

NOTE TO REVIEWER
OMB No. 1245-0003

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 # 1245-0003, with an expiration date of August 31, 2016. 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, and S-1.

This revision is necessary due to the rulemaking amending the Form LM-10 Employer Report and the Form LM-20 Agreement and Activities Report filed by labor relations consultants. See 76 FR 37292 (June 27, 2011). The Department received comments on those estimates during the rulemaking, and it has responded to such comments in the preamble to the final rule, as well as in this request for amendment to the information collection submitted to OMB in the context of that rulemaking. Note: the final rule, including its revised Form LM-10 and Form LM-20 reports and instructions, is applicable to agreement, arrangements, and payments made on or after July 1, 2016. For agreements, arrangements, and payments made prior to that date, filers will use the pre-2016 Form LM-10 and Form LM-20 reports.

**PAPERWORK REDUCTION ACT
EMPLOYER AND AGREEMENT AND ACTIVITIES REPORTS
SUPPORTING STATEMENT**

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Congress enacted the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 401 et. seq., to provide for the disclosure of information about 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 of Labor 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." S. Rep. No. 86-187, at 8 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 at 397, 404 (1959). 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. These latter Acts and the implementing regulations at 29 CFR 457.10-.20 provide that, in administering the standards of conduct, the Department 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 all LMRDA reports, as well as the requirement for the preservation of election records. Instructions for the forms mention corresponding recordkeeping requirements.

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). Any labor organization whose total annual receipts are \$250,000 or more and any organization 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 the 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). Any labor organization that is not in trusteeship whose total annual receipts are less than \$250,000, but \$10,000 or more may elect to file the simplified Form LM-3 annual report. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist. Currently this form, as well as the LM-4, may be filed electronically or manually.

LM-4, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b). Any labor organization that is not in trusteeship whose total annual receipts are less than \$10,000, may elect to file the abbreviated Form LM-4 annual report. 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). Any 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. Any 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. Any labor organization required to file the initial trusteeship 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. Any 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. Any 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 after 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). Any labor relations consultant or other person or organization that makes an agreement or arrangement with an employer to undertake activities with the an 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 after entering into the agreement.

LM-21, Receipts and Disbursements Report, 29 CFR Part 406, 29 U.S.C. 433(b). Any labor relations consultant or other person or organization required to file the preceding agreement and activities report (Form LM-20) must also file a Form LM-21 report of receipts from employer(s) and disbursements made by the filer in connection with labor relations advice or services provided to employer(s) for any fiscal year during which payments were made or received as a result of the reportable agreement or arrangement. The Form LM-21 report is required to be filed within 90 days after the end of the fiscal year.

LM-30, Labor Organization Officer and Employee Report, 29 CFR Part 404, 29 U.S.C. 432. Any 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 that 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.

Simplified Annual Report Format (SAFR), 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. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

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, labor relations consultants, and other entities. The information supplied on the reports is used primarily by 1) labor organization members to participate in the governance of their labor organizations; 2) workers in making determinations regarding the exercise of their protected rights to organize and bargain collectively; 3) 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 4) 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 Department's Office of Labor-Management Standards (OLMS) Web site (www.olms.dol.gov) 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 281 requests per month for public disclosure of reports.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burdens.

The Department has developed an Electronic Labor Organization Reporting System (e.LORS) that utilizes electronic technology to receive, maintain, and disclose the information collected under the LMRDA. The objectives of the e.LORS system include permitting the electronic filing of Form LM-2, LM-3, LM-4, and LM-30; 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 as well as more accessible and more timely information to labor organization members, and enhances LMRDA enforcement by the Department. The Department intends to make EFS available to Form LM-10 and LM-20 filers, as a result of the rulemaking.

The Government Paperwork Elimination Act, 44 U.S.C. 3504 (codified in note), requires public agencies to provide the public with the option of maintaining, submitting, or disclosing required information collections electronically when practicable. The Department has developed the Electronic Forms System (EFS), which is a web-based system that permits filers to complete and submit Form LM-2, LM-3, LM-4 and LM-30 electronically, with the Form LM-10 and LM-20 available later as a result of the rulemaking. The Department intends to update its reporting system to enable all forms to be submitted electronically in the coming years.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.

