

NOTE TO REVIEWER
OMB No. 1215-0188

This submission is considered a revision of an existing collection, as the information requirements of the Labor-Management Reporting and Disclosure Act (LMRDA) are currently approved under OMB # 1215-0188, with an expiration date of December 31, 2010. The currently approved collection includes Forms LM-1, LM-2, LM-3, LM-4, LM-10, LM-15, LM-15A, LM-16, LM-20, LM-21, LM-30, T-1, and S-1. On July 16, 2007, in *AFL-CIO v. Chao*, the United States District Court for the District of Columbia vacated the September 29, 2006 Final Rule implementing Form T-1, Trust Annual Report. The Department is seeking to amend this information collection, due to the publication of a Notice of Proposed Rulemaking that establishes the Form T-1, Trust Annual Report. 73 Fed. Reg. 11753 (March 4, 2008).

**PAPERWORK REDUCTION ACT
LABOR ORGANIZATION AND AUXILIARY REPORTS
SUPPORTING STATEMENT**

A. JUSTIFICATION

1. Congress enacted the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 401 et. seq., to provide for the disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. In addition, the statute requires: (a) the maintenance and retention of supporting records for five years after the required reports are filed, and (b) the preservation for one year of records of elections of labor organization officers. Section 208 of the Act authorizes the Secretary to issue rules and regulations prescribing the form of the required reports and such other rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as may be necessary to prevent circumvention or evasion of the reporting requirements.

The LMRDA reporting provisions were devised to protect the basic rights of labor organization members and to guarantee the democratic procedures and financial integrity of labor organizations. The 1959 Senate report on the version of the bill later enacted as the LMRDA stated clearly, "the members who are the real owners of the money and property of the organization are entitled to a full accounting of all transactions involving their property." A full accounting was described as "full reporting and public disclosure of labor organization internal processes and financial operations."

The LMRDA applies to labor organizations with private sector employees working in interstate commerce within the meaning of sections 3(i) and (j) of the LMRDA, 29 U.S.C. 402(i) and (j), and labor organizations composed of U.S. Postal Service employees. Labor organizations that represent employees of the executive branch agencies of the Federal Government, the Library of Congress, the Government Printing Office, and certain employees of the U.S. Congress are subject to the standards of conduct requirements of the Civil Service Reform Act (CSRA), 5 U.S.C. 7120, the Foreign Service Act (FSA), 22 U.S.C. 4117, or the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301. The Acts and the implementing regulations provide that in administering the standards of conduct, the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying provisions of the LMRDA. In addition, the regulations specifically incorporate by reference the LMRDA reporting and record retention requirements of labor organization information, annual financial, and trusteeship reports, as well as the requirement for the preservation of election records.

The following is a list of the reporting forms, their regulatory and legislative citations, and a brief description of each form's usage.

LM-1, Labor Organization Information Report, 29 CFR 402, 29 U.S.C. 431(a). All labor organizations are required to file an initial Form LM-1 concerning the organization and its governing rules, including copies of its constitution and bylaws, within 90 days after it becomes subject to the LMRDA, CSRA, FSA, or CAA. Labor organizations are also required to file an amended Form LM-1 to report certain changes to this information when they file the annual financial report.

LM-2, Labor Organization Annual Report, 29 CFR 402.5 and 403.3; 29 U.S.C. 431(b). Every labor organization whose total annual receipts are \$250,000 or more and those organizations which are in trusteeship must file an annual financial report on Form LM-2 within 90 days after the end of its fiscal year, to disclose its financial condition and operations for its preceding fiscal year. This reporting form is also used by such labor organizations to file a terminal report if they cease to exist. This report must be filed electronically.

LM-3, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b). Every labor organization that is not in trusteeship whose total annual receipts are less than \$250,000, may elect to file a simplified report, Form LM-3. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist.

LM-4, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b). Every labor organization that is not in trusteeship whose total annual receipts are less than \$10,000, may elect to file an abbreviated report, Form LM-4. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist.

