

Annual Return/Report of Employee Benefit Plan (Form 5500)
OMB Number 1545-1610
March 2016

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 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.

Title I of ERISA, specifically sections 101(b)(1) and 104(a)(1)(A), requires the administrator of an employee benefit plan to file an annual report containing the information described in section 103 of ERISA with the Department of Labor (DOL). Section 104(a)(2) of ERISA, provides that the Secretary may by regulation prescribe simplified annual reporting for pension plans that cover fewer than 100 participant. Section 109(a) of ERISA, provides that, with certain exceptions, the Secretary may prescribe forms. Sections 104(a)(3) and 110 of ERISA authorize the Secretary to prescribe exemptions and simplified reporting for welfare plans and alternative methods of compliance for pension plans, respectively, if certain findings with respect to such plans can be made by the Secretary. Finally, section 505 of ERISA provides the Secretary with general authority to prescribe such regulations as are “necessary and appropriate” to carry out the provisions of Title I of ERISA.

Provisions in Title II of ERISA require an annual return to be filed on behalf of specified tax-qualified retirement plans with the Internal Revenue Service (IRS). Provisions in Title IV require certain annual reports to be filed for employee benefit plans with the Pension Benefit Guaranty Corporation (PBGC).

Since enactment of ERISA, DOL has cooperated with the IRS and the PBGC to produce the Form 5500 Annual Return/Report, through which the regulated public can satisfy the combined reporting/filing requirements applicable to employee benefit plans. On November 16, 2007, the three agencies adopted revisions to the Form 5500 Annual Return/Report, including the establishment of a new Form 5500-SF (Short Form 5500) for certain small plans, in order to update and streamline the annual reporting process in conjunction with establishing a wholly electronic processing system for receipt of the Form 5500 Annual Return/Reports and to conform the forms to the Pension Protection Act of 2006, Pub. L. No. 109-280 (PPA).¹ A final

¹ 72 FR 63731.

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rule was published contemporaneously with the revisions including an amendment to the Electronic Filing Rule (72 FR 64710). Specifically, that final rule amends the DOL regulation at 29 CFR 2520.104a-2 to provide that the electronic filing requirement is applicable only for plan years beginning on or after January 1, 2009.

The Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 ((Pension Relief Act), Pub. L. No. 111-102), enacted June 25, 2010, amended the Code to allow sponsors of defined benefit pension plans to elect funding relief, including on a retroactive basis. The IRS issued funding relief guidance for multiemployer plans in Notice 2010-83 on November 26, 2010 and for single-employer plans in Notice 2011-03 on December 17, 2010. The IRS Notices include technical revisions to the Form 5500 to conform the actuarial information required to be reported on the Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) and Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) to reflect the funding relief alternatives retroactively available to defined benefit pension plans in connection with their 2008, 2009, and 2010 plan years. The retroactive availability of the funding relief under the Pension Relief Act for sponsors of defined benefit plans created an immediate need for changes to the Schedules MB and SB reporting requirements. Without these changes, filers would be unable to file accurate and complete Schedules MB and SB. In accordance with the IRS Notices, affected filers must provide the required information either as an attachment to the 2011 Annual Return/Report or by way of amendment of the 2008 or 2009 Annual Return/Report. Only a relatively small number of Form 5500 filers, comprised of only those defined benefit plan filers that elect the optional relief offered under the Pension Relief Act for 2008, 2009, or 2010 plan years, are affected by the Schedule MB and SB changes.

In 2013, 2014, and 2015, the Internal Revenue Service has submitted substantive and non-substantive change requests for the Form 5500 instructions for these years, which were approved by OMB. These requests reflect the changes made by the Pension Relief Act and the IRS guidance after receiving OMB approval.

2013 Revision

The IRS submitted this request to update the cost and hour burden estimates as a non-material/non-substantive change request for the 2013 Form 5500 and instructions.

2014 Revision

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The IRS submitted this request to update the hour and cost burden associated with the ICR to reflect its most recent data on Form 5500 filings and wage rates.

2015 Revision

The 2015 changes, as outlined in the notice dated December 23, 2014, (79 FR 77088), generate an increase in burden by 21,000 hours and increase the estimated number of responses by 36,000 per year.