Other than certain financial data received by the Internal Revenue Service (IRS), 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.

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 matters, certain payments to labor organization officers and employees and certain agreements and activities 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 and public disclosure. See 29 U.S.C. §§ 432, 433.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

OLMS reduces burden where practicable and where transparency goals would not be sacrificed. For example, the Forms LM-3 and LM-4 are less detailed than the Form LM-2 (the latter filed by the largest labor organizations) and the SAFR allows a parent national or international labor organization to file a simplified annual financial report on behalf of certain extremely small affiliated labor organizations.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Section 207 of the LMRDA sets frequencies for filings of reports. If the information were collected less frequently, the obligations of the statute would not be met and the Department would not have current information available to make the essential public disclosure and to conduct enforcement and oversight activities.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported**

by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Records necessary to verify the required reports must be maintained for at least five years after the report is filed, which is the only special circumstance that requires this collection to be conducted in a manner inconsistent with the general guidelines in 5 CFR 1320.6. The five-year retention period is established by the LMRDA (LMRDA Sec. 206, 29 U.S.C. 436).

- 8. If applicable, provide a copy and identify the data and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On June 21, 2011, the Department published in the *Federal Register* a notice of proposed rulemaking (NPRM) that sought to amend the Form LM-10 Employer Report and Form LM-20 Agreement and Activities Report. See 76 FR 36178. Additionally, prior to publishing the NPRM, the Department met with interested parties at a public meeting held on May 24, 2010.

In response to the NPRM, the Department received comments on the merits of the proposal to revise the Form LM-10 and LM-20, including those concerning the Paperwork Reduction Act (PRA) analysis. Those commenters argued that the Department's revised interpretation goes beyond the text or legislative history of the LMRDA, and that it imposes more burden than necessary by requiring additional disclosures. These comments are addressed in more detail in the preamble to the final rule implementing the revisions to the Form LM-10 and LM-20.

More specifically, in a PRA context, the Department received comments that the proposed rule failed to assess all costs and benefits of available regulatory alternatives and that the rule would be significantly more burdensome than the current rule. An employer coalition argued that the proposed rule also violated Executive Orders 13563 and 12866 and should therefore be withdrawn, because it did not allow for adequate public participation, failed to promote predictability or reduce uncertainty, and was not written in plain language. Some commenters estimated that the total impact of the rule would easily exceed \$100 million annually.

The Department disagrees with these comments. First, the Department has fully considered alternatives to the approach proposed and the final rule adopts the proposed rule with some modification based on these alternatives. See discussion in Section V of the preamble to the final rule. Second, the Department has provided estimated costs associated with the reporting requirements, adjusted in response to comments received on the proposed rule, in a manner that fully comports with requirements prescribed for regulations that are not economically significant. Third, the public was provided a full opportunity to express its views on the approach proposed, as evinced both by the public stakeholder meeting that preceded the proposal and the large number of comments submitted on the proposal. Fourth, the rule is written in a straightforward, easy to understand manner, with examples and checklists that simplify reporting. In response to comments received on the proposal, the Department has addressed various concerns about particular requirements and added additional clarity where appropriate. The Department has also responded to specific comments on its burden estimates in the preamble to the final rule, adequately demonstrated the sound basis for such estimates, and refuted the assertions that the rule would result in an annual economic impact of greater than \$100 million. The rule provides an objective, clear basis to determine reportability and certainty, and the Department will provide compliance assistance to filers and prospective filers to reduce any additional uncertainty or burden. The Department has also demonstrated in the preamble the sound basis for the rule in the language of the statute, legislative history, and public policy.

The following is a summary of the need for and objectives of the final rule. The LMRDA was enacted to protect the rights and interests of employees, labor organizations and their members, and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and labor organization officers, employees, and representatives. Provisions of the LMRDA include financial reporting and disclosure requirements for labor organizations, employers, labor relations consultants, and others as set forth in Title II of the Act. See 29 U.S.C. 431-36, 441.

