assets in 2010 to 0.08 percent of plan assets in 2019 among plans that reported administrative expenses.[79] All types of administrative fees, including professional fees, contract administrator fees, investment advisory and management fees, and other fees increased in both absolute terms and as a share of plan assets during that time period.[80] Because this measure includes only administrative fees paid directly by the plan, and not those that are paid indirectly, it does not indicate, among other things, whether administrative fees borne by participants have changed. DOL officials told us that total direct administrative fees reported on the Form 5500 may be increasing because more plans are paying for administrative services directly rather than having service providers receive compensation indirectly. In addition, officials said that direct administrative fees could have increased due to greater compliance and reporting of fees that were previously under-reported or that some plan sponsors who previously paid for plan fees out of plan sponsor assets have now shifted to paying them from plan assets.[81]

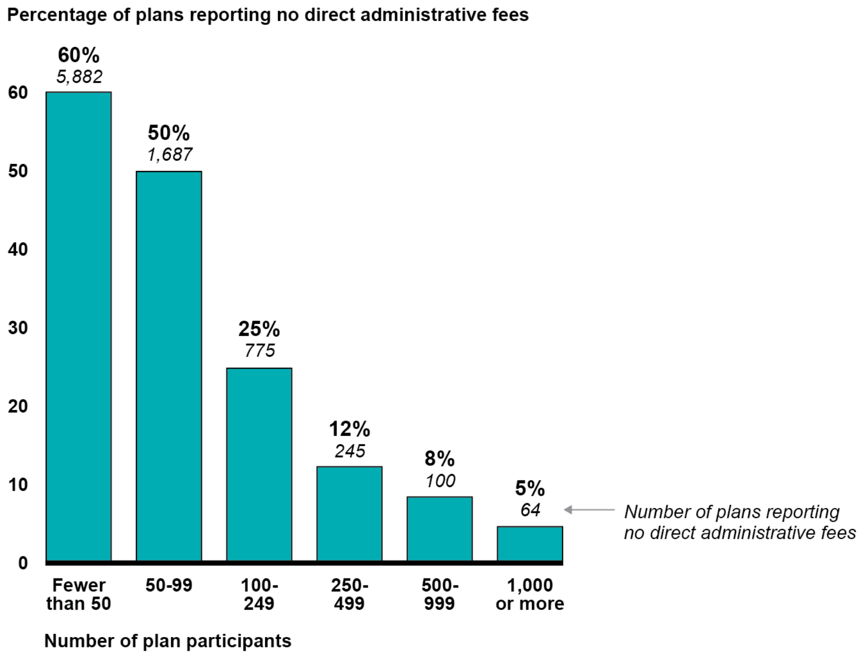
Nonetheless, while the amount of administrative fees paid directly by ERISA 403(b) plans out of plan assets has increased, Form 5500 data indicated that the majority of smaller plans reported they paid no direct administrative fees in 2019, as shown in figure 7.

[79]This reflects total fees as reported on Schedule H line 1f, Schedule I line 1a, and Form 5500-SF line 7a, as a percentage of assets as reported on Schedule H line 2i(5), Schedule I line 2h, and Form 5500-SF line 8a. In 2019 dollars, the increase was from $122 million in 2010 to $454 million in 2019. We conducted the same analysis for reported fees for 401(k) plans, and found that fees were similarly trending upwards.

[80]These more detailed fees are reported in the Schedule H, which is generally filed by plans with 100 or more participants. As noted elsewhere, the percentage of plans that reported paying fees on schedule H increased from 2010 to 2019. As such, the greater number of plans complying with requirements to report this information may account for some of the overall increase in reported fees.

[81]DOL officials told us that a reason why a plan may report total expense of zero is that the plan sponsor may have paid for plan-related expenses out of the plan sponsor's assets, rather than charging the expenses to the plan itself. A reported total expense of zero could signal that the plan sponsor is paying all the expenses outside of the plan. According to DOL officials, a question designed to track the extent to which expenses were paid by the plan sponsor was eliminated in 2000.

**Figure 7: ERISA 403(b) Plans Reporting No Direct Administrative Fees, 2019**




Source: GAO analysis of Department of Labor Form 5500 data. | GAO-22-104439

Note: ERISA refers to the Employee Retirement Income Security Act of 1974, as amended.

A plan may report zero direct administrative fees because all its fees were paid either directly by the plan sponsor or indirectly through participants' investment or other fees, rather than as direct plan expenses. According to DOL officials, plans in the education or hospital sectors more frequently use service providers that recover administrative expenses indirectly.[82]

We asked 403(b) service providers to indicate the highest and lowest direct participant fees or compensation that the service provider charges or otherwise receives from the plans they provide services to, and these

[82]Our analysis shows that 47 percent of education plan sponsors reported $0 fees, as well as 47 percent of religious and similar organizations, 43 percent of social service organizations, 21 percent of health care organizations, and 47 percent of all other tax-exempt organizations. Plan sponsors report the North American Industry Classification System codes (NAICS) code corresponding to their principal business activity on the form 5500. We categorized as follows: education, including schools, colleges, and universities, business code 611000; health care, business codes from 621111 to 623000; social service, business codes from 624100 to 624410; religious and similar (includes religions, grant making, civic, professional, and similar organizations), business code 8130000; other – all other NAICS codes.

fees varied. Eight of 19 service providers responded to this question and reported fees ranging from 0 to 2.72 percent of account assets annually. For complete information regarding what each of our service provider survey respondents reported regarding other direct fees, see table 6 in appendix III.

With respect to indirect fees—among plans that filed a Form 5500 Schedule C, which includes fees paid indirectly—record keeping fees were the most common type of fee reported being paid to one or more service providers for services valued at $5,000 or more in 2019, according to our analysis of Schedule C data for 2019, the most recent year for which data are available.[83] Table 4 provides details on the number and percentages of 403(b) plans reporting paying $5,000 or more to service providers for direct or indirect plan fees in 2019.

**Table 4: Percentage of ERISA 403(b) Plans Reporting Paying Fees of $5,000 or More, by Fee Category**

| Type of fee detailed on Schedule C | Percentage of 403(b) plans with 100 or more participants reporting paying an entity $5,000 or more for services including this type of fee |
|---|---|
| Record keeping fees | 64.0% |
| Record keeping and information management (computing, tabulating, data management) | 50.5% |
| Direct payment from the plan[a] | 46.4% |
| Participant loan processing | 44.2% |
| Investment advisory (plan) | 35.4% |
| Account maintenance fees | 28.0% |
| Contract administrator | 27.7% |
| Investment Management | 25.7% |
| Investment management fees paid indirectly by plan | 23.1% |
| Participant communication | 22.9% |
| Distribution fees | 22.1% |
| Claims processing | 19.6% |
| Shareholder servicing fees | 19.1% |

Source: GAO analysis of Form 5500 Schedule C data. I GAO-22-104439

Notes: ERISA refers to the Employee Retirement Income Security Act of 1974, as amended. Form 5500 Schedule C captures direct and indirect compensation paid by plans (that have 100 or more participants) for each person who rendered services to or had transactions with the plan and who

[83] Form 5500 Schedule C captures direct and indirect compensation (fees) that large plans (100 or more participants) paid to each person who rendered services to or had transactions with the plan and who received $5,000 or more in total direct or indirect compensation in connection with services rendered to the plan.

received $5,000 or more in total direct or indirect compensation in connection with any and all services rendered to the plan.

[a]According to Schedule C filing instructions, direct payments by the plan would include, for example, direct payments by the plan out of a plan account, charges to plan forfeiture accounts and fee recapture accounts, charges to a plan's trust account before allocations are made to individual participant accounts, and direct charges to plan participant individual accounts. Payments made by the plan sponsor that are not reimbursed by the plan, are not subject to Schedule C reporting requirements even if the sponsor is paying for services rendered to the plan.

Although there are no comprehensive data available to report trends in direct and indirect fees, some industry representatives and industry stakeholders told us that, in general, fees trended down over time. ICI/BrightScope found total ERISA 403(b) plan cost decreased from 0.59 percent in 2009 to 0.45 percent in 2017 on an asset-weighted basis, and that nearly all plan size groups saw declines in total plan cost between 2009 and 2017.[84] Among the 21 non-ERISA plan sponsors who responded to our survey, 11 reported that fees had gone down, while seven reported fees had remained about the same, with three others reporting that they did not know whether fees decreased or not. Four of the five ERISA plan sponsors among our survey respondents reported that they did not know whether fees had decreased or not; the other ERISA respondent reported that fees had remained about the same. No plan sponsors reported that fees had increased.

We also asked 403(b) service providers to indicate the highest and lowest indirect fees or compensation that the service provider charged the plan or plan's affiliate, and found these fees varied. Six of 19 service providers responded to this question and reported fees ranging from 0 to 2.0 percent annually.[85] For complete information regarding what each of our service provider survey respondents reported regarding other indirect fees, see table 6 in appendix III.

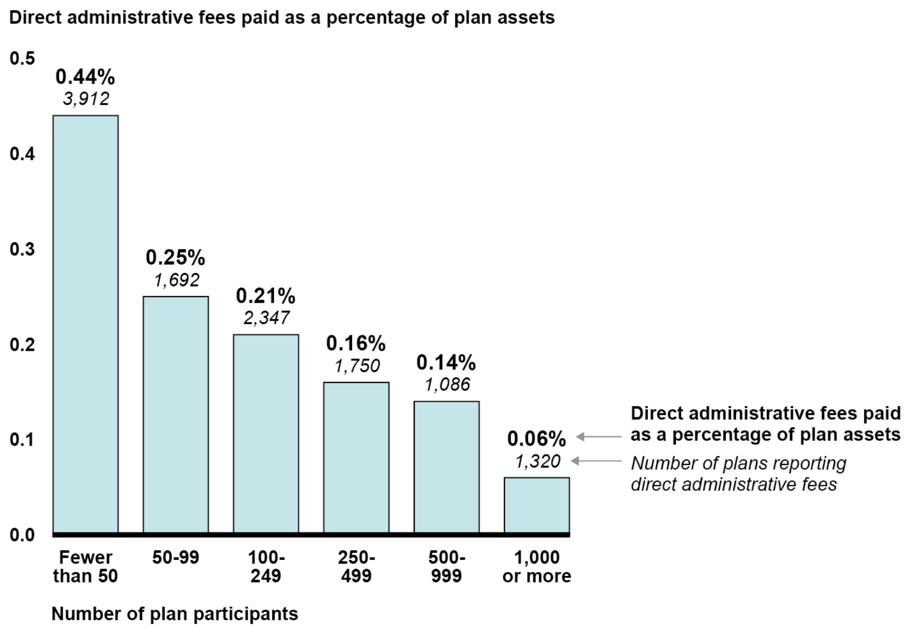
[84] ICI/BrightScope also reported total plan costs on a plan and participant-weighted basis. Specifically, on a plan-weighted basis, ICI/BrightScope found that total plan costs were 0.82 in 2009 and 0.81 percent in 2017. On a participant-weighted basis, total plan costs declined from 0.68 percent to 0.57 percent over the same time period. These figures apply to what ICI/BrightScope characterizes as "large" plans, which they define as plans who file a Form 5500 including a Schedule H with DOL–generally these plans would have 100 or more participants.