LM-10, Employer Report, 29 CFR Part 405, 29 U.S.C. 433(a). Every employer, who in any fiscal year has made certain payments to or other financial arrangements with a labor organization, its officers, its agents or its employees; payments to employees for the purpose of causing them to persuade other employees with respect to their bargaining and representation rights; payments for the purpose of interfering with employees in the exercise of their bargaining and representation rights or for obtaining information on employee or labor organization activities in connection with labor disputes involving their company; and arrangements (and payments made under these arrangements) with a labor relations consultant for the purpose of persuading employees with respect to their bargaining and representation rights, or for obtaining information concerning employee activities in a labor dispute involving their company is required to file an annual report on Form LM-10 within 90 days after the end of its fiscal year.

LM-15, Trusteeship Report, 29 CFR Part 408, 29 U.S.C. 461. Every labor organization that assumes a trusteeship over a subordinate labor organization is required to file an initial Form LM-15 within 30 days after imposition of the trusteeship. Every labor organization that files the initial report is required to file a semi-annual report on Form LM-15 during the continuance of the trusteeship.

LM-15A, Report on Selection of Delegates and Officers, 29 CFR Part 408, 29 U.S.C. 461. Every labor organization that assumed a trusteeship over a subordinate labor organization and filed a semiannual or terminal trusteeship report is also required to file a Report on Selection of Delegates and Officers on Form LM-15A if, during the period covered by the report, there was any: convention or other policy-determining body to which the subordinate labor organization sent delegates or would have sent delegates if not in trusteeship; or election of officers of the labor organization which imposed the trusteeship over the subordinate labor organization.

LM-16, Terminal Trusteeship Report, 29 CFR Part 408, 29 U.S.C. 461. Every labor organization that has assumed a trusteeship over a subordinate labor organization is required

to file a terminal trusteeship report on Form LM-16 within 90 days of the termination of the trusteeship along with a terminal trusteeship financial report on Form LM-2.

LM-20, Agreement and Activities Report, 29 CFR Part 406, 29 U.S.C. 433(b). Every labor relations consultant or other person or organization that makes an agreement or arrangement with an employer to undertake activities with the object to persuade employees how to exercise their right to organize and bargain collectively or to supply an employer with information concerning the activities of employees or a labor organization involved in a labor dispute with the employer is required to file a report on Form LM-20 on the nature of the agreement and specific details on the activity to be performed. Form LM-20 must be filed within 30 days of entering into the agreement.

LM-21, Receipts and Disbursements Report, 29 CFR Part 406, 29 U.S.C. 433(b). Every labor relations consultant or other person or organization that is required to file the preceding agreement and activities report (Form LM-20), and who as a result of such agreement or arrangement received any payment during the fiscal year, is required to file within 90 days after the end of its fiscal year a detailed report on Form LM-21 of receipts from employer(s) and disbursements made by the filer in connection with labor relations advice or services provided to the employer(s).

LM-30, Labor Organization Officer and Employee Report, 29 CFR Part 404, 29 U.S.C. 432. Every labor organization officer and employee (other than an employee performing exclusively clerical or custodial services) is required to file a Form LM-30 within 90 days after the end of his/her fiscal year if during that year the officer or employee received certain payments from, or had certain interests in:

(1) an employer whose employees the official's labor organization represents or actively seeks to represent; or

(2) an employer or a labor relations consultant to an employer that (a) is in competition with an employer whose employees the official's labor organization represents or is actively seeking to represent, (b) is a trust in which the official's labor organization is interested, (c) is a not-for-profit organization that receives or is actively and directly soliciting money, donations, or contributions from the official's labor organization, (d) is a labor organization that: (i) has employees the official's labor organization represents or is actively seeking to represent, (ii) has employees in the same occupation as those represented by the official's labor organization; (iii) claims jurisdiction over work that is also claimed by the official's labor organization; (iv) is a party to or will be affected by any proceeding in which the official has voting or policy-influencing authority; or (v) has made a payment to the official for the purpose of influencing the outcome of an internal labor organization election; or (e) has interests in actual or potential conflict with the interests of the official's labor organization or the official's duties to the labor organization; or