The revised rule amends the form, instructions, and reporting requirements for the Form LM-10 and the Form LM-20, both of which are filed pursuant to section 203 of the LMRDA, 29 U.S.C. 433. Section 203 establishes reporting and disclosure requirements

for employers and persons, including labor relations consultants, who enter into any agreement or arrangement whereby the consultant (or other person) undertakes activities to persuade employees as to their rights to organize and bargain collectively or to obtain certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer. Each party must also disclose payments made pursuant to such agreement or arrangement. An employer, additionally, must disclose certain other payments, including payments to its own employees, to persuade employees as to their bargaining rights and to obtain certain information in connection with a labor dispute. Employers report such information on the Form LM-10, which is an annual report due 90 days after the end of the employer's fiscal year. Consultants file the Form LM-20, which is due 30 days after entering into each agreement or arrangement with an employer to persuade.

In the final rule, the Department has revised its interpretation of the "advice" exemption of section 203(c) of the LMRDA, which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give "advice" to the employer. Under previous policy, as articulated in the LMRDA Interpretative Manual and in a *Federal Register* notice published on April 11, 2001 (66 FR 18864), this so-called "advice" exemption has been broadly interpreted to exclude from reporting any agreement under which a consultant engages in activities on behalf of the employer to persuade employees concerning their bargaining rights but has no direct contact with employees, even where the consultant is managing a campaign to defeat a union organizing effort.

The Department proposed to narrow the scope of the advice exemption to more closely reflect the employer and consultant reporting intended by Congress in enacting the LMRDA, which includes disclosure of agreements involving direct and indirect persuasion by employees. As discussed in the NPRM and the final rule, strong evidence indicates that since the enactment of the LMRDA in 1959, the use of such consultants by employers to combat union organizing efforts has proliferated, with most employers hiring consultants to persuade employees through indirect methods. Nevertheless, since it began administering the statute in 1960 the Department has consistently received a small quantity of LM-20 reports relative to the greatly increased employer use of the labor relations consultant industry, which suggests substantial underreporting by employers and consultants. Moreover, evidence indicates that the Department's broad interpretation of the advice exemption has contributed to this underreporting.

As discussed in the preambles to both the proposed and final rule, the Department's prior interpretation failed to advance Congressional objectives concerning labor-management transparency to promote worker rights and harmonious labor relations. Considerable evidence suggests that the consultant industry has had a deleterious effect on labor-management relations, and regulatory action to revise the advice exemption interpretation is needed to provide labor-management transparency for the public, and to provide workers with information critical to their effective participation in the workplace.

Congress intended that employees would be timely informed of their employer's decision to engage the services of consultants in order to persuade them how to exercise their rights. Congress intended that this information, including "a detailed statement of the terms and conditions" of the agreement or arrangement would be publicly available no later than 30 days after the employer and consultant entered into such relationship. 29 U.S.C. 433(b)(2). With such information, employees are better able to assess the actions of the employer and the employer's message to them as they are considering whether or not to vote in favor of a union or exercise other aspects of their rights to engage in or refrain from engaging in collective bargaining.

Where persuader activities are not reported, employees may be less able to effectively exercise their rights under Section 7 of the National Labor Relations Act, 29 U.S.C. 157, and, in some instances, the lack of information will affect their individual and collective choices on whether or not to select a union as the exclusive bargaining representative or how to vote in contract ratification or strike authorization votes. The public disclosure benefit to the employees and to the public at large cannot reasonably be ascertained due to the uncertainty in knowing whether employees would have participated or not in a representation election or cast their ballots differently if they had timely known of the consultant's persuader activities. The real value of the LMRDA public disclosure of information is in its availability to workers and the public in accordance with Congressional intent. Such information gives employees the knowledge of the underlying source of the information directed at them, aids them in evaluating its merit and motivation, and assists them in developing independent and well-informed conclusions regarding union representation.