[85]We note that the service provider with the highest reported direct or indirect fee charged participants declined permission to include the provider's information in appendix III.

## Available Data Indicate That the Largest 403(b) Plans Had Lower Administrative and Investment Fees than Smaller Plans

Available data from the Form 5500 show that large ERISA 403(b) plans had lower direct administrative fees than smaller plans. Specifically, our analysis of Form 5500 data for 2019 found that, among plans that reported direct payments, large ERISA 403(b) plans (defined by DOL as those who reported having 100 or more participants) paid lower average direct administrative fees than small plans—0.076 percent of total assets for large plans compared to 0.335 percent of total assets for small plans.[86] As shown in figure 8, direct administrative service fees in 2018, as a percent of plan assets, were highest for the smallest plans with fewer than 50 participants.

**Figure 8: Reported Average Direct Fee Amounts as a Percentage of Assets Paid by 403(b) ERISA Plans for Administrative Services, by Plan Size in Terms of Number of Participants, 2019**




Source: GAO analysis of Department of Labor Form 5500 data. | GAO-22-104439

Note: ERISA refers to the Employee Retirement Income Security Act of 1974, as amended. Data are for plans that reported paying $1 or more in direct administrative service expenses; we excluded those that reported no fees for direct administrative service expenses. Plans with 100 or more participants (large plans) generally report total administrative service fees on Schedule, H, which is a combined total of individually reported professional fees, contract administer fees, investment management and advisory fees, and other administrative fees. Plans with 99 or fewer participants (small plans) generally do not differentiate among various types of fees and instead report one top

[86]This analysis is of those plans that reported fees on Schedule H, Schedule I, or the Form 5500 short form. The data do not include administrative fees that were paid indirectly.

line number of total administrative fees on the Form 5500-SF or Schedule I, a simplified version of Schedule H for plans that would be small enough for the Form 5500-SF in that they are 99 or fewer participants, but for certain reasons are not eligible to file Form 5500-SF.

This variation in fees by plan size is consistent with industry data on total administrative and investment fees. While average total plan cost, which includes asset-based management fees, and asset-based administrative and advice fees for ERISA 403(b) plans were 0.81 percent in 2017 on a plan-weighted basis, fees varied considerably by plan size.[87] Specifically, total plan costs for the largest ERISA 403(b) plans (defined as having over $1 billion in assets) averaged 0.37 percent, while those for plans with under $1 million in assets averaged 1.33 percent.

While no comprehensive data are available on fees for non-ERISA plans, responses from our survey of 26 ERISA and non-ERISA 403(b) plan sponsors and 19 service providers that responded to our survey also indicate that, as a percentage of total assets, smaller plans pay higher fees than larger plans, at both the plan level and the investment level. Among the 14 plan sponsors (out of 26 total) who reported record keeping and administrative fee information as a single number on our survey, those who sponsored the seven smallest in terms of total assets reported record keeping and administrative fees between 0.06 and 0.27 percent of total assets (with a median of 0.1425 percent), whereas those who sponsored the seven largest plans in terms of total assets reported paying record keeping and administrative fees between 0.0008 and 0.18 percent of total assets (with a median of 0.0285 percent).[88]

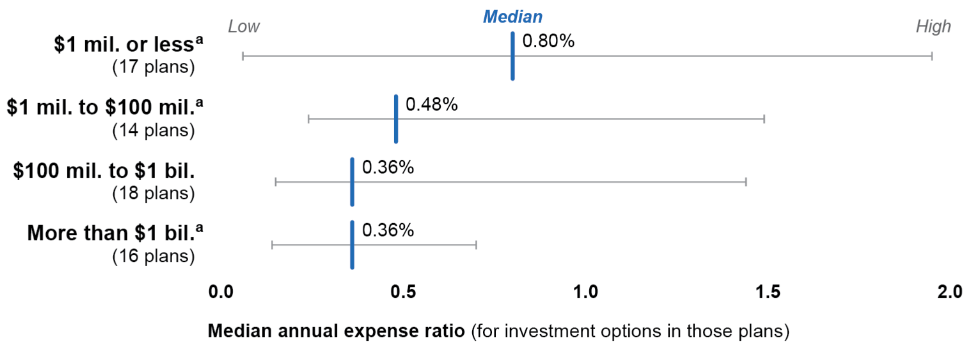
The results of our surveys of service providers indicate that smaller plans pay more in fees at the investment level. More specifically, with respect to investment-level fees, eight of the 19 403(b) service providers who responded to our survey furnished a total of 66 selected examples of different-sized 403(b) plans and the expense ratios associated with

[87]See BrightScope, *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2017* (January 2021). Its definition of “total plan costs” reads, in full, the inclusion of asset-based investment management fees, asset-based administrative and advice fees, and other fees (including insurance charges) from the Form 5500 and audited financial statements of 403(b) plans covered by ERISA. When plans use products registered under the Investment Company Act of 1940–such as mutual funds–expense data from Lipper are used to calculate fees.

[88]Three other plan sponsors reported record keeping and administrative fees, but expressed their response in terms of a range. Nine other plan sponsors did not respond to this question on the survey.

them,[89] and the reported expense ratios for the smaller example plans were generally higher than those of the larger example plans, as shown in figure 9.

**Figure 9: Median Expense Ratios as a Percentage of Assets Paid by 403(b) Plan Sponsors, by Plan Size in Terms of Total Assets, from Example Plans Provided by 403(b) Service Providers**




Source: GAO analysis of GAO survey. | GAO-22-104439

Note: Nine of the 19 service providers that responded to our survey provided a total of 66 example 403(b) plans, which furnished the data for this table. This figure excludes four sample plans submitted by service providers with a reported expense ratio of zero.

## University Plans, State-Sponsored Plans, and Plans with $1 Billion or More in Assets Reported Taking Multiple Steps to Reduce Fees, While Some Sponsors Reported They Did Not Know about or Manage Investment Options

University plans, state-sponsored plans, and the largest 403(b) plans—those with $1 billion or more in assets, which included three public school districts—who responded to our survey reported they were more likely to take actions to more actively manage their plans than other plan sponsors and to cite low fees as being among the most important factors considered in selecting service providers. In particular, our surveys found that the 15 university, state-sponsored, or large plan sponsors with $1 billion or more in assets took actions to manage their plans or evaluate fees:

- Eleven of 15 of such plan sponsors reported requesting quotes or bids from multiple providers.
- Nine of 15 of such plan sponsors reported using outside consultants to compare fees.
- Eight of 15 of such plan sponsors reported evaluating fees paid on a quarterly, semi-annual, or annual basis, while 13 of 15 reported

[89]This figure excludes four sample plans submitted by service providers with a reported expense ratio of zero.

evaluating their menu of investment options on at least an annual basis.

- Five of 15 such plan sponsors reported using information from DOL to compare fees.

By contrast, among the other 11 plan sponsors—those public school districts with less than $1 billion in assets and other smaller tax-exempt organizations—fewer reported taking actions to evaluate fees:

- Six of 11 of such plan sponsors reported requesting quotes or bids from other providers.
- Two of 11 such plan sponsors reported using outside consultants to compare fees.
- One of 11 such plan sponsors reported evaluating fees on an annual basis, with three other such plan sponsors reported doing so every 2 or 3 years; one of 11 reported evaluating their menu of investment options on at least an annual basis, with six other plan sponsors doing so every 2, 3, or 5 years.
- Two of 11 such plan sponsors reported using information from DOL to compare fees.

These survey data are consistent with a 2021 industry survey that showed that over 88 percent of 403(b) plan sponsors with 1,000 or more participants reviewed plan fees on at least an annual basis, compared to 70 percent of plan sponsors with fewer than 50 participants and 76 percent of plan sponsors with between 50 and 199 participants.[90]

Consistent with that survey, in our survey we found the largest plan sponsors reported they were more likely to take certain actions with respect to reviewing plan fees on a regular basis.[91] We found the following:

- Seven of our largest 16 plan sponsor respondents reported reviewing their investment options on at least an annual basis, while two sponsors among our smallest 10 plan sponsor respondents reported doing so.

[90]Plan Sponsor Council of America, *2021 403(b) Survey Report, Reflecting 2020 Plan Experience.*

[91]We grouped plan sponsors according to size of assets for this analysis.

- Nine of our largest 16 plan sponsor respondents reported that they reviewed plan fees on a quarterly basis, while only one sponsor of our smallest 10 plan sponsor respondents reported doing so.

## University Plans, State-Sponsored Plans, and the Largest Plans with $1 Billion or More in Assets More Frequently Cited Low Fees as an Important Factor in Hiring Service Providers than Other 403(b) Plan Sponsors

We categorized respondents into groups to identify trends in the extent to which certain groups of plan sponsors were more active in certain aspects of plan management: (1) university plans, state-sponsored plans, and the largest plans—those with $1 billion or more in total assets, which included three school public districts—and (2) other plan sponsors, including public school districts with less than $1 billion in assets and smaller tax-exempt organizations. We found the following:

- Eight of the 15 of state-sponsored, university, or other large plan sponsors reported that outside entities such as plan consultants, investment advisors, third-party administrators, bundled providers, or record keepers handled most plan administration functions. Among this group, two plan sponsors reported that they do not contract with outside entities to help administer their 403(b) plans.
- Nine of the 15 state-sponsored, university, or other large plan sponsors cited low fees and rates charged as being among the three most important factors in selecting service providers. Of those nine, three chose that factor as the top consideration. This factor was also cited by three of the 10 plan sponsors with less than $1 billion in assets or tax-exempt organizations who responded to this question on our survey. No plan sponsors from among these 10 school districts with less than $1 billion in assets and smaller tax-exempt organization plan sponsors chose this factor as a top consideration.
- Eleven of the 15 state, university, or other large plan sponsors cited the experience, technical capability, and knowledge of legal requirements among staff as among the three most important factors in selecting service providers. This factor was cited by seven of the 10 plan sponsors of school districts with less than $1 billion in assets or smaller tax-exempt organizations who responded to this survey question.[92] This factor was the one most frequently cited as among the top three criteria by both groups of plan sponsors. However, two plan sponsors from the group of state, university, and school districts with $1 billion or more in assets cited this factor as the most

[92]One small plan sponsor responded to the survey questions regarding whether it used outside providers, but did not respond to the question regarding which factors led it to select service providers. As such, there were 11 respondents among this group for some items in this section, and 10 for others.

important, while no plan sponsors of the school districts with less than $1 billion in assets and tax-exempt organization did so.