(3) any employer for the purpose of (a) not organizing employees; (b) influencing employees in any way with respect to their right to organize; (c) taking any action with respect to the status of employees or others as members of a labor organization; (d) taking any action with respect to bargaining or dealing with employers whose employees the official's labor organization represents or is actively seeking to represent; or (e) influencing the outcome of an internal labor organization election; or

(4) a business (for example, a vendor or a service provider) that meets any of the following conditions: (a) 10% or more of its business consists of buying or selling or otherwise dealing with an employer whose employees the official's labor organization represents or is actively seeking to represent, (b) any part of its business consists of buying or selling or

otherwise dealing with the official's labor organization, or (c) any part of its business consists of buying or selling or otherwise dealing with a trust in which the official's labor organization is interested.

S-1, Surety Company Annual Report, 29 CFR Part 409, 29 U.S.C. 441. Each surety company which issues a bond required by Section 502 of the LMRDA or Section 412 of the Employee Retirement Income Security Act (ERISA) is required to file a report within 150 days after the end of its fiscal year describing its bonding experience under the Acts. The report provides for detailed information on premiums, loss data, and specific items of losses occurring during the report year.

T-1, Trust Annual Report, 29 CFR Part 403, 29 U.S.C. 431(b). The March 4, 2008 Notice of Proposed Rulemaking (73 Fed. Reg. 11753) provides that each labor organization with total annual receipts of \$250,000 or more must file a Form T-1 for each trust in which it is interested pursuant to section 3(l) of the LMRDA where certain conditions are met: the labor organization, either alone or in combination with other labor organizations, selects a majority of the members of the trust's governing board or the labor organization's contribution to the trust, alone or in combination with other labor organizations, represents greater than 50% of the trust's revenue in the one-year reporting period. There are three exceptions to the Form T-1 requirements, and labor organizations will not, therefore, be required to file a Form T-1 for: (1) a political action committee (PAC) fund, if publicly available reports on the fund are filed with federal or state agencies; (2) a political organization for which reports are filed with the Internal Revenue Service under 26 U.S.C. 527; and (3) a trust or trust fund for which an independent audit has been conducted, in accordance with the standard set forth in the final rule, if the audit is made publicly available. Under this exception the labor organization must file the first page of the Form T-1 and a copy of the audit. Form T-1 must be filed electronically.

Simplified Annual Report Format, 29 CFR Part 403, 29 U.S.C. 431(b). Extremely small labor organizations (those with no assets, liabilities, receipts or disbursements during the fiscal year) are permitted to have their parent national or international labor organization file the annual financial report on their behalf in a simplified format.

2. Pursuant to §205 of the LMRDA, the purpose of the reporting requirements is the public disclosure of administrative information and financial reports for covered labor organizations, labor organization employees and officers, employers, and other entities. The information supplied on the reports is used primarily by 1) labor organization members to self-govern their labor organizations; 2) the Department of Labor and other government agencies to detect improper practices on the part of labor organizations, their officers, and/or representatives and other filers; and 3) the Congress in oversight and legislative functions. The general public, the media, and researchers may also use the information for their own purposes.

Violations of Title II and Title III LMRDA reporting requirements may be subject to civil action by the Secretary of Labor or may be referred to the Department of Justice for appropriate criminal action. Certain receipts or transactions reported may also involve violations of other Federal laws and may be referred to the Department of Justice for appropriate criminal action.

Since June 2002, an Internet Web site (www.unionreports.gov) makes it possible for anyone to view labor organization annual financial reports, conduct data searches, and display the results in a number of user-definable reports, free of charge. Individuals can view and print facsimiles of reports for year 2000 and later and the reports are searchable by a variety of criteria,

including labor organization name, file number, affiliation, designation name and number, and location. The OLMS Web site also features a powerful search system where users can search for specific labor organizations. Users can obtain information about labor organization officers and employees and payers and payees, define the scope of the search to be conducted, and generate a number of reports using the search results. Users can also download archive files that contain raw data in pipe delimited format of labor organization financial information as reported for public disclosure.

Reports filed by employers, labor relations consultants, and labor organization officers and employees for year 2000 and later can also be viewed at the Web site and earlier reports can be ordered there.

Copies of every report submitted are also maintained for public inspection and copying, upon request, at the U.S. Department of Labor, Room N-1519, 200 Constitution Avenue, NW, Washington, D.C. 20210. OLMS receives approximately 210 requests per month for public disclosure of reports.

3. OLMS has developed an Electronic Labor Organization Reporting System (e.LORS) that utilizes electronic technology to collect, maintain, and disclose the information OLMS collects. The objectives of the e.LORS system include the electronic filing of Forms LM-2, LM-3, and LM-4, and T-1; disclosure of reports via a searchable Internet database; improving the accuracy, completeness and timeliness of reports; and creating efficiency gains in the reporting system. Effective use of the system reduces the burden on reporting organizations, provides increased information to labor organization members, and enhances LMRDA enforcement by OLMS.

The Government Paperwork Elimination Act, Title XVII of Pub. L. 105-277, requires public agencies to provide the public with the option of maintaining, submitting, or disclosing required information collections electronically when practicable. OLMS has developed software that permits filers to complete all of the reporting forms electronically. The software for completing all forms electronically is available on the OLMS Web site.

4. Other than certain financial data received by the Internal Revenue Service (IRS) and the Employee Benefits Security Administration (EBSA), there is no duplication of existing labor organization reporting requirements, nor is similar information required by any other federal agency or statute.

To prevent duplication with the forms, a labor organization is not required to report a Political Action Committee (PAC) fund, if publicly available reports on the PAC's funds are filed with federal or state agencies. Similarly, a labor organization is not required to file a Form T-1 for a political organization for which reports are filed with the IRS under 26 U.S.C. 527.

The Form LM-30 requires labor organization officers and employees to report certain payments from employers. Form LM-10 requires employers to report, among other things, certain payments to labor organization officers and employees and certain agreements and payments involving labor relations consultants. Forms LM-20 and LM-21 require labor relations consultants to report certain agreements with employers and payments pursuant to such agreements. This results in some duplicate reporting, a result mandated by Congress in designing parallel reporting schemes to facilitate compliance. See 29 U.S.C. §§ 432, 433.

- 5.** This information collection does not have a significant economic impact on a substantial number of small entities.
 - 6.** The LMRDA explicitly sets the frequency of required filings so any change would require a statutory amendment. If the information were collected less frequently OLMS would not have current information available to make the essential public disclosure and to conduct enforcement and oversight activities.
 - 7.** The only special circumstance that requires this collection to be conducted in a manner inconsistent with the general guidelines in 5 CFR 1320.6 is that records necessary to verify the required reports must be maintained for at least five years after the report is filed. The five-year retention period is established by the LMRDA (LMRDA Sec. 206, 29 U.S.C. 436).
 - 8.** On December 27, 2002, the Department issued a notice of proposed rulemaking (67 FR 79820) proposing revisions of the forms used by labor organizations to file the annual financial reports required by section 201(b) of the LMRDA, 29 U.S.C. §431(b), including a proposed Form T-1. Before issuing this proposal, various Department officials met with many representatives of the regulated community, including union officials and their legal counsel, to hear their views on the need for reform and the likely impact of changes that might be made. The Department initially provided for a 60-day comment period, but later extended that period for an additional 30 days. When the comment period closed, on March 27, 2003, ESA/OLMS had received over 35,000 comments. A final rule was issued on October 9, 2003, but the Form T-1 aspect of the 2003 Final Rule was vacated in 2005 by the United States Court of Appeals for the District of Columbia Circuit in *AFL v. Chao*, 409 F3d 377. On July 16, 2007, in *AFL-CIO v. Chao*, the United States District Court for the District of Columbia vacated the subsequent September 29, 2006 Final Rule implementing Form T-1, Trust Annual Report, on procedural grounds.
- In August and September of 2007, Department officials again met with representatives of the community that would be affected by the proposed Form T-1, including officials of labor organizations and their legal counsel, to hear their views on the need for reform and the likely impact of changes that might be made. (73 FR 11755). Finally, public comments were invited in the NPRM published on March 4, 2008 (73 FR 11753). The comments and the agency responses will be discussed in the preamble to the Final Rule. .
- 9.** OLMS does not provide any payment or gift to respondents.
 - 10.** The contents of the reports filed pursuant to the LMRDA reporting requirements are by law public information. Therefore, no assurances of confidentiality are provided.
 - 11.** There is no sensitive information collected on the form.
 - 12.** Exhibit 1 details the annualized reporting and recordkeeping burden for all OLMS public disclosure forms and Exhibit 2 details the annualized respondent cost estimates for all the forms. These numbers reflect filing figures based on the total number of filers submitting an original report in fiscal year 2005 for all forms except Forms LM-10 and LM-30 and Form T-1.