The Department has also revised the Form LM-10, the Form LM-20, and the corresponding instructions. These changes include modifications of the layout of the forms and instructions to better outline the reporting requirements and improve the readability of the information. The revised forms also require greater detail about the activities conducted by consultants pursuant to agreements and arrangements with employers.

Finally, the final rule requires that Form LM-10 and LM-20 filers must submit reports electronically, but also has provided a process for a continuing hardship exemption, whereby filers may apply to submit hardcopy forms on a temporary basis. Currently, labor organizations that file the Form LM-2 Labor Organization Annual Report have been required by regulation since 2004 to file electronically, and there has been good compliance with this submission requirement. Employers and consultants likely have the information technology resources and capacity to file electronically, as well. Moreover, electronic web-based filing option is also planned for all LMRDA reports as part of an information technology enhancement, including for those forms that cannot now be electronically filed, such as the Form LM-10 and Form LM-20. This addition should greatly reduce the burden on filers to electronically sign and submit their forms. No commenters challenged this proposed addition of mandatory electronic filing, and several comments explicitly offered support.

Additionally, the Department addresses in the ICR comments received in response to the NPRM concerning the Form LM-21 Receipts and Disbursements Report. These commenters were concerned with the scope of information required to be reported, asserting that the Form LM-21 requires consultants to disclose receipts and disbursements from employers on account of any “labor relations advice or services,” not just those receipts and disbursements related to persuader activities. See 29 U.S.C. 433(b); 29 CFR 406.3. Some commenters urged the Department to use the Form LM-10 and Form LM-20 rulemaking to declare that, under the Form LM-21, disclosure is required only for those receipts and disbursements pertaining to clients for whom persuader activities were undertaken. One commenter asserted that the Department did not take into account the burden of filing a Form LM-21, which is “potentially a massive undertaking” depending on the size of the consultant filing. The commenter did not provide any specific recommendations or criticism of the approved reporting and recordkeeping burden estimates for the Form LM-21.

In response, the Department emphasizes that the NPRM was not directed to the Form LM-21, nor did the Department propose changes to or invite public comments on any aspect of the LM-21 form. Therefore, issues arising from the reporting requirements of the LM-21 were not appropriate for consideration under that rulemaking, which limits itself to the Form LM-10 and Form LM-20 reports. Additionally, the Department has expressed its intent to address issues surrounding the Form LM-21 in a separate rulemaking in the future.¹

As a result of these comments, however, the Department has revised upwards its estimate for the number of responses to the Form LM-21 from 31, in the most recently approved ICR, to 358. Although the Department did not propose, nor is it making, any changes to the Form LM-21, this adjustment is necessary to account for the new Form LM-20 filers as a result of the LM-20 final rule who must, pursuant to LMRDA section 203(b), also file an annual Form LM-21 for those years in which payments were made or received pursuant to a reportable persuader agreement. Additionally, the Department revised its estimates for the individual and aggregate costs associated with completing the Form LM-21, as a result of the final rule’s updated per hour total compensation figure for attorneys (who the Department, as in the previous ICR, assumes would complete the Form LM-21) and the updated estimate for total Form LM-21 filers.

However, the Department did not receive any specific suggestions for adjustments to the reporting and recordkeeping burden hour estimates for the Form LM-21, nor did the Department make any proposed changes to the Form LM-21.

As already discussed herein and in the PRA section of the preamble to the final rule, the Department estimates that the rule will result in a total annual recurring burden on

¹ The agenda for the Form LM-21 rulemaking is set out in the Department’s *Semiannual Unified Agenda and Regulatory Plan*, viewable at <http://www.reginfo.gov>. It identifies a September 2016 publication date for the Form LM-21 rulemaking.

employers, labor relations consultants, and other persons required to file Form LM-20 and Form LM-10 reports of approximately \$1,263,499.50, to account for the additional time needed to respond to these disclosures. Thus, the burden is less than \$100 million annually and is therefore not economically significant within the meaning of Executive Order 12866.

9. Explain any decision to provide any payment or gift to respondents, other than re-numeration of contractors or grantees.

The Department does not provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. (Note: If the submission will serve as Joint ICR and Privacy Impact Assessment per OMB Memorandum 03-22, Section II.D, the relevant justification shall be included as part of the agency's response to this Item)

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. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No sensitive information is collected on the form.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

The impetus for the proposed revision of this information collection is the Department’s final rule amending the Form LM-10 Employer Report and Form LM-20 Agreement and Activities Report. The figures used by the Department in determining the revised burden for those forms in this information collection are derived from computations based on assumptions in the Paperwork Reduction Act (PRA) analysis in the preamble to the final rule. Tables 1-5 display these computations, and they correspond to Tables 1-5 in the PRA section of the final rule. For purposes of this analysis, the Agency assumes all consultant Form LM-20 and many employer Form LM-10 responses will be prepared directly by respondents. The Department recognizes there may be occasions where consultants will prepare responses on behalf of the employer respondent. In those situations, however, the Department assumes that the consultant will prepare the report as an ancillary service to the actual persuader services triggering the report.

Additionally, Table 6 details the annualized reporting and recordkeeping burden for all LMRDA public disclosure forms, and Table 7 details the annualized respondent cost estimates for such forms. These numbers reflect filing figures based on recent five-year averages for submitted forms, as described in the Supporting Statement for the Department’s most recent submission for this ICR, with the exception of the Form LM-10 and LM-20 estimates, which are based upon the final rule, and aspects of the Form LM-21 estimates, as described in the response to Item A.8.

TABLE 1

FORM LM-20 FILER RECORDKEEPING AND REPORTING BURDEN (IN MINUTES)

Burden description	Section of Revised Form	Recurring Burden Hours
Maintaining and gathering records.	Recordkeeping Burden	15 minutes
Reading the instructions to determine applicability of the form and how to complete it.	Reporting Burden	20 minutes
Reporting LM-20 file number.	Item 1.a	30 seconds
Identifying if report filed under a Hardship Exemption.	Item 1.b	30 seconds ²

² The Department includes this item and an estimated time of completion in an effort to provide a thorough burden analysis. However, the Department does not consider it likely that this item will need to be completed, so it has not been included in the total below.

Identifying if report is amended.	Item 1.c	30 seconds ³
Reporting filer's contact information.	Item 2	2 minutes
Identifying Other Address Where Records Are Kept.	Item 3	2 minutes
Date Fiscal Year Ends	Item 4	30 seconds
Type of Person	Item 5	30 seconds
Full Name and Address of Employer	Item 6	10 minutes
Date of Agreement or Arrangement	Item 7	30 seconds
Person(s) Through Whom Agreement or Arrangement Made	Items 8(a) and (b)	2 minutes
Object of Activities	Item 9	1 minute
Terms and Conditions	Item 10	5 minutes
Nature of Activities	Item 11.a	5 minutes
Period During Which Activity Performed	Item 11.b	30 seconds
Extent of Performance	Item 11.c	30 seconds
Name and Address of Person Through Whom Performed	Items 11.d	2 minutes
Identify the Subject Group of Employee(s).	Item 12.a	5 minutes
Identify the Subject Labor Organization(s).	Item 12.b	1 minute

³ The Department includes this item and an estimated time of completion in an effort to provide a thorough burden analysis. However, the Department does not consider it likely that the average filer will need to complete this item, so it has not been included in the total below.

TABLE 2
TOTAL REPORTING AND RECORDKEEPING BURDEN FOR THE ESTIMATED
4,194⁴ FORM LM-20 REPORTS (IN HOURS)

Total Recordkeeping Burden	1,049 hours
Total Reporting Burden	5,802 hours
Total Burden	6,851 hours

TABLE 3
FORM LM-10 FILER RECORDKEEPING AND REPORTING BURDEN (IN MINUTES)

Burden description	Section of Revised Form	Recurring Burden Hours
Maintaining and gathering records.	Recordkeeping Burden	25 minutes
Reading the instructions to determine applicability of the form and how to complete it.	Reporting Burden	25 minutes
Reporting LM-10 file number.	Item 1.a	30 seconds
Identifying if report filed under a Hardship Exemption.	Item 1.b	30 seconds ⁵
Identifying if report is amended.	Item 1.c	30 seconds ⁶
Fiscal Year Covered	Item 2	30 seconds
Reporting employer's contact information.	Item 3	2 minutes
Reporting president's contact information if different than 3.	Item 4	2 minutes

⁴ As explained in the final rule revising the Form LM-20, the Department estimates that the 4,194 revised Form LM-20 responses will be submitted by an estimated 358 respondents.

⁵ The Department includes this item and an estimated time of completion in an effort to provide a thorough burden analysis. However, the Department does not consider it likely that this item will need to be completed, so it has not been included in the total below.

⁶ The Department includes this item and an estimated time of completion in an effort to provide a thorough burden analysis. However, the Department does not consider it likely that the average filer will need to complete this item, so it has not been included in the total below.

Identifying Other Address Where Records Are Kept.	Item 5	2 minutes
Identifying where records are kept.	Item 6	30 seconds
Type of Organization	Item 7	30 seconds
Reporting union or union official's contact information (Part A).	Item 8	4 minutes
Date of Part A payments.	Item 9.a	30 seconds
Amount of Part A payments.	Item 9.b	30 seconds
Kind of Part A payments.	Item 9.c	30 seconds
Explaining Part A payments.	Item 9.d	5 minutes
Identifying recipient's name and contact information.	Item 10	4 minutes
Date of Part B payments.	Item 11.a	30 seconds
Amount of Part B payments.	Item 11.b	30 seconds
Kind of Part B payments.	Item 11.c	30 seconds
Explaining Part B payments.	Item 11.d	5 minutes
Part C: identifying object(s) of the agreement or arrangement.	Part C	1 minute
Identifying name and contact information for individual with whom agreement or arrangement was made.	Item 12	4 minutes
Indicating the date of the agreement or arrangement.	Item 13.a	30 seconds
Detailing the terms and conditions of agreement or	Item 13.b	5 minutes

arrangement.		
Identifying specific activities to be performed.	Item 14.a	5 minutes
Identifying period during which performed.	Item 14.b	30 seconds
Identifying the extent performed.	Item 14.c	1 minute
Identifying name of person(s) through whom activities were performed.	Item 14.d	2 minutes
Identify the Subject Group of Employee(s).	Item 14.e	5 minutes
Identify the Subject Labor Organization(s).	Item 14.f	1 minute
Indicating the date of each payment pursuant to agreement or arrangement.	Item 15.a	30 seconds
Indicating the amount of each payment.	Item 15.b	30 seconds
Indicating the kind of payment.	Item 15.c	30 seconds
Explanation for the circumstances surrounding the payment(s).	Item 15.d	5 minutes
Part D: identifying purpose of expenditure(s).	Part D	1 minute
Part D: identifying recipient's name and contact information.	Item 16	4 minutes
Date of Part D payments.	Item 17.a	30 seconds
Amount of Part D payments.	Item 17.b	30 seconds
Kind of Part D payments.	Item 17.c	30 seconds

Explaining Part D payments.	Item 17.d	5 minutes
Checking Responses.	N/A	5 minutes
Signature and verification.	Items 18-19	20 minutes
Total Recordkeeping Burden Hour Estimate Per Form LM- 10 Filer		25 minutes
Total Reporting Burden Hour Estimate Per Form LM- 10 Filer		122 minutes
<u>Total Burden Estimate Per Form LM-10 Filer</u>		<u>147 minutes</u>

TABLE 4

TOTAL REPORTING AND RECORDKEEPING BURDEN FOR THE ESTIMATED 2,937 FORM LM-10 REPORTS (IN HOURS)

Total Recordkeeping Burden	1,157 hours
Total Reporting Burden	5,647 hours
Total Burden	6,804 hours

TABLE 5

REPORTING AND RECORDKEEPING BURDEN HOURS AND COSTS FOR FORM LM-20 AND FORM LM-10

Number of Reports	Reporting Hours per Report	Total Reporting Hours	Recordkeeping Hours per Report	Total Recordkeeping Hours	Total Burden Hours per Report	Total Burden Hours	Average Cost per Report	Total Cost
Form LM-20: 4,194	1.38 ⁷	5,802	0.25	1,049	1.63	6,851	\$151.14	\$633,500
Form LM-10: 2,777	2.03 ⁸	5,647	0.42 ⁹	1,157	2.45	6,804	\$226.70	\$629,500

⁷ This is an approximate per hour figure derived from the estimated reporting burden of 83 minutes divided by 60 minutes in an hour.

⁸ This is an approximate per hour figure derived from the estimated reporting burden of 122 minutes divided by 60 minutes in an hour.

⁹ This is an approximate per hour figure derived from the estimated recordkeeping burden of 25 minutes divided by 60 minutes in an hour.

Total								\$1,260
-------	--	--	--	--	--	--	--	---------

**TABLE 6
ANNUALIZED REPORTING AND RECORDKEEPING BURDEN**

Form	Responses	Hours Per Response for Reporting	Reporting Burden Hours	Hours per Response for Recordkeeping	Recordkeeping Burden Hours	Total Hours
LM-1	213	0.83	176.8	0.09	19.2	196.0
LM-2	6,073	140.20	851,434.5	390.00	2,368,470.0	3,219,904.5
LM-2 Subsidiary Reporting*	577	18.00	10,386.0	69.71	40,222.7	50,608.7
LM-3	12,039	38.74	466,390.9	64.00	770,496	1,236,886.9
LM-4	7,387	7.18	53,038.7	2.00	14,774	67,812.7
LM-10 ¹⁰	2,777	2.03 ¹¹	5,647	0.42 ¹²	1,157	6,804
LM-15	310	1.50	465.0	0.33	102.3	567.3
LM-15A	33	0.33	10.9	0.03	1.0	11.9
LM-16	79	0.33	26.1	0.02	1.6	27.7
LM-20 ¹³	4,194	1.38 ¹⁴	5,802	0.25	1,049	6,851

¹⁰ This figure includes the estimated 476 reports that OLMS expects to receive on the pre-2016 version of the Form LM-10, prior to the July 1, 2016 applicability date for the final rule that revises the Form LM-10 and LM-20 reporting requirements. OLMS derived this estimate by taking the average number of Form LM-10 reports from fiscal years 2011-2015 and dividing in half, since the old form will be the only form available and required for the first half of 2016. See:

http://www.dol.gov/olms/regs/compliance/enforcement_data.htm. The Department does not anticipate pre-2016 Form LM-10 reports past the first year of the new rule, although the Department may receive some delinquent reports for prior years on the old form. The Department will remove the pre-2016 Form LM-10 from the ICR at the conclusion of the next three-year ICR renewal period.

¹¹ As stated above, this is an approximate per hour figure derived from the estimated reporting burden of 122 minutes divided by 60 minutes in an hour. The product in the next column is derived from the non-rounded figure.

¹² As stated above, this is an approximate per hour figure derived from the estimated recordkeeping burden of 25 minutes divided by 60 minutes in an hour. The product in the next column is derived from the non-rounded figure.

¹³ This figure includes the estimated 282 reports that OLMS expects to receive on the pre-2016 version of the Form LM-20, prior to the July 1, 2016 applicability date for the final rule that revises the Form LM-10 and LM-20 reporting requirements. OLMS derived this estimate by taking the average number of Form LM-20 reports from fiscal years 2011-2015 and dividing in half, since the old form will be the only one available and required for the first half of 2016. See:

http://www.dol.gov/olms/regs/compliance/enforcement_data.htm. The Department does not anticipate pre-2016 Form LM-20 reports past the first year of the new rule, although the Department may receive some delinquent reports for prior years on the old form. The Department will remove the pre-2016 Form LM-20 from the ICR at the conclusion of the next three-year ICR renewal period.

¹⁴ As stated above, this is an approximate per hour figure derived from the estimated reporting burden of 83 minutes divided by 60 minutes in an hour. The product in the next column is derived from the non-rounded figure.

LM-21	358	0.50	179	0.08	28.6	207.6
LM-30	1,474	1.67	2,461.6	0.33	486.4	2,948.0
S-1	75	0.50	37.5	0.08	6.0	43.5
SARF**	1,825	0.17	310.3	0.03	54.8	365.1
Total						
Annualized	37,414	--	1,396,366.3	--	3,196,868.6	4,593,234.9

Note: Some numbers may not add due to rounding.

* The burden described here is for those Form LM-2 filers that also have subsidiary organizations. The burden for Form LM-3 subsidiary reporting is included in the Form LM-3 burden numbers.

** Simplified Annual Report Format

Table 7 shows estimates of the annualized cost to respondents for the hour burdens for the information collection. Source information for non-labor organization salaries, as used in the most recent ICR submission, derives from the Occupational Employment and Wages Survey, 2011 survey (released in March 2012), Table 1, from the Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) Program.¹⁵ Source information for labor organization salaries, as used in the most recent ICR submission, is taken directly from annual reports filed with the Department and retrievable through e.LORS. Source information for the Forms LM-10, 20, and portions of the LM-21, derive from the final rule. Further, the Department determined the total compensation (salary plus fringe benefits) for each position by increasing each of the hourly wage rates by the percentage total of the average hourly benefits compensation figure over the average hourly wage figure. The “responses” and “burden hours” in Table 7 reflect totals described in Table 6.

**TABLE 7
ANNUALIZED RESPONDENT COST ESTIMATES**

Form	Responses	Burden Hours	Monetized Burden Hour Cost
LM-1	213	196	\$6,640
LM-2	6,073	3,219,905	\$150,433,962
LM-2 Subsidiary Reporting*	577	50,609	\$1,428,166
LM-3	12,039	1,236,887	\$42,907,610
LM-4	7,387	67,813	\$2,298,183
LM-10	2,777	6,804	\$629,567
LM-15	310	567	\$33,827
LM-15A	33	12	\$840
LM-16	79	28	\$1,959
LM-20	4,194	6,851	\$633,932

¹⁵ In the Supporting Statement for its recent three-year renewal submission, the Department incorrectly identified the source for non-labor organization salaries as from the 2012 BLS Occupational Employment and Wages Survey. Rather, both the three-year renewal ICR request and today's revision utilize the 2011 survey.

LM-21	358	208	\$19,254
LM-30	1,474	2,948	135,926
S-1	75	44	\$2,194
SARF**	1,825	365	\$9,498
Annualized	37,414	4,593,235	\$198,541,558

Note: Some numbers may not add due to rounding.

* The burden described here is for those Form LM-2 filers that also have subsidiary organizations. The burden for Form LM-3 subsidiary reporting is included in the Form LM-3 burden numbers.

** Simplified Annual Report Format

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items A.12 and A.14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

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. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items A.12, A.13, and A.14 in a single table.**

Table 8 provides a summary of federal costs associated with the information collections included in OMB # 1245-0003, as most recently approved. 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.

The OLMS national and field staff costs were derived from the GS scale. OLMS derived the other costs, associated with contractors, office space, and overhead and supplies, from its operating budget.

TABLE 8

ANNUALIZED FEDERAL COST ESTIMATES

National Office	\$1,825,935
Field Offices	<u>\$3,279,173</u>
Total	\$5,105,108

- 15. Explain the reasons for any program changes or adjustments.**

In comparison to the previous submission (31,501 responses and 4,582,390 burden hours), a difference of 5,913 in responses and 10,845 in annualized burden hours attributable as a program change is noted. These differences derive from the reevaluation of the responses and burden for the Form LM-10 and LM-20, and of responses for the Form LM-21, as a result of the final rule.