The 11 public school district plans with less than $1 billion in assets and other smaller tax-exempt organization plan sponsors we surveyed reported contracting with outside entities to provide the majority of plan administrative functions about as often as the state and university plan sponsors and largest plan sponsors. However, most of these 11 public school district and smaller plan sponsors cited factors other than low fees as being most important in selecting service providers:

- Contracting with outside entities to provide services is a practice cited by all 11 of the plan sponsors for school districts with less than $1 billion in assets and for smaller tax-exempt organizations we surveyed. Of those, six reported that those outside entities handled most plan administration functions. These outside entities can include plan consultants, investment advisors, third-party administrators, bundled providers or record keepers.
- Both groups of plan sponsors were about equally likely to cite a provider's ability to handle all of our plan's administrative needs, including record keeping, legal compliance, and other needs as being among the three most important criteria in selecting a provider for record keeping and administrative services. Nine of 15 plan sponsors among the university, state, and public schools with $1 billion or more in assets cited this factor, while seven of the 10 plan sponsors for the school districts with less than $1 billion in assets or for smaller tax-exempt organizations did so. Of the latter group of 10, five plan sponsors chose this factor as the single most important one; of the 15 plan sponsors for university, state, or school districts with $1 billion or more in assets, six chose this factor.

Both groups of plan sponsors were about equally likely to cite customer service features such as consistency, timeliness, and availability of customer service as among the three most important factors in selecting service providers; 10 of 15 plan sponsors for the university, state, and public schools with $1 billion or more in assets cited this factor, while seven of 10 plan sponsors for school districts with less than $1 billion in assets or for tax-exempt organizations did so. Three of the 10 plan sponsors for school districts with less than $1 billion in assets or for tax-exempt organizations who answered this question ranked that factor the highest, compared with two of the 15 plan sponsors for university, state, or public schools with $1 billion or more in assets group.

The university- and state-sponsored plans, and other plans who reported having $1 billion or more in assets that responded to our survey were generally more likely to report that they were able to reduce their plan fees than were sponsors of other plans. Twelve of 15 such plan sponsors reported that they were able to lower fixed or explicit costs to their plans, compared with three of 11 sponsors of public school districts with less than $1 billion in assets and other tax-exempt organization plans.

For example, one state university system was able to lower expense ratios for the investment options under one vendor in its 403(b) plan from 0.95 percent per year to 0.48 percent per year following a consultant-led analysis of its investment options. One large university plan reported it was able to lower its record keeping and account administration fees from just under 1.0 percent to 0.65 percent.[93] This plan sponsor stated that the plan was able to do this by (1) reducing the number of investment options from over 100 when the official first started with the organization to 15 at present, which generated administrative efficiencies; and (2) working with some vendors to provide an essentially identical product from the vendor but with the plan's name instead of the vendor's brand. The plan sponsor stated these actions enabled it to lower the charged administrative fees, even though it continued to use the same identical account managers and identical portfolio pre- and post-negotiation of the fee structure and specifics. Another state sponsor reported lowering its range of fees, including both plan-level and investment-level fees, from a combined 0.2 percent to 4.8 percent of a participant's account balance to between 0.18 percent to 1.0 percent of a participant's account balance as an annual charge.[94]

## Agency Comments

We provided a draft of this report to the Department of Labor; the Department of the Treasury, including the Internal Revenue Service; and the Securities and Exchange Commission. The Internal Revenue Service and the Securities and Exchange Commission provided technical

[93]This data point is for administrative fees only, and does not include other fees such as investment option expense ratios.

[94]The plan sponsor stated it consolidated its 403(b) plans from over 1,600 options to 14 options and that when designing the investment menu of the state's new plan for educators, the plan decided to adopt a non-revenue sharing basis and go solely on a fee basis. Setting the plans up that way allowed the plan sponsor to put fee information on participants' statements and avoid the previous situation where participants did not realize they were paying fees, because the fees were wrapped into the investment option fee or expense ratio.

comments, which we incorporated as appropriate. The Department of Labor did not provide formal comments on the draft report.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Labor, the Chair of the Securities and Exchange Commission, and other interested parties. In addition, the report will be available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact us at (202) 512-7215 or nguyentt@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Sincerely yours,

Kris Nguyen

Tranchau (Kris) Nguyen
Director
Education, Workforce, and Income Security Issues

# Appendix I: Objectives, Scope, and Methodology

This report examines (1) the number and characteristics of ERISA and non-ERISA 403(b) plans; and (2) fees charged to 403(b) plan participants.

## Identifying the Number and Characteristics of ERISA and Non-ERISA 403(b) Plans

To describe the number and characteristics of 403(b) plans, we obtained and analyzed data from the Health and Retirement Study (HRS) regarding whether respondents over age 50 report participating in ERISA or non-ERISA 403(b) plans, including their 403(b) account balances, household assets, earnings, and the industry in which they are employed.[1] The HRS is a project of the University of Michigan's Institute for Social Research that is funded through the National Institute on Aging and the Social Security Administration. This biennial longitudinal survey collects data on individuals over age 50, gathering information on marital status, retirement plans held, and income from retirement plans. The HRS includes both members of a couple as respondents.

Each biennial period is referred to as a "wave." The initial 1992 cohort consisted of respondents who were over age 50 to 61 years old, and these respondents were interviewed every 2 years since 1992. New cohorts have been added over time to maintain the representation of the older population from pre-retirement through retirement and beyond. We used data from 2010 to 2016 for our analyses.[2] We weighted the data and calculated standard errors to reflect HRS guidance based on our sample size and design.

The HRS contains a data field to identify those respondents that report having a 403(b) retirement account. An analysis of HRS data yielded 279 403(b) plans identified by 270 HRS respondents for the 2016 wave, the most recent year for which data are available. We selected 401(k) account holders as a comparison group here and elsewhere in the report because, according to Department of Labor (DOL) data and reporting, 401(k) accounts comprise the largest share of defined contribution retirement accounts by number of plans.

[1]During the course of the review, we also reviewed relevant information, such as questionnaires and user guides, from three other nationally representative survey databases—the Current Population Survey, the Survey of Consumer Finances, and the Survey of Income and Program Participation, but found they did not contain relevant information for our purposes.

[2]We used the RAND 2018 V1 longitudinal file and restricted the sample to responses in HRS waves 2010 to 2016 because sampling weights for 2018 were not yet available at the time of our analysis (December 2021).

The HRS data have some limitations. For example, survey responses are self-reported. As such, they are subject to the respondent's possible errors in reporting specific financial amounts. In addition, the 401(k) and 403(b) data may be understated because many respondents indicated that they have a defined contribution plan of unspecified type. Some of these unspecified plans are likely to be 403(b) or 401(k) plans because these two plan types are so common. The survey population is those over age 50 and their spouses or partners, so it is not expected to capture younger participants in these plans. Further, since respondents are asked only about the retirement accounts at their current job, HRS may not capture information regarding some respondents' retirement accounts from previous jobs or from retirees.

We reported estimates of the proportion of those respondents who reported having only a 401(k) or only a 403(b) account holder.[3] The estimated population proportions and associated confidence intervals are generalizable to the population of adults in the United States, over age 50, who were employed. Some estimates, such as the estimated differences regarding the extent to which 403(b) and 401(k) plans were primary plans in 2016 and the estimated change in the share of the U.S. population participating in 403(b) plans (both ERISA and non-ERISA) from 2010 to 2016 were not statistically significant at the 95 percent confidence interval.

We performed a data reliability assessment of the HRS variables we included in our analyses. We reviewed technical documentation, conducted electronic data tests for completeness and accuracy, and contacted knowledgeable officials with specific questions about the data. We determined that the data for the variables we used were sufficiently reliable for the purposes of reporting on the estimated number of individuals that reported participating in an ERISA or non-ERISA 403(b) retirement plan, the extent to which the 403(b) plan was the participant's primary retirement plan or supplemental retirement plan, and the selected demographic characteristics of these individuals.

[3]We identified a very small number of respondents who reported both 401(k) and 403(b) accounts and who had the characteristics of the variables described above. The "both 401k and 403b" respondents were an insufficient sample of observations to generate reliable estimates. However, if the respondent had either a 401(k) or 403(b) account—not both types of accounts—and a defined benefit pension plan, we included them in our analysis.

In addition, we analyzed plan-level characteristics—including the number of participants, the amount of plan assets, and available information on plan investment offerings for ERISA 403(b) plans—from DOL's Form 5500 database. DOL's Form 5500 Database captures information from each ERISA-covered retirement plan—including ERISA 403(b) plans—on the number of plan participants, assets held by the plan, and administrative fees paid by the plan, among other things. For the purposes of this report, we generally defined the largest plans as those with $1 billion or more in assets, unless otherwise indicated. Consistent with filing requirements for the Form 5500, we generally defined small plans as those with either 99 or fewer participants. In some cases we further defined small plans as those with $1 million or less in assets.

We used the Private Pension Plan Data, which comes from the universe of Form 5500 for pension plans subject to ERISA, from 2010 through 2019, the most recent year for which data are available.[4] DOL has done some initial cleaning of the data, in particular identifying duplicate and overlapping filings. To identify 403(b) plans, we used both the retirement plan code variable and a string search on the name of the plans. Where plans reported a pension code corresponding to "401(k)" but the string search indicated that the plan was called a 403(b), we reclassified the plan to be a 403(b).[5] This resulted in the reclassification of about 7,600 plans. We checked a sample of reclassified plans and found that they

[4]DOL's Private Pension Plan Data consolidates data from the 5500, the 5500 short form, Schedule I, and Schedule H.

[5]We identified 403(b) and 401(k) plans using information on the 5500 where filers report their plan type and compared it to a search for key terms in the plan's name to correct for cases where a plan may have misreported their plan type. For years 2010-2013, DOL identified 403(b) plans using a variable "type9" which classified all filings into 9 categories based on codes reported in the type pension benefit code. DOL uses string search to identify plans if the plan benefit code is ambiguous, generally meaning the plan did not contain any pension benefit codes associated with one of these specific plan types. Starting in 2014, DOL implemented a new methodology for classifying defined contribution plans. DOL introduced the variable "dctype" which classifies filings into categories based on the pension benefit code. Our methodology also relied on the type pension benefit code. However, we used string search to confirm the plan type in all cases, not only when the pension benefit code was ambiguous. As a result, we identified cases where the pension type benefit code contradicted key phrases in the plan name, and we reclassified these plans accordingly. For example, we reclassified a plan where the pension type benefit code indicated it was a 401(k) but the plan's name indicated it was a 403(b). Prior to 2014, we used a similar methodology to categorize a plan as a 403(b) or 401(k) based on the pension benefit code and a string search on the name of the plan.

were generally sponsored by tax-exempt organizations which would be eligible to offer a 403(b) plan.

We analyzed Form 5500 data to determine, among other things:

- the number of ERISA retirement plans;
- the number of participants in ERISA 403(b) retirement plans;
- the value of assets held in these plans over time;
- the extent to which the 403(b) plan was the sponsor's primary retirement plan or supplemental retirement plan;[6]
- the extent to which the plan offered annuities only, mutual funds only, or combination of annuities and mutual funds; and
- the industry of the plan sponsor.[7]

We performed a data reliability assessment of the Form 5500 variables we included in our analyses. We reviewed technical documentation, conducted electronic data tests for completeness and accuracy, and contacted knowledgeable officials with specific questions about the data. We determined that the data for the variables we used were sufficiently reliable for the purposes of our reporting objectives.