Because of increased compliance assistance and enforcement measures during fiscal year 2006 pertaining specifically to Form LM-10, the Department is using the number of filings during fiscal year 2006 for this form in order to reflect these assistance and enforcement

efforts. In FY 2006, the Department received 1,755 Form LM-10 reports. However, some respondents mistakenly submitted reports with no reportable transactions, i.e, blank forms. Of the 1,755 Form LM-10 reports submitted, 390 were blank. The submission of blank forms is being eliminated through continuing compliance assistance. Therefore, for purposes of estimating the number of respondents for this three-year approval, the Department has removed the number of submitted blank forms from its totals, leaving 1,365 Form LM-10s.

The figures used by the Department in determining the Form T-1 burden are derived from the Department's computations based on assumptions, rounded to the nearest hundredth, published in the 2006 rule. 71 FR 57716. The Department similarly derived the figures for the Form LM-30 burden based on assumptions, rounded to the nearest hundredth, from the final rule.

EXHIBIT 1
ANNUALIZED REPORTING AND RECORDKEEPING BURDEN

Form	Responses	Hours Per Respondent for Reporting	Reporting Burden Hours	Hours per Respondent for Recordkeeping	Recordkeeping Burden Hours	Total Hours
LM-1	255	0.83	212	0.08	20	232
LM-2	3,827	146.00	558,742	390.00	1,492,530	2,051,272
LM-3	10,812	52.00	562,224	64.00	691,968	1,254,192
LM-4	6,355	8.00	50,840	2.00	12,710	63,550
LM-10	1,352	0.50	676	0.08	108	784
LM-15	354	1.50	531	0.33	117	648
LM-15A	68	0.33	22	0.03	2	24
LM-16	95	0.33	31	0.02	2	33
LM-20	90	0.33	30	0.03	3	33
LM-21	11	0.50	6	0.08	1	7
LM-30	6,916	1.67	11,550	0.33	2,282	13,832**
S-1	179	0.50	90	0.08	14	104
T-1****	2,476	23.2	57,443	48.5	120,086	183,361
SARF*	543	0.17	92	0.03	16	108
Total Annualized	33,333	--	1,242,489	--	2,325,691	3,568,180

Note: Some numbers may not add due to rounding

* Simplified Annual Report Format

** The total burden hours for Form LM-30 include the 13,832 total reporting and recordkeeping hours for Form LM-30 filers (11,550 (reporting burden hours) + 2,282 (recordkeeping burden hours)).

*** The Department estimates that all union officers and employees will spend 15 minutes reading the revised form and instructions to determine whether they are required to file a report and 25 minutes reviewing any applicable payments from an employer or business and determining the aggregated payments did not exceed the \$250 de minimis threshold. By deducting the 6,916 estimated filers from the estimated 204,634 union officers and employees, 197,718 officers and employees remain who will review the form and their records but determine that they are not required to file a report. The annual reporting and recordkeeping cost burden for these officers and employees will be 5,931,540 minutes (30 x 197,718) or 98,859 hours (5,931,540/60).

**** This line reports first year compliance burden and costs for the Form T-1.

Exhibit 2 shows estimates of the annualized cost to respondents for the hour burdens for the information collection. Source information for non-labor organization salaries is from BLS National Compensation Survey. Source information for labor organization salaries is taken directly from annual reports filed with OLMS.

EXHIBIT 2
ANNUALIZED RESPONDENT COST ESTIMATES

Form	Responses	Burden Hours	Cost
LM-1	255	232	\$8,331
Revised LM-2	3,827	2,051,272	\$48,348,891
LM-3	10,812	1,254,192	\$15,182,747
LM-4	6,355	63,550	\$381,936
LM-10	1,352	784	\$10,976
LM-15	354	648	\$27,631
LM-15A	68	24	\$1,483
LM-16	95	33	\$2,039
LM-20	90	33	\$1,394
LM-21	11	7	\$296
LM-30**	6,916	13,832	\$309,007
S-1	179	104	\$2,442
T-1	2,476	183,361	\$6,172,047***
SARF*	543	108	\$1,749
Total Annualized	33,333	3,568,180	\$70,450,969

Note: Some numbers may not add due to rounding

* Simplified Annual Report Format

** The Department estimates that all union officers and employees will spend 15 minutes reading the revised form and instructions to determine whether they are required to file a report and 25 minutes reviewing any applicable payments from an employer or business and determining the aggregated payments did not exceed the \$250 de minimis threshold. By deducting the 6,916 estimated filers from the estimated 204,634 union officers and employees, 197,718 officers and employees remain who will review the form and their records but determine that they are not required to file a report. The annual reporting and recordkeeping cost burden for these officers and employees will be 5,931,540 minutes (30 x 197,718) or 98,859 hours (5,931,540/60).

*** This line reports first year compliance burden and costs for the Form T-1.

13. There are no operation and maintenance costs to respondents or recordkeepers resulting from the collection of information beyond the cost of the burden hours addressed in Item 12. Any capital investments including computers and software that are usual and customary expenses incurred by persons in the normal course of their business are excluded from the regulatory definition of burden as capital investments.

14. Exhibit 3 provides a summary of federal costs associated with the various reporting

requirements. Federal estimated costs include costs for contractors and operational expenses such as equipment, overhead, and printing as well as salaries and benefits for the OLMS staff in the National Office and field offices who are involved with reporting and disclosure activities. These estimates include time devoted to: (a) receipt and processing of reports; (b) disclosing reports to the public; (c) obtaining delinquent reports; (d) reviewing reports, (e) obtaining amended reports if reports are determined to be deficient; and (f) providing compliance assistance training on recordkeeping and reporting requirements.

EXHIBIT 3

ANNUALIZED FEDERAL COST ESTIMATES

National Office	\$4,263,214
Field Offices	<u>\$3,471,991</u>
Total	\$7,735,205

15. A difference of 107,980 annualized burden hours attributable as a program change is noted. OLMS' current OMB inventory is 3,460,198; OLMS is projecting that the previously approved forms and the Form T-1 will require 3,568,180 hours. The changes made to the Form T-1 account for this increase of 107,980 in total burden hours in comparison to the previous submission. The Department will publish the proposed rule establishing the Form T-1 on March 4, 2008.

16. OLMS does not publish the results of collections of information.

17. OLMS is not seeking an exemption to the display of the expiration date of the OMB approval of the information collection.

18. OLMS is not requesting any exceptions to the certification statement required by the Paperwork Reduction Act. OLMS is able to certify compliance with all provisions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.