

DOL Says Plan Prevent Protect, Attorneys Say Audit Audit Audit

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DOL is heading your way with \$25 Million for increased enforcement and they expect to generate—from your company and others—\$7 Billion of additional revenue over the next 10 years. To avoid getting ensnared in this web of increased enforcement, the solution is simple say attorneys Veronica Gray & E. George Joseph—audit, audit, audit.

Gray and Joseph are partners at the Orange County, California office of law firm Nossaman LLP. Their suggestions came at BLR[®]'s National Employment Law Update, held recently in Las Vegas.

Plan/Prevent?Protect

DOL's goal is to implement "Plan/Prevent/Protect," a program designed to assure that employers and other entities regulated by DOL take responsibility for employment law compliance, as Congress requires. Regulations will likely require:

- **Plan.** Require employers to prepare a written plan for identifying and remediating risks of legal violations (e.g., explain why certain workers are classified as independent contractors)
- **Prevent.** Require employers to implement the plan in a manner that prevents legal violations and risks to workers
- **Protect.** Require employers to ensure that the plan's objectives are met; e.g., implement a misclassification initiative, including working with the IRS and state labor agencies to target employers who are not classifying workers properly What is a Company To Do?

Gray and Joseph have a simple solution. Audit, audit, audit, they say. What to audit? It's back to basics. Although DOL enforces some 180 laws, the main ones to look at are:

- Fair Labor Standards Act
- Family and Medical Leave Act (FMLA)
- Davis-Bacon Act
- Walsh Healey Public Contracts Act
- Copeland "Anti-kickback" Act
- Contract Work Hours and Safety Standards Act
- McNamara — O'Hara Service Contract Act
- The Federal Wage Garnishment Law — Title III of the Consumer Credit Protection Act
- Immigration and Nationality Act
- Employee Polygraph Protection Act
- The Migrant and Seasonal Agricultural Worker Protection Act