In addition, we examined available data on ERISA and non-ERISA 403(b) plans from third-party research and industry publications. In particular, we examined research from:

- The Investment Company Institute (ICI), such as its 2021 publication *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2017*, and *The U.S. Retirement Market, Third*

[6]Some 403(b) plans are a sponsor's primary plan, in that the 403(b) account is the sole retirement savings account provided by the sponsor or is the largest among all plans reported by that sponsor. Other plans are supplemental, in that the 403(b) account is not the largest plan offered by the employer.

[7]Plan sponsors report the North American Industry Classification System codes (NAICS) code corresponding to their principal business activity on the form 5500. We categorized as follows: education including schools, colleges, and universities, business code 611000; health care, business codes from 621111 to 623000; social assistance, business codes from 624100 to 624410; religious and similar (includes religions, grant making, civic, professional, and similar organizations), business code 8130000; all other–all other NAICS codes.

*Quarter 2021* as well as ICI-supplied data regarding its other quarterly reports since 2010;[8]

- The Plan Sponsor Council of America, including its 2021 403(b) *Plan Survey, Reflecting 2020 Plan Experience*; and
- The National Tax-Deferred Savings Association, *Improving Retirement Savings for America's Public Educators: A Comprehensive Survey of Public Education 403(b) Retirement Plans.*

We also interviewed officials from several U.S. government agencies, including:

- DOL's Employee Benefits Security Administration and Office of Regulations and Interpretations,
- the Board of Governors of the Federal Reserve System,
- the Department of the Treasury, including the Internal Revenue Service, and
- the Securities and Exchange Commission.

We also conducted semi-structured interviews with 11 expert institutions representing the retirement industry (including plan sponsors and record keepers), participants, and independent research organizations; we also interviewed four plan sponsors and three large service providers. These stakeholders and experts included representatives of industry associations, research organizations, and service providers to 403(b) plans we identified as being knowledgeable about 403(b) plans based on their published research or other documentation or based on referrals from other organizations we interviewed.

In addition, we included relevant information obtained by our surveys, as described in detail below.

## Identifying Fees Charged to 403(b) Plan Participants

To determine the fees paid by 403(b) plan sponsors and participants, we conducted surveys for this review. We conducted a survey of four sets of key populations of 403(b) plan sponsors, and another survey of 403(b) service providers to plans, including service providers who act as record keepers, administrators, vendors and consultants, which we collectively refer to as service providers.[9] No comprehensive sources of data on

[8]We applied a Consumer Price Index calendar-year inflation adjustment to present ICI's nominal dollar estimates in 2019 real dollars.

[9]Our 26 plan sponsor survey respondents included five ERISA and 21 non-ERISA plans.

sponsors of or service providers for 403(b) plans exist. As such, we used multiple methods, as outlined below, to identify the two survey populations: one population consisting of four sets of 403(b) plan sponsors, and another consisting of 403(b) record keepers, third-party administrators, vendors, and consultants. We pretested both surveys with experts in the 403(b) field, including both large plan sponsors and large record keepers.

In total, we received completed surveys from 26 sponsors of 403(b) plans after reaching out to 64 such plan sponsors. Among those 26 respondents were 10 state sponsors, two public university system plans, seven large school districts, one small school district, and six tax-exempt organizations.[10] Among the four sets of 403(b) plan sponsors, we obtained the following response rate:

- Nine of the 14 state-sponsored 403(b) plans identified and compiled in a list published by the National Tax-Deferred Savings Association (we excluded two state-sponsored plans that were no longer in existence, but did include one plan, discontinued in 2020, whose sponsor filled out a survey).[11]
- Five of 11 of the largest 403(b) plan sponsors, as identified by *Pensions and Investments* (we excluded one such plan that also appeared on the list of state sponsored plans above, to avoid double counting).[12]
- Five of 14 small 403(b) plan sponsors, as identified by a random sample of plans from DOL's 2018 5500 filings of 99 or fewer participants and plans from the Form 5500 filings with $1 million or less in total assets. We initially randomly selected 20 small plans—10

[10]The six tax-exempt organizations among our respondents included three non-profit organizations in the education sector, one non-profit organization in the health care sector, one religious organization, and one other non-profit organization.

[11]The National Tax-Deferred Savings Association is an industry group whose members include 403(b) and 457 plan sponsors and service providers. Their list included a total of 16 state plan sponsors. Three states listed on NTSA's list have discontinued their plans in the last three years. One of the state's that discontinued its plan in 2020 completed a survey, and we included this response in our analysis. We excluded the other two states from our count of those surveyed.

[12]*Pensions and Investments* is a news publication written for pension, portfolio, and investment management executives in the institutional investment market. Each year *Pensions and Investments* publishes a list of the largest 403(b) plan sponsors. We examined its 2019, 2020, and 2021 lists; when combined, they listed a total of 11 distinct plan sponsors, after we excluded one plan sponsor that appeared on the list of state sponsored plans to avoid double counting.

with 99 or fewer participants and 10 with $1 million or less in total assets according to Form 5500 data—however, we excluded six for various reasons; for example, plans that had apparently been terminated since the 2018 Form 5500 filing. Therefore we obtained a response of five small plans of the 14 we proceeded to formally survey. We excluded two entities for no longer having 403(b) plans, one entity for appearing to no longer exist, and two other entities for, upon further review and updated information, had plan assets above the $1 million threshold).

- Seven of 26 K-12 school districts, including five of the 10 largest districts as measured by the number of students in the district as measured by the National Center for Education Statistics and selected by a certainty sample, as well as one of the 20 districts randomly selected out of the remaining districts in 50 states plus the District of Columbia. We excluded five K-12 school districts from an initial list of 30, either because plan administrators told us that the district did not have a 403(b) plan, because school officials had no contact information for administrators or any participant information, or because the district appeared not to exist anymore. We also included as one of the seven school districts, one sponsor of a plan that covers multiple K-12 school districts after initially reaching out to them as a service provider.

In addition, we drew a list of respondents from a group of large record keepers, third-party administrators, consultants, and vendors, which we collectively refer to as "service providers" when discussing the results of this survey. We reached out to a total of 50 potential respondents. We received a total of 19 respondents from record keepers, administrators, consultants, or vendors.[13] As with the plan sponsors, no comprehensive source of data on such entities or their roles in 403(b) plans exists, so we used multiple sources to select our target population, including the following:

- JP Morgan published a white paper[14] listing the top 10 vendors of variable annuities, a key component of 403(b) plan assets. We received five responses from this group, and excluded two entities who indicated to us that they were not 403(b) service providers.

[13]The number of potential respondents and number of respondents include one respondent who had been identified as an administrator that we later identified as a multi-employer plan sponsor for a set of multiple K-12 school districts. We included this entity as among our population of plan sponsors, as discussed above.

[14]J.P. Morgan, *Variable Annuity Market Trends,* North American Equity Research (2020).

- *Pensions and Investments* produces an annual list of the most used managers, consultants, and custodians for both defined contribution and defined benefit plans, and the September 30, 2020 issue listed 14 entities. We received four responses from this group, and excluded three entities who indicated to us that they were not 403(b) service providers.
- The Plan Sponsor Council of America, a trade association representing sponsors of retirement plans, conducts a periodic survey of plan sponsors and has a question on that survey that asks plan sponsors to name their service provider which includes a drop down menu including 14 entities. This list yielded the names of seven entities that did not already appear on one of the above lists. We received four responses from this group, and excluded one entity who indicated to us that they were not 403(b) service providers.
- Interviews with experts in the 403(b) field identified 18 other parties. We received five survey responses from this group. We excluded three of these potential respondents—one because it was neither a 403(b) record keeper nor administrator, one because it was exiting the 403(b) business, and one because we determined it would be more appropriately classified as a plan sponsor.

We conducted the surveys from May to September 2021. Since we actively selected both sets of survey populations, and did not have the ability to generate a random sample of either population, or any subset thereof, the results of neither survey are generalizable.

In addition, some of our survey respondents—both plan sponsors and service providers—furnished additional administrative data regarding investment options and fee structures. We also identified and examined publicly available data sources on the investment options available for participants in some of the 403(b) plans sponsored by our survey respondents and the investment option expense ratios and other fee information associated with those options, including one state's web resource that contains a summary of available investment options for multiple employers in that state. While these data are not generalizable to all 403(b) plans, they serve as illustrative examples of both the types of investment options available to 403(b) plan sponsors and participants and the fees associated with those options, as well as with the administration of 403(b) plans generally.

To provide additional information about the fees paid by 403(b) plan sponsors and participants, we examined available data on the fees and the actions taken by plan sponsors to manage those fees. We examined third-party research and industry publications, in particular:

- ICI, such as its 2021 publication *The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at ERISA 403(b) Plans, 2017*; and
- The Plan Sponsor Council of America, including its *2021 403(b) Plan Survey, Reflecting 2020 Plan Experience.*

We also talked with experts at those industry associations regarding the methodology and underlying data behind those studies.

We analyzed plan-level characteristics from the DOL's Form 5500 database. Specifically, we analyzed a set of supplemental schedules in which plan sponsors required to file Form 5500 provide information about service providers and disclose, depending on plan size, total administrative expenses on either an itemized or summary basis, as well as the portions of the short Form 5500-SF that requires filers to disclose total administrative expenses. Our sources of fee information from the Form 5500 included:

- Schedule C (Service Provider Information), where both direct and indirect compensation paid to service providers in connection with their services to the plan of $5,000 or more is reported;
- Schedule H (Financial Information), where administrative expenses—professional fees, contract administrator fees, investment advisory and management fees, and other fees paid directly by the plan to service providers—are reported;
- the Form 5500-SF, where plans with 99 or fewer participants file generally some administrative expense information; and
- Schedule I (Financial Information – Small Plan) for small plans ineligible to file the 5500-SF

We analyzed these Form 5500 series to compare the fees paid by sponsors of different sizes of ERISA 403(b) plans, and determine the extent reported fees paid by 403(b) plans changed over time between 2010 and 2019—the most recent year for which Form 5500 data are available.

This Form 5500 information is not comprehensive for several reasons. First, it covers only 403(b) plans covered by ERISA and therefore contains no information about 403(b) plans not subject to ERISA. Only large plans, defined as having 100 or more participants, file Schedule C, and Schedule C data only include service providers who were compensated $5,000 or more, so they are not a comprehensive source of information about service providers for ERISA 403(b) plan sponsors who file Form 5500. According to DOL officials, Schedules H, I, and 5500-SF data include administrative expenses paid directly by the plans and do not include indirect expenses. We considered including information reported by 403(b) plans on the Schedule A in our analysis of directly paid administrative fees. However, according to DOL, given the limitation that some information might be reported on the Schedule A but not Schedule C and given the potential lack of a directly comparable time period for Schedule A with other Form 5500 schedules,[15] we opted to not include Schedule A information in our analysis.[16]

We conducted this performance audit from July 2020 through March 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[15]According to DOL officials, the Schedule A information may be based on the insurance policy year that ends with or within the plan year rather than based on the plan year if that is different from the insurance policy year.