Form 5500-SUP is a paper-only form filed with the IRS that is used by the sponsors and administrators of retirement plans to satisfy the reporting requirements of section 6058. Form 5500-SUP should only be used if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500-SF. The paper submission of this form increased the estimated number of responses by 500 and the estimated annual burden by 208 hours.

2016 Proposed Forms Revision

The proposed form revisions are intended to streamline and simplify the questions that were proposed in the 2015 draft. Form 5500-SUP is a paper-only form filed with the IRS that is used by the sponsors and administrators of retirement plans to satisfy the reporting requirements of section 6058. The 2016 questions are almost identical to the ones proposed in 2015. Changes were made to retain only those that were deemed critical and to account for the public comments received in 2015. This resulted in the deletion of some questions and modification of a few others. Form 5500-SUP should only be used if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500-SF, and only by plans not subject to the e-filing mandate (the Treasury Department and IRS issued the final regulations mandating electronic filing for certain employee benefit plans on September 29, 2014, thereby enabling IRS to collect IRS compliance questions electronically starting in 2015).

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 return/reports are the principal source of information and data available to DOL, the IRS, and the PBGC (the Agencies) concerning the operation of employee benefit plans. For this reason, the Form 5500 constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The annual report 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 annual report 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.

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Furthermore, public disclosure of the annual reports 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 represents the primary source of data available to federal agencies, Congress, and the private sector for the development and implementation of national pension policy.

In addition to providing the Agencies with important enforcement, research, and policy information, the Form 5500 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)). Moreover, the annual report serves as the basis for the summary annual report, which administrators are generally required to furnish to each participant and beneficiary annually, except those covered by defined benefit plans.

Approximately 822,000 pension and welfare benefit plans must file the Form 5500 under Title I and IV of ERISA and the Code. These plans cover an estimated 142 million participants and hold an estimated \$8.5 trillion in assets. The annual report/reports are therefore important tools for protecting the benefits of millions of American workers.

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 filings. The combined effect of the transition to electronic filing, the implementation of the EFAST2 processing system, and the revised Form 5500 return/reports has reduced the paperwork burden imposed by the reporting requirements that are the basis for this information collection.

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,

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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, describe any methods used to minimize burden.*

For purposes of the Paperwork Reduction Act (PRA) and for other purposes, the Employee Benefit Security Administration (EBSA) defines “small entity” as an employee benefit plan that has fewer than 100 participants. Support for this definition can be found in section 104(a)(2) of ERISA permits the Secretary of Labor to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for simplified annual reporting and disclosure if the statutory requirements of part 1 of Title I of ERISA would otherwise be inappropriate for welfare plans. Some large employers may have small plans, but in general, most small plans are maintained by small employers.

Pursuant to the authority of section 104(a)(3), DOL has created simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans that cover fewer than 100 participants and satisfy certain other requirements. For example, under these exemptions, and subject to certain other requirements, over 6 million small pension and welfare plans are relieved of the requirement to file an annual return/report and most small plans are not required to engage an independent qualified public accountant (IQPA) to audit their assets for their annual return/reports.

In the past, the Agencies have taken a number of other steps intended to ease small plans’ burdens and costs attributable to the annual return/report. For example, the Agencies currently allow plans with between 80 and 120 participants to continue filing the same category of annual report that was filed the previous year in order to provide administrative flexibility at the small/large plan threshold. In 2009, a simplified reporting option for small plans—the Form 5500-SF—was added to provide simplified reporting for certain small plans (e.g., plans with fewer than 100 participants with easy to value investment portfolios).

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.*

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ERISA and the Code specifically require the annual filing of reports or returns by employee benefit plans. 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.*

This information collection implicates none of the special circumstances.

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.

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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.

Part 1 of Title I and Title IV of the Employee Retirement Security Act of 1974, as amended (ERISA), and the Internal Revenue Code (Code), require administrators of pension and welfare benefit plans (collectively referred to as employee benefit plans) to file return/reports annually concerning, among other things, the financial condition and operation of plans. These annual reporting requirements are satisfied generally by filing the annual return/report forms (Form 5500 Series) in accordance with its instructions and related regulations.

Internal Revenue Code (IRC) sections 6057 and 6058 require all plans of deferred compensation described in Part I of Subchapter D of the IRC to file annual information returns. IRC section 6039D requires certain fringe benefