

**Annual Return/Report of Employee Benefit Plan (Form 5500)**  
**OMB Number 1212-0057**  
**April 28, 2014**

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995 SUBMISSIONS

**A. Justification**

13. *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.*

The Employee Retirement Income Security Act of 1974 (ERISA) contains three separate sets of provisions – in Title I (Labor provisions, Title II (Internal Revenue Code (Code) provisions), and Title IV (Pension Benefit Guaranty Corporation provisions) -- requiring administrators of employee benefit pension and welfare plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government.

The Pension Benefit Guaranty Corporation (PBGC), the Internal Revenue Service (IRS), and the Department of Labor (DOL) (collectively, the Agencies) work together to produce the Form 5500 Annual Return/Report for Employee Benefit Plan and Form 5500-SF Short Form Annual Return/Report for Small Employee Benefit Plan) (Form 5500 Series), through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans.

The collection of information has been approved by OMB under control number 1212-0057 through April 30, 2014. PBGC requests that OMB extend its approval for another three years, with modifications.

PBGC is requesting approval for modifications to the 2014 Schedule MB (Multiemployer Defined Benefit Plan Actuarial Information) and to the Schedule SB (Single Employer Defined Benefit Plan Actuarial Information) and related instructions.

The modification to the Schedule MB would require plan administrators of multiemployer defined benefit plans in critical status to provide information about the plan year in which the plan is projected to emerge from critical status and, if the rehabilitation plan is based on forestalling possible insolvency, the plan year in which insolvency is expected. The modification to the Schedule SB would require plan administrators of single-employer plans to report the funding target (vested and total) for each type of participant (active, retired, terminated vested).

On February 21, 2014 (79 FR 9927), PBGC published a notice informing the public that it intended to request OMB approval of proposed modifications to the Schedules MB and SB and

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soliciting public comment. (The 60-day notice included another modification to the Schedule MB, which PBGC decided not to make at this time.) PBGC received one comment (posted on PBGC's website at <http://www.pbgc.gov/prac/pg/other/guidance/paperwork-notices.html>.) The comment was from the Bureau of Economic Analysis, U.S. Department of Commerce (BEA). BEA stated that the proposed modifications [to the Schedules MB and SB] will not impact their use of the data

Section 432(e)(3)(A) of the Code requires that all plans in critical status provide annual standards for meeting the requirements of the rehabilitation plan. Requiring a plan to provide information about the plan year in which the plan is expected to emerge from critical status and, if the rehabilitation plan is forestalling insolvency, the year in which insolvency is expected to occur, is consistent with the requirement that plans provide annual standards and state whether or not that they are making scheduled progress both on their zone status certification and their Schedule MB filing when they are in critical status. Therefore, these reporting requirements will not impose additional burdens on plan administrators; they will simply be required to report information on the Schedule MB that they are already disclosing when the plan is in critical status.

Prior to the enactment of the Pension Protection Act of 2006 (PPA), the Schedule B required providing a breakdown of the total liability and the vested liability into three categories of participants: active participants, terminated vested participants, and participants currently receiving payment. When PPA was enacted and the Schedule B was revised (and converted into the Schedule SB), the format was revised in an effort to avoid duplicative reporting because we were under the impression that for that latter two categories of participants, vested liability and total liability would also be the same number. However, in the years since the change was adopted, we have learned that is not always the case. This change simply restores the breakdown to the old (pre-PPA) format. This information is readily available to actuaries so reverting to the old format will not impose any additional burdens.

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14. *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.*

The Form 5500 Series is the principal source of information and data available to the Agencies concerning the operations of employee benefit plans. For this reason, the Form 5500 Series constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The Form 5500 Series also provides a means by which the Agencies can effectively and efficiently identify actual and potential violations of ERISA, thereby minimizing the Agencies' investigatory contacts with the vast majority of plans, and enabling the Agencies to make the best use of their limited resources. The Form 5500 Series also provides a fundamental tool for investigators in reviewing the operations and activities of employee benefit plans and identifying potential violations of the statute and regulations. Furthermore, public disclosure of the Form 5500 Series is intended to serve as a deterrent to non-compliance with the statutory duties imposed on plan fiduciaries.

With regard to research and policy formulation, the Form 5500 Series represents the primary source of data available to federal agencies, Congress, and the private sector for assessing employee benefit, tax, and economic trends and for development and implementation of national pension policies.

In addition to providing the Agencies with important enforcement, research, and policy information data, the Form 5500 Series represents the only source of detailed financial information available to plan participants and beneficiaries who, upon written request, must be furnished a copy of the plan's latest annual report by the plan administrator (ERISA section 104(b)(1)(B)(4)).

Approximately 800,000 pension and welfare benefit plans must file the Form 5500 Series under Title I and IV of ERISA and the Internal Revenue Code (Code). These plans cover an estimated 150 million participants and hold an estimated \$4.3 trillion in assets. The Form 5500 Series is therefore an important tool for protecting the benefits of American workers. (Note PBGC's portion of the information collection applies to only a small subset of the 800,000 pension and welfare plans, because, except in rare cases, PBGC's insurance program does not apply to welfare plans or defined contribution plans. PBGC estimates that there are approximately 25,000 defined benefit plans required to file pursuant to Title IV of ERISA.)

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15. *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 for using information technology to reduce burden.*

The Agencies currently use an automated processing system, the ERISA Filing Acceptance System 2, or EFAST2, to process the Form 5500 Series filings. The combined effect of the transition to electronic filing (mandatory as of January 1, 2009), the implementation of the EFAST2 processing system (effective for plan years beginning in or after January 1, 2009), and revisions to the Form 5500 Series has reduced the paperwork burden imposed by the reporting requirements that are the basis for this information collection. For example, PBGC's share of the hour burden has been reduced from 2,373 hours when the ICR was extended in 2004 to 1,200 in the current ICR request, and its share of the cost burden has been reduced from \$1.7 million to \$1.4 million over the same timeframe.

16. *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 2 above.*

The Agencies have developed and use a consolidated annual report that allows filers to satisfy the information collection requirements of all three agencies through a single filing, without duplication of effort or information collection. This eliminates the duplicative reporting that would otherwise result from application of the statutory provisions as written. In addition, while certain information concerning assets (including employee benefit plan assets) held by banks, insurance companies and other investment entities may be separately reported to state and federal regulatory authorities, those reports are not structured to provide meaningful information about those assets specifically attributable to any employee benefit plan, or to employee benefit plan investors as a group distinct from other types of investors. Therefore, there is no similar information gathered or maintained by any state or federal agency or other source that the Agencies would consider adequate for effectively monitoring the activities of employee benefit plans.

17. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

Not applicable. PBGC's portion of the information collection will not have a significant impact on a substantial number of small agencies. See also DOL's supporting statement for a description of provisions in Title I of ERISA that permit the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

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18. *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.*

ERISA and the Code specifically require the filing of reports or returns by employee benefit plans on an annual basis. A less frequent information collection could contravene statutory requirements and would also impair and inhibit the administration and enforcement of the statute by the Agencies.

19. *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.*

None.

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20. *If applicable, provide a copy and identify the date 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.*

PBGC published the notice required by 5 CFR 1320.8(d) soliciting comments on the information collection in the Federal Register on February 21, 2014 (79 FR 9927). The public was provided with 60 days to comment on the submission in response to the solicitation. One public comment was received. The comment was from the Bureau of Economic Analysis, U.S. Department of Commerce (BEA). BEA stated that the proposed modifications [to the Schedules MB and SB] will not impact their use of the data.

21. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents.

22. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

The Form 5500 Series filings made under Title I of ERISA are required by law to be made available for public inspection at DOL and at the offices of the plan administrators. Accordingly, DOL and PBGC provide no assurance of confidentiality to respondents.

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23. *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.*

Not applicable.

24. *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 and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
  - *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 13.*

Because the Form 5500 Series combines the information collection requests of three federal agencies (DOL, the IRS, and PBGC) into a single return/report, each of the Agencies submits its own ICR and maintains its own OMB approval for the portion of the paperwork burden arising out of the Form 5500 Series that pertains to its own information collections. However, since 1999, the Agencies have adopted a unified approach and methodology for estimating paperwork burden, which is conducted by DOL with input from PBGC and the IRS. This ICR requests approval of only the portion of the total paperwork burden of the Form 5500 Series that is attributed to PBGC, although it includes some information on the other portions of the total paperwork burden. The discussion below, therefore, describes the unified methodology underlying the Agencies' estimates of the aggregate burden imposed by the Form 5500 Series as a whole, but requests approval only of PBGC's portion of that burden.

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PBGC estimates, based on data derived from the 2010 Form 5500 filings (the most recent accurate information available), that a total of 800,000 respondents will file annual reports using the Form 5500 Series.<sup>1</sup> As noted above, PBGC's portion of the information collection applies only to a small subset of these 800,000 respondents, i.e., approximately 25,000 defined benefit plans required to file pursuant to Title IV of ERISA.

The paperwork burden allocated to PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedule MB and Schedule SB (Actuarial Information), and a portion of Schedule R (Retirement Plan Information). PBGC's portion of the annual aggregate hour burden generated by the Form 5500 Series is estimated at 1,200 hours for 2014, 2015, and 2016 with the equivalent cost burden of approximately \$81,000 for each of these years (1,200 hours times \$67.50 per hour for service of a financial professional)<sup>2</sup>.

A detailed description of the basis for all the burden estimates and determinations (including those for DOL and the IRS) is included in the supporting statement submitted by DOL. The aggregate and attributed hour burdens each reflect an allocation of the overall burden between service providers hired by plans and plans that are expected to complete the return/report through use of in-house resources, rather than by purchase of services from third party service providers.

25. *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 12 or 14).*

The total annual cost burden attributable to PBGC for the information collection requirements of the Form 5500 Series, derived as described in the answer to item 12, above, and as shown in that answer, is estimated at \$1.36 million for 2014, 2015, and 2016.

26. *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 12, 13, and 14 in a single table.*

The total annual processing cost for all Form 5500 Series filings during the period covered by this ICR extension request is estimated to average \$ 13.2 million annually (including oversight),

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<sup>1</sup> All numbers in this supporting statement are rounded to the nearest 1,000.

<sup>2</sup> Some numbers do not sum up to the totals due to rounding. The estimated hourly wage rate includes wages, other benefits, and overhead based on data from the National Occupational Employment Survey (June 2012, Bureau of Labor Statistics) and the Employment Cost Index (Sept. 2012, Bureau of Labor Statistics).



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in accordance with the terms of the EFAST2 vendor contracts. These costs are allocated among the agencies (DOL, PBGC, and IRS) according to the EFAST2 Cost Allocation Model, which was approved by the agencies at the beginning of EFAST2 operations in 2010 as the methodology that would be used for identifying agencies' share of EFAST2 costs. Under the model, the agencies pay for their relative share of the total filing volume. Based on the model, PBGC's share of the total cost is approximately \$717,000.

PBGC's share of Federal FTE costs is estimated at approximately \$90,000 which represents the agencies' best estimate of PBGC's EFAST2 liaison's time dedicated to EFAST2. The FTE cost are based on the 2012 General Schedule for the Washington-Baltimore-Northern Virginia area and assumes that the liaison is a GS-15, Step 5 FTE (\$140,259) spending 50% of his or her time on EFAST2 matters at a loaded compensation rate of \$180,000.

The remaining \$627,000 is allocated to PBGC is contractor costs, which include EFAST2 Production System costs such as, EFAST2 Operations (Steady-State, Modifications, Change Maintenance) and Contract Administration (Technical Oversight, System Transition, and Capital Planning).

27. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*

Changes to the hour and cost burdens reflect updated submission data on the number of plans in existence, as well as increase in wage rates reflecting inflation.

28. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

The Form 5500 is not a collection of information for statistical use. Once collected, however, the information is available to the Agencies and the public, and it is used for purposes other than enforcement and disclosure.

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29. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

OMB previously granted approval to omit the expiration date from the Form 5500. PBGC requests continued approval to omit the expiration date.

30. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

Not applicable; no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

Not applicable.