[16]Schedule A (Insurance Information) is a supplemental filing required of all Form 5500 filers for whom any benefits under the plan are provided by an insurance company. It contains information about payments made to insurance companies, such as premiums, and includes fees and expenses paid by insurers to agents, brokers, and other persons, such as commissions, associated with obtaining annuities for 403(b) plans.

# Appendix II: Detailed Findings from Analysis of Health and Retirement Study Data

We used Health and Retirement Study (HRS) data to analyze the demographic characteristics of respondents who reported they had a 403(b) retirement account, and compared those reported respondents with those respondents who reported they had a 401(k) retirement account. The HRS is a longitudinal study conducted by the Institute for Social Research at the University of Michigan. Every 2 years, it surveys a representative sample of about 18,000 to 23,000 people in the United States who are over age 50, and currently contains observations from 1992 to 2016. The most recent year for which complete weighted HRS data were available was 2016.[1]

As we noted previously, the HRS data have some limitations. The survey population is those over age 50 and their spouses or partners, so is not expected to capture younger participants to these plans. Further, since respondents are asked only about the retirement accounts at their current job, HRS does not capture information regarding respondents' retirement accounts from previous jobs or from retirees.

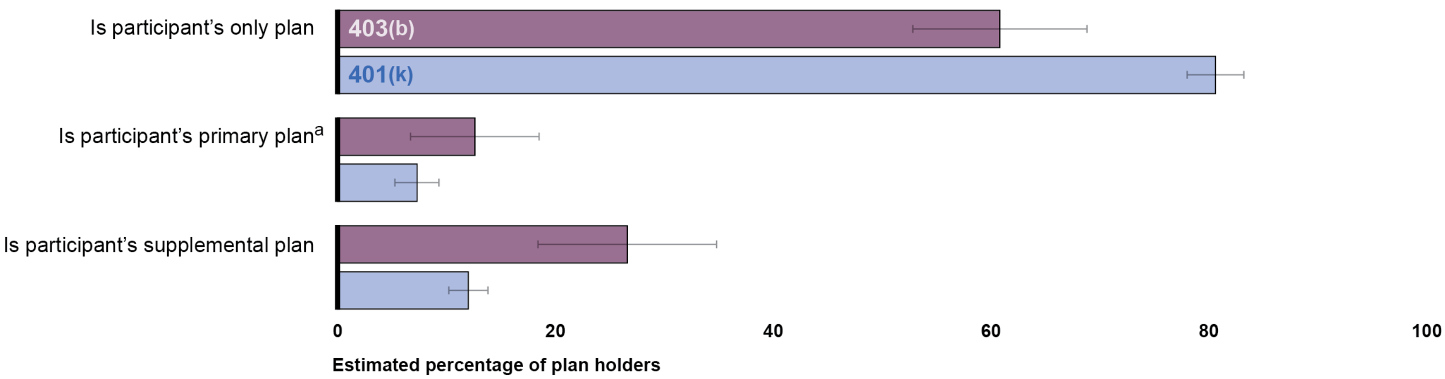
Our analysis of HRS data show that a greater percentage of 403(b) participants—in either an ERISA or non-ERISA plan—were female, in the education or health care and social assistance sectors, and had $300,000 or more in household assets, compared to 401(k) participants. Some of our results did not show statistically different results, such as our estimates regarding the extent to which 403(b) account holders are 65 years of age or older, and by race. Looking at specific demographic characteristics of survey respondents, our analyses of the HRS data found the following based on responses from the most recent 2016 wave:

**Primary versus supplemental plan status.** As noted earlier, an estimated 61 percent of individuals with a 403(b) plan reported the 403(b) plan was their only retirement plan, and another 13 percent reported it was their primary plan.[2] We found a higher percentage of 403(b) account holders reported the plan was supplemental, compared to 401(k) account holders, as noted in figure 10.

[1]We used the RAND 2018 V1 longitudinal file and restricted the sample to responses in HRS waves 2010 to 2016 because sampling weights for 2018 were not yet available at the time of our analysis (December 2021).

[2]By supplemental, we mean that the 403(b) or 401(k) plan does not have the largest reported balance of multiple defined contribution plan types or that the respondent also reported a defined benefit plan (e.g., the defined benefit plan is assumed to be primary).

**Figure 10: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account as Their Only Plan, Primary Plan, or Supplemental Plan, 2016**



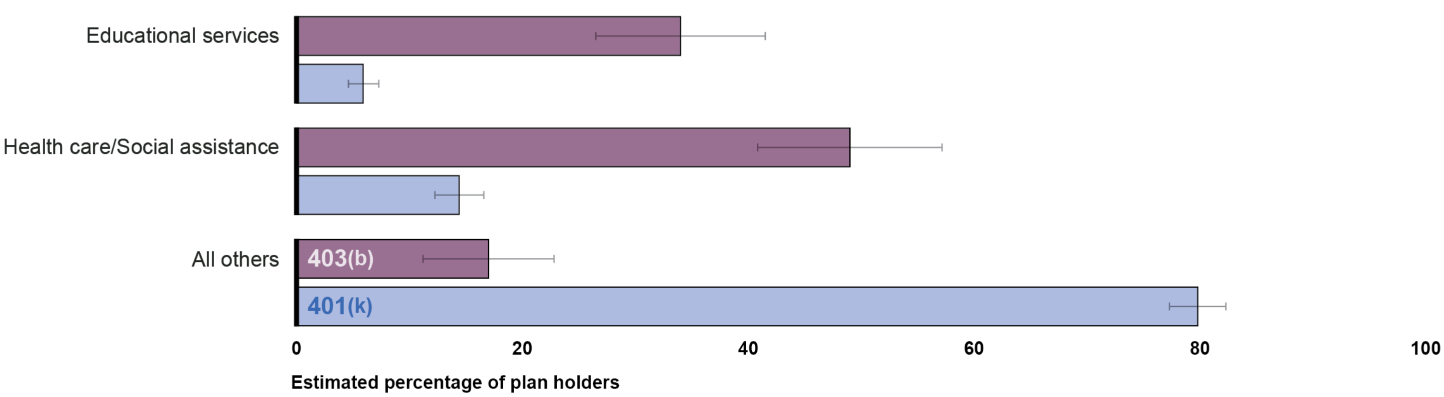

Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: By supplemental, we mean that the 403(b) or 401(k) plan does not have the largest reported balance of multiple defined contribution plan types or if the respondent also reported a defined benefit plan, e.g., the defined benefit plan is assumed to be primary. The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) only plan, 60.9 percent +/-8.0 percent; 403(b) primary plan, 12.6 percent +/-5.9 percent; 403(b) supplemental plan, 26.5 percent +/- 8.2 percent; 401(k) only plan, 80.7 percent +/-2.6 percent; 401(k) primary plan, 7.3 percent +/-2.2 percent; 401(k) supplemental plan 12.0 percent +/-1.8 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

[a]The estimated difference for primary plans was not statistically significant at the 95 percent confidence level.

**Sector.** We found that a higher percentage of 403(b) account holders were in the education or health care and social assistance sectors, compared to 401(k) retirement account holders (see fig. 11).

**Figure 11: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account, by Employer's Sector, 2016**

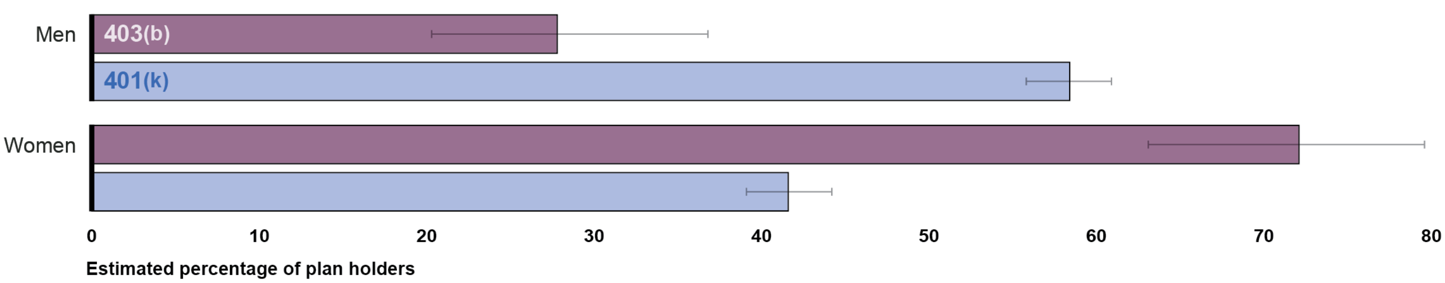



Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) educational services, 34.0 percent +/-7.5 percent; 403(b) health care/social assistance, 49.0 percent +/-8.2 percent; 403(b) all others, 17.0 percent +/- 5.8 percent; 401(k) educational services, 5.8 percent +/-1.3 percent; 401(k) health care/social assistance, 14.4 percent +/-2.2 percent; 401(k) all others, 79.8 percent +/- 2.5 percent. The Health and Retirement Study follows the Census Occupational Classification System (Census) to identify a respondent's industry. We categorized as follows: educational services, Census code 14; health care and social assistance, Census code 15; all others, Census codes 1-13, and 16-19. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Gender.** We found that a higher percentage of 403(b) account holders were female, compared to 401(k) retirement account holders (see fig. 12).

**Figure 12: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account, by Gender, 2016**

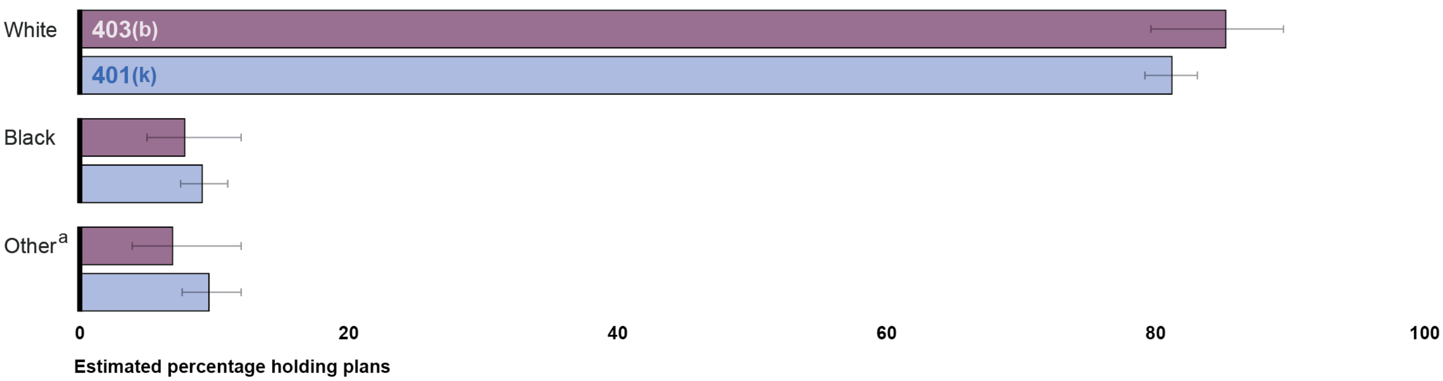



Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) female, 72.0 percent +/-7.6 percent; 403(b) male, 28.0 percent +/-8.4 percent; 401(k) female, 42.6 percent +/-2.4 percent; 401(k) male, 57.4 percent +/-2.4 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Race.** We estimated that 85 percent of 403(b) account holders were White (see fig. 13). However, neither the estimated difference for this group compared with 401(k) account holders for this estimate, nor our estimated differences for 403(b) compared to 401(k) account holders for Black or Other race categories were statistically significant at the 95 percent confidence level; as such, comparisons cannot reliably be made for 403(b) account holders with 401(k) account holders by race.

**Figure 13: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account, by Race, 2016**



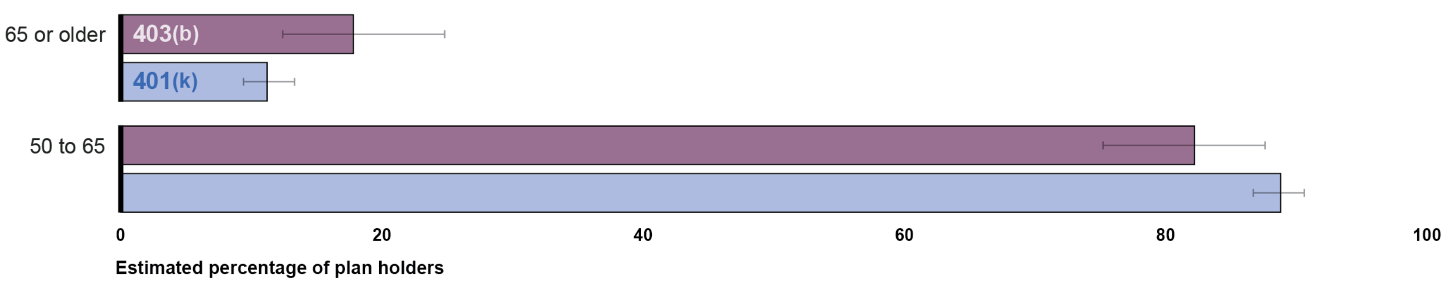

Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Notes: None of these estimates were statistically significant at the 95 percent confidence level; as such, no comparisons should be made between 403(b) and 401(k) account holders. The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) White, 84.8 percent +/-5.2 percent; 403(b) Black, 8.5 percent +/-3.6 percent; 403(b) other, 6.8 percent +/-4.0 percent; 401(k) White, 81.1 percent +/-1.9 percent; 401(k) Black, 9.0 percent +/-1.6 percent, 401(k) other, 9.9 percent +/-2.2 percent.

[a]HRS treats ethnicity separately from race; as such, Hispanic is not reported in these categories. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Age.** We estimated 17 percent of 403(b) account holders were 65 or older (see fig. 14). Because neither of our estimated differences between 403(b) and 401(k) account holders by age were statistically significant at the 95 percent confidence level, we cannot make comparisons with 401(k) account holders.

**Figure 14: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account, by Age, 2016**

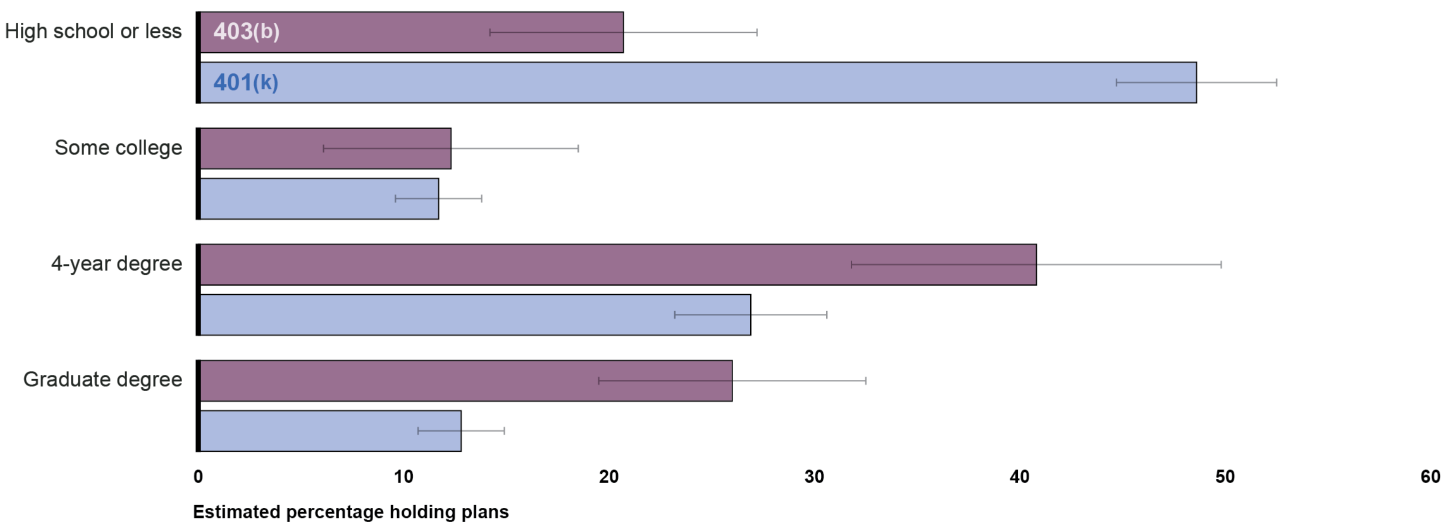



Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Notes: None of these estimates were statistically significant at the 95 percent confidence level; as such, no comparisons should be made between 403(b) and 401(k) account holders. The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) 65 or older, 17.2 percent +/-6.0 percent; 403(b) under 65, 82.8 percent +/-6.0 percent; 401(k) 65 or older, 11.0 percent +/-1.9 percent; 401(k) under 65, 89.0 percent +/-1.9 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Education level.** We found that a lower percentage of 403(b) account holders had a high school diploma or less, compared to 401(k) retirement account holders (see fig. 15).

**Figure 15: Estimated Percentage of Individuals Who Reported Having a 403(b) or 401(k) Account, by Education Level, 2016**

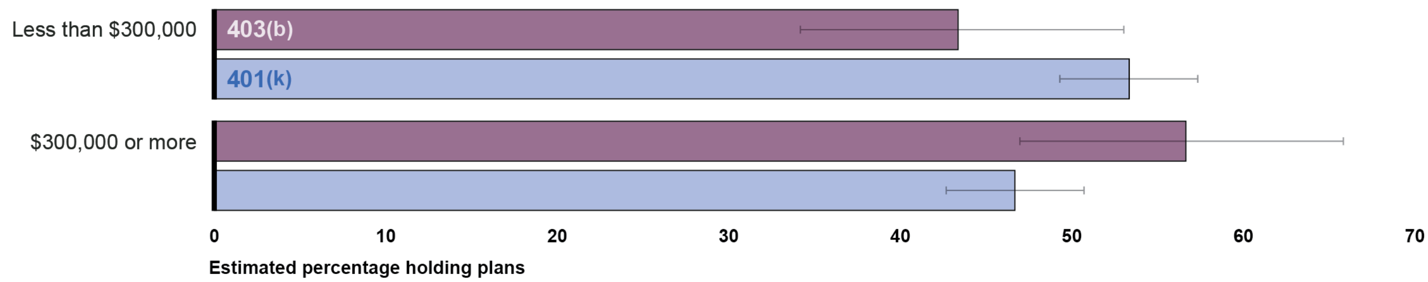



Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: We did not estimate a statistically significant difference at the 95 percent confidence level for some college, 4-year degree, or graduate degree 403(b) and 401(k) account holders; as such, no comparisons should be made between 403(b) and 401(k) account holders. The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) high school or less, 20.7 percent +/-6.5 percent; 403(b) some college, 12.4 percent +/-6.2 percent; 403(b) 4-year college degree, 40.9 percent +/-9.0 percent; 403(b) graduate degree, 26.1 percent +/-6.5 percent; 401(k) high school or less, 48.6 percent +/-3.9 percent; 401(k) some college, 11.7 percent +/-2.1 percent, 401(k) 4-year college degree, 26.9 percent +/-3.7 percent; 401(k) graduate degree, 12.8 percent +/-2.1 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Household assets.** We found that a higher percentage of 403(b) account holders had $300,000 or more in household assets, compared to 401(k) retirement account holders (see fig. 16).

**Figure 16: Estimated Percentage of 403(b) Retirement Accounts' Respondents Reported Household Assets, Compared to 401(k) Account Holders, 2016**

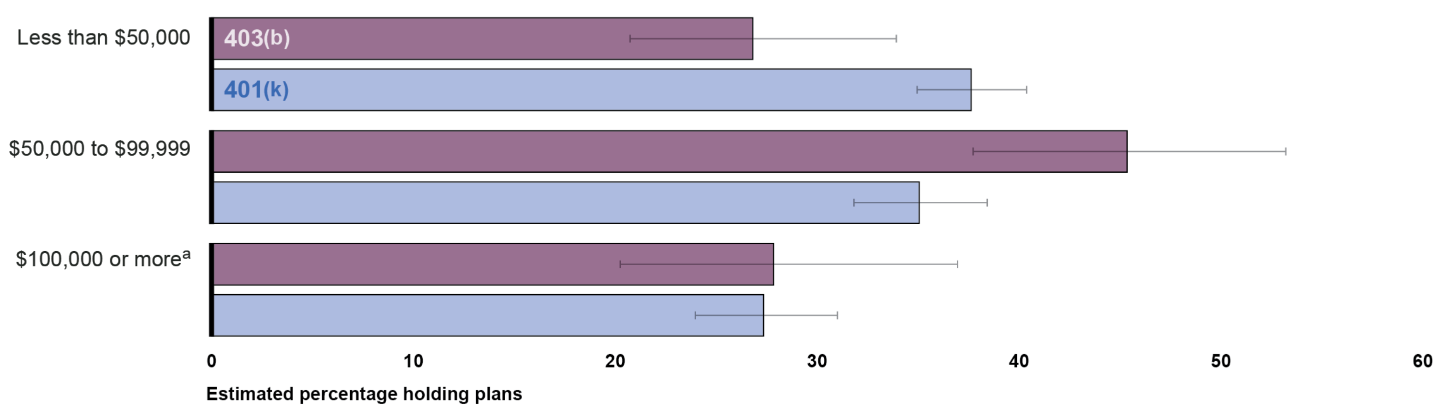



Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) less than $300,000 household assets, 40.7 percent +/-9.6 percent; 401(k) less than $300,000 household assets, 52.1 percent +/-4.3 percent; 403(b) $300,000 or more household assets, 59.3 percent +/-9.6 percent; 401(k) $300,000 or more household assets, 47.9 percent +/-4.3 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

**Earnings.** We found that a higher percentage of 403(b) account holders earned between $50,000 and $100,000 per year, and were less likely to be earning less than $50,000 per year, compared to 401(k) retirement account holders (see fig. 17).

**Figure 17: Estimated Percentage of 403(b) Retirement Accounts' Respondents Reported Earnings, Compared to 401(k) Account Holders, 2016**




Source: GAO analysis of Health and Retirement Study data. | GAO-22-104439

Note: The estimated percentages and associated margins of error at the 95 percent confidence level are as follows: 403(b) $100,000 or more earnings, 28.1 percent +/-8.3 percent; 401(k) $100,000 or more earnings, 27.0 percent +/-3.5 percent; 403(b) $50,000 to $100,000 earnings, 44.9 percent +/-7.2 percent; 401(k) $50,000 to $100,000 earnings, 35.2 percent +/-3.3 percent; 403(b) less than $50,000 earnings, 27.0 percent +/-6.6 percent; 401(k) less than $50,000 earnings, 37.8 percent +/-2.7 percent. 2016 is the most recent year for which complete weighted Health and Retirement Study data are available.

[a]The estimated difference for earnings of $100,000 or more was not statistically significant at 95 percent confidence level.

# Appendix III: Detailed Data on Fees from Surveys of 403(b) Plan Sponsors and Service Providers

As noted earlier, we obtained data on fees through non-generalizable surveys of 403(b) plan sponsors and service providers.[1] The tables below show the data provided by each survey participants—a total of 26 plan sponsors and 19 service providers—that reported data to us. Although it is not comprehensive or representative of the general population, it provides examples of the types and amounts of fees paid by 403(b) plan sponsors. Table 5 shows reported types and amounts of fees paid by 403(b) plan sponsors. Table 6 shows reported types and amounts of fees charged by 403(b) service providers.

**Table 5: Retirement Plan Participant Counts, Assets, Numbers of Plan Investment Options, and Range of Fees and Expenses for Plan Sponsors Surveyed by GAO**

| Description of entity | **Number of plan participants[a]** | **Total 403(b) plan assets (rounded to nearest $1 million)** | **Number of investment options in plan** | **Reported recordkeeping and administrative expenses[b]** | **Other reported plan expenses** | **Investment option expense ratio range (percentage)[c]** |
|---|---|---|---|---|---|---|
| State-Sponsored Plan A | 33 | 3,000,000 | 21 | 0.06% | Wrap fees: 0.30%/year | 0.02 – 0.88 |
| State-Sponsored Plan B | 8,775 | 1,146,000,000 | 26 | 0.0285% | Retirement Plan Consultant: $16,150/year; Other Service Fees: $5,000/year | 0.02 – 0.76 |
| State-Sponsored Plan C | 13,800 | 492,000,000 | 14 | 0.0008% | Retirement Plan Consultant: $80,000/year; Audit/Legal Fees: $30,000/year | 0.04 – 0.86 |
| State-Sponsored Plan D | 9,400 | 956,000,000 | 22 | 0.021% | Retirement Plan Consultant: $26,250/year; Other Service Fees: $5,000/year; Investment Management Fee: 0.35%/year (plan reported average) | 0.02 – 1.10 |

[1]For the purposes of this report, we refer to all such record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

| Description of entity | Number of plan participants[a] | Total 403(b) plan assets (rounded to nearest $1 million) | Number of investment options in plan | Reported recordkeeping and administrative expenses[b] | Other reported plan expenses | Investment option expense ratio range (percentage)[c] |
|---|---|---|---|---|---|---|
| State-Sponsored Plan E | 31,694 | 4,680,000,000 | 64 | 0 – 0.12% | Retirement Plan Consultant: $50,500/year; Investment Management Fees: 0.39 – 0.44% annually; | 0.04 – 1.12 |
| State-Sponsored Plan F | 818 | 103,000,000 | 15 | 0.075% | State Board Fees, 0.045%/year | 0.02 – 0.78 |
| State-Sponsored Plan G | 1,957 | 238,000,000 | 10 | 0.08% | Retirement Plan Consultant: $163,000/year | 0.04 – 1.13 |
| State-Sponsored Plan H | 2,870 | 144,000,000 | 11 | 0.14% | DNR | 0.04 – 0.63 |
| Public University Plan A | 315,000 | 22,000,000,000 | 15 | DNR | Investment Management: 0.04%/year | 0.01 – 0.48 |
| Large School District | 97,000 | 37,000,000,000 | 7 | DNR | Retirement Plan Consultant: $2,795,000/year; Other Service Fees: $1,259,000/year; Investment Management Fee: $105,474,000/year; Transaction Costs: $11,868,000/year | 0.15 – 0.48 |
| Large State University Plan | 43,200 | 6,300,000,000 | 42[d] | 0.035% | Legal Counsel: $22,000/year | 0.02 – 1.58 |
| Religious Organization | 415 | 140,000,000 | 10 | 0.27% | Retirement Plan Consultant: $600,000/year; Actuarial Consulting Fees, $484,600/year; Investment Management Fees, 0.32%/year; Investment Advisory Fees, $874,000/year; Excess Commission, 0.003%/year; Trading/Transaction Costs, 0.02%/year; | 0.30 – 0.76 |

| Description of entity | Number of plan participants[a] | Total 403(b) plan assets (rounded to nearest $1 million) | Number of investment options in plan | Reported recordkeeping and administrative expenses[b] | Other reported plan expenses | Investment option expense ratio range (percentage)[c] |
|---|---|---|---|---|---|---|
| Non-Profit Organization | 23 | 1,160,000 | 33 | 0.18% | Investment Management Fees, $2,022/year | DNK |
| Large School District | 57,600 | 3,194,000,000 | DNK/35[a] | 0.018% | DNR | DNK/ 0.21 – 1.25[e] |
| State-Sponsored Plan J | 21,287 | 1,456,000,000 | 21 | 0.18% | DNR | 0.02 – 1.19 |
| Small School District | 2 | DNK | DNK | DNK | DNK | DNK |
| Large School District | 19,637 | 783,000,000 | DNK/20[e] | DNR | DNR | DNK/0.06 – 2.37[e] |
| Large School District | 21,000 | 872,000,000 | DNK/14[e] | DNR | | DNK/0.06-1.76[e] |
| Large School District | 20,831 | 694,000,000 | DNK | 0.072% | DNR | DNK |
| Non-Profit Organization | 81 | 701,000 | 48 | DNK | Investment Management Fees, 0.00-0.93%/year; 12(b)(1) Fees, 0.00-0.25%/year; Other Expenses: 0.00-0.46%/year: Acquired Fee Funds and Expenses: 0.00-0.77%/year; Expense Waivers or Reimbursements: 0.00-0.30%/year; Net Separate Account Fee: 0.75-1.25%/year; Net Compensation: 0.06-0.43%/year | 0.12 -1.23 |
| Large School District | 15,000 | 1,345,000,000 | 30 | DNK | DNR | DNK |
| Non-Profit Organization | 27 | 2,300,000 | 23 | 0.51 – 2.01% | DNR | 0.51% - 1.93% |
| State-Sponsored Plan K | 14,476 | 1,225,000,000 | 33 | DNR | DNR | DNK |

| Description of entity | Number of plan participants[a] | Total 403(b) plan assets (rounded to nearest $1 million) | Number of investment options in plan | Reported recordkeeping and administrative expenses[b] | Other reported plan expenses | Investment option expense ratio range (percentage)[c] |
|---|---|---|---|---|---|---|
| Non-Profit Organization | 222 | 13,700,000 | 28 | 0.145% | Retirement Plan Consultant: 0.2%/year; Audit Fees: $12,000/year; Investment Management Fee: 0.4%/year | 0.21 – 1.14 |
| Large School District | 13,800 | 725,000,000 | 52 | 0.16 – 0.25% | Retirement Plan Consultant: 0.03%/year; Investment Management Fee: 0.45%/year (0.15% if account >$300K); Investment Advisory Fees: $500 plus $100/year; Trading/Transaction Costs: $2/month or $25 for brokerage account | 0.13 – 1.50 |
| Non-Profit Organization | 12 | 474,915 | DNR | DNR | DNR | DNK |

Legend: DNK – Responded "Did Not Know"

DNR – Did not respond to this survey question; left blank

Source: GAO analysis of information collected from survey responses of state-sponsored, large, school, or small plan sponsors. | GAO-22-104439

Note: Information contained in this table came from a total of 26 survey responses that we received from 403(b) plan sponsors. Duplicate counting of participants is possible in that some of the 403(b) service providers that responded to our survey may be providing services to plan sponsors that responded to our plan sponsor survey. We did not collect data to test for this possibility.

[a]Plan participants include active participants who are currently contributing to the plan and inactive participants who are no longer contributing to the plan.

[b]Some respondents reported record keeping and administrative expenses as a percentage of total assets on an annual basis. Other respondents reported those expenses in a dollar amount per year, while others reported those expenses on a per participant basis per year. This column harmonizes those numbers and expresses them as a percentage of total assets on an annual basis. Some respondents instead reported a range of record keeping and administrative expenses per year and we present those ranges as a percentage of total assets on an annual basis.

[c]An expense ratio measures how much of a fund's assets are used for administrative and other operating expenses. An expense ratio is determined by dividing a fund's operating expenses by the average dollar value of its assets under management. Operating expenses reduce the fund's assets, thereby reducing the return to investors.

[d]Plan sponsor reported this was an average across four platforms. The sponsor noted that its program is based on annuities, so every participant has a direct account with its four investment providers. As a result of this setup, the plan is unable to map assets, and while it has worked to decrease the number of options to new participants to about 40, it unable to close accounts that are invested in the legacy options. As such, other information provided by the plan sponsor showed the total number of investment options for the plan was 216.

[e]This survey respondent reported it did not know the number of investments in its plan or the expense ratios associated with them; we found it elsewhere in statewide publicly available information.

[f]This plan sponsor reported an investment option with an expense ratio of zero, but we found that it was a type of annuity investment whose fees would not be expressed in terms of expense ratio.

**Table 6: 403(b) Retirement Plan Participant Counts, Total Assets, and Range of Fees and Expenses for 403(b) Service Providers Surveyed by GAO**

| Description of entity (method of obtaining information / source) | Number of plans | Total number of participants | 403(b) plan assets (rounded to nearest $million) | Plan administrative expense (specify type, and yearly, quarterly) | Reported direct and indirect fees charged range | Smallest and largest example plans' investment option expense ratio management fee range |
|---|---|---|---|---|---|---|
| Record Keeper | 1,671 | 204,277 | 14,427,000,000 | Record keeping and Administrative Fee: $28,000,000/year; Investment Advisory Fee: $991,000/year; Other Fees (Loan Issue Fee, Loan Maintenance Fee, Locator Service Fee, Mandatory Cash-Out Fee, Participant Maintenance Fee, Qualified Domestic Relations Order Fee), $825,000/year | Direct Fees: 0.00 – 0.43 percent; Indirect Fees: 0.00 – 0.25 percent | Plans with <=$1 million assets: .8% Plan with >$1 billion assets:$.5% 0.50 - 0.80% |
| Record Keeper/Third-Party Administrator | 442 | 161,776 | 4,839,000,000 | Record keeping or Administrative Fee: $4.50 per participant/quarter Other Fees: varies by vendor and product | Direct Fees: 0.00 – 0.40 percent; Indirect Fees: 0 - $24 fixed fee for year | [a]0.04 – 0.89% |
| Product Vendor | DNR | 15,269 | 1,100,000,000 | Wrap Fees: 2.10 percent/year | DNK | DNR |
| Record Keeper | 23,369 | 4,890,068 | 498,063,000,000 | DNK | DNK | Plans with <=$1million in assets: 0.42 – 0.50% Plans with >$1billion in assets: 0.19 – 0.34% |
| Record Keeper | 91 | 347,360 | 33,566,000,000 | DNK | DNK | Plans with <=$1 million in assets: 0.14-25% Plan with >$1 billion in assets: 0.14% |
| Record Keeper | 840 | 3,345,922 | 289,973,000,000 | DNR | DNK | DNR |
| Investment Advisor | 14 | DNK | 20,375,000,000 | DNK | DNK | DNR |

| Description of entity (method of obtaining information / source) | Number of plans | Total number of participants | 403(b) plan assets (rounded to nearest $million) | Plan administrative expense (specify type, and yearly, quarterly) | Reported direct and indirect fees charged range | Smallest and largest example plans' investment option expense ratio management fee range |
|---|---|---|---|---|---|---|
| Product Vendor | 5,232 | 307,386 | 9,360,000,000 | Administrative Charge: $100/plan/month, plus $1-4/participant/month (depending on number of participants), and includes 0.22% standard record keeping expense; Account Expenses: 0.25-1.65% (depending on account size); | DNK | [a]0.39-2.40 |
| Record Keeper | 1,157 | 57,141 | 2,300,000,000 | DNK | DNK | DNR |
| Record Keeper | 6,000 | 100,000 | 6,500,000,000 | Record Keeping and Administrative Fees: 0.015%/year<br>Other Fees: $40/year<br>Direct Compensation: 5-21 bps; Indirect Compensation: 0-50 bps | Direct Fees: 0.05 – 0.21 percent; Indirect Fees: 0 – 0.50 percent | DNK |
| Product Vendor | 11,993 | 115,792 | 6,995,000,000 | $30 maintenance fee per participant/year for accounts under $50,000; Transfer Agent Fee of $17.60/shareholder/year + asset-based fee of .01%-.03%/year, depending on investment option; Contingent Deferred Sales Charge of 0-1%; Front End Sales Load 0 – 5.50%; Processing Fees $20 ($75 for Loan Initiation) | DNR | [a]0.40 – 3.92 |

| Description of entity (method of obtaining information / source) | Number of plans | Total number of participants | 403(b) plan assets (rounded to nearest $million) | Plan administrative expense (specify type, and yearly, quarterly) | Reported direct and indirect fees charged range | Smallest and largest example plans' investment option expense ratio management fee range |
|---|---|---|---|---|---|---|
| Record Keeper | 5,032 | 190,150 | 8,055,000,000 | Administrative Service Fee: $0 – $1250/year; Per Participant Fee: $0 - $20/year; Minimum Contribution Fee: $0 - $1000/year; Contribution Census System Non-Usage Fee: $1,000/year; Administrative/Record keeping Work: $100/hour; Advanced Plan Compliance Work: $200/hour; Special Plan Services: $1000/event ; Distribution, $40/participant/year; Loan Initiation: $75/participant/year; Loan Administration: $24/participant/year | Direct Fees: 0 – 1.25 percent<br>Indirect Fees: None | [a]0.02 – 1.75 percent |
| Record Keeper | 2,031 | 368,276 | 18,808,000,000 | For plans under $1M, charges can be 0.4% or 0.5% plus a flat fee of $2,600 and a $25 per participant fee. For most plans with assets in excess of $1million, we calculate a record keeping fee that is customized to the client based on many factors. | DNK | Plans with <=$1 million in assets: 1.21 - 1.95%<br>Plan with >$1 billion in assets: $0.24% |
| Record Keeper | 1,125 | 328,494 | 23,529,000,000 | DNK | DNK | Plans with <=$1 million in assets: 0.06 – 0.66%<br>Plans with >$1 billion in assets: 0.18 – 0.36% |
| Third-Party Administrator | 5,219 | 1,330,376 | 97,000,000,000 | $24/year/account, plus $36/participant | DNR | DNR |

Legend: DNK – Responded “Did Not Know”

DNR – Did not respond to this survey question; left blank

Source: GAO analysis of information collected from survey responses of 403(b) service providers. | GAO-22-104439

Note: Information in this table came from 15 survey responses we received from 403(b) service providers. Four other service providers who responded to our survey requested we not include this information in this appendix. For the purposes of this report, we will refer to all such record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

[a]The expense ratio information provided by this service provider represents the actual high and low annual expense ratio management fee charged by this plan; it is not reported for selected plans only.

# Appendix IV: Reported Surrender Fees and Short-Term Trading Fees by 403(b) Plan Sponsors and Service Providers Surveyed

As we reported earlier, we obtained data on fees through surveys of 403(b) plan sponsors and service providers.[1] We received responses from a total of 26 plan sponsors and 19 service providers. Surrender fees are fees charged for selling or withdrawing money from an investment before a set period of time. Individual schedules for the phase out period vary by specific plan, but generally involve a reduction of 1 to 2 percent per year until the surrender fee is no longer charged. For example, an annuity with a 10-year, 10 percent surrender fee would charge 10 percent the first year to cancel plan participation, 9 percent the second year, and so on, until there is no surrender fee charged after the 10-year period. Short-term trading fees are fees charged to an investor when shares are sold from a fund, and typically are only applied within a certain time frame, in order to discourage short-term trading.

Tables 7 and 8 below show the data provided by each survey respondent that reported data to us. The data presented are not comprehensive or representative of the general population. Table 7 shows the surrender fees for any annuities in plans as reported by 403(b) plan sponsor respondents.

**Table 7: Summary of Surrender Fee Information Obtained From Plan Sponsor Survey Respondents**

| Surrender fee status | Survey respondents |
|---|---|
| Surrender fees | 7 of 26 plan sponsors that reported some of the investment options contained in their plans that charge a surrender fee: |
| | Respondent #1: 10% of annuities have surrender fees, with a maximum of 2% and phase out period of 0.5 years |
| | Respondent #2: 5% of annuities have surrender fees, with a maximum of 5% and phase out period of 5 years |
| | Respondent #3: 90% of annuities have surrender fees, with a maximum of 5% and phase out period of 7 years. |
| | Respondent #4: 90% of annuities have surrender fees, with a maximum of 5% and phase out period of 7 years. |
| | Respondent #5: 60% of annuities have surrender fees, with a maximum of 10% and phase out period of 6 years. [Note: This plan sponsor also reported that the plan does not currently offer annuities.] |
| | Respondents #6 and #7 reported that their assets contain annuities subject to surrender fees, but not know the details about those fees. |
| No surrender fees | 9 of 26 plan sponsors reported that their assets do not contain annuities, and no assets are subject to surrender fees. |

[1]For the purposes of this report, we refer to all such record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers.

| Surrender fee status | Survey respondents |
|---|---|
| | 4 of 26 plan sponsors reported that their assets contain either fixed or variable annuities, but that those assets are not subject to surrender fees. |
| Do not know | 4 of 26 plan sponsors reported that their assets contain annuities, but did not know whether or not their assets carried surrender fees. |
| | 2 of 26 plan sponsors reported not knowing whether they had annuities, or whether they had assets that carried a surrender fee. |

Source: GAO analysis of survey data. I GAO-22-104439

**Table 8: Summary of Surrender and Short-Term Trading Fee Information Obtained From 403(b) Service Provider Survey Respondents**

| Surrender fee status | Survey respondents |
|---|---|
| Surrender fees | 10 of 19 service providers reported the plans they provide services to charge surrender fees. |
| | Respondent #1: 75% of annuities have such surrender fees, with a maximum of 10% and phase out period of 10 years. |
| | Respondent #2: 100% of annuities have such fees charges, with a maximum of 7% and phase out period of 5 years. |
| | Respondent #3: 7% of annuities have such surrender fees, with a maximum of 6% and phase out period of 15+ years. |
| | Respondent #4: 90% of annuities have such surrender fees, with a maximum of 5% and phase out period of 6 years. |
| | Respondent #5: 14% of such products have such surrender charges, with a maximum of 10% and phase out period of 10 years. |
| | Respondent #6: 100% of annuities have such surrender charges, with a maximum of 5% and phase out period of 1 year. |
| | Respondent #7: 18% of such products have surrender charges with a maximum of 5% and a phase out period of 5 years. |
| | Respondent #8: 28% of annuities carry surrender fees, otherwise unspecified. |
| | Respondents #9: and #10 Reported that some annuity products carried surrender charges, but did not specify the percentage of such annuities or their terms. |
| Short-term trading fees | 6 of 19 record keepers reported the plans they provide services to charge short-term trading fees for mutual funds. |
| | Respondent #7 (Same as #7 above) Reported that less than 1% of mutual fund products have short-term trading fees, with a maximum of 2% and a phase out period of 6 months. |
| | Respondent #8 (Same as #8 above) Reported that 29% of mutual fund products have short-term trading charges, but did not specify their terms. |
| | Respondents #9 and #10: (Same as #9 and #10 above) Reported that some mutual fund products carried short-term trading charges, but did not specify the percentage of such products or their terms. |
| | Respondent #11: 2% of mutual fund products have short-term trading charges, with a maximum of 1%; this respondent did not specify the phase out period. |

| | |
|---|---|
| | Respondent #12: 1% of mutual fund products have short-term trading charges, with a maximum of 1% and a phase out period of 1 year |
| Either surrender or short-term trading fees | 2 of 19 service providers reported that some of the investment options carried either surrender fees or short-term trading fees, but neither respondent provided further details. |
| No surrender fees | 5 record keepers who did not report charging surrender fees, including 3 of 19 service providers reported not charging surrender fees or short-term trading fees; and 2 of 18 record keepers reported charging short-term trading fees but not surrender fees. |
| Do not know | 2 of 19 service providers reported that they did not know whether any of the investment options in the plans for which they provided services carried either surrender or short-term trading fees. |

Source: GAO analysis of survey data. I GAO-22-104439

Note: For the purposes of this report, we refer to all such record keepers, third-party administrators, vendors, and others who provide administrative services to a plan as 403(b) service providers. Responses do not sum to 19 because some respondents were included in two or more categories.

# Appendix V: GAO Contact and Staff Acknowledgements

## GAO Contact

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## Staff Acknowledgments

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