

Wage & Hour Insights

Guidance & Solutions for Employers



What To Do When the DOL Makes an Unannounced Visit

By [Bill Pokorny](#) on June 13, 2011



Two federal agents arrive at your workplace and ask to interview all of your employees and see all of your payroll records for the last two years. Their business cards say that they are investigators from the U.S. Department of Labor Wage & Hour Division. What do you do?

The unannounced on-site visit is a common tactic employed by Wage & Hour Division investigators, particularly when dealing with small employers who may not fully understand their legal rights. Often, employers simply comply with the investigator's requests, calling their lawyers only after the fact. This is usually a mistake. As with other law enforcement officers, employers are generally not obligated to immediately turn over records or allow DOL investigators into non-public areas of their premises without a warrant.

So how should you respond?

While cooperation with DOL investigations is usually advisable and you can be compelled to provide records by subpoena, it is important to have your attorney involved from the beginning of the process. This will help ensure that (a) you are providing the investigators with all of the records and accurate information needed to favorably present your position and (b) your attorney knows what information the investigators have so that he or she can effectively represent you in the audit.

So remember, when the Department of Labor pays you a visit:

- Be polite to the investigators. If you are not moved to do so out of common courtesy, remember that being disrespectful to a government agent with the power to make your life very difficult and assess large financial penalties is not a wise business decision.
- Contact your lawyer immediately. Make sure he or she has experience handling DOL audits. If not, get a referral to someone who does.
- Don't turn over any records, arrange employee interviews, or answer any other substantive questions until you've talked to your lawyer.

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- Don't talk to your employees about the DOL visit until you talk to your lawyer. Even questions that seem innocent to you can give the impression that you are pressuring employees or possibly retaliating against them for cooperating with the DOL.
- Most importantly, make sure your time and payroll records are in good order BEFORE the DOL comes knocking. This means that they should be accurate, organized, and in a format that allows you to easily provide them to your lawyer and the DOL on short notice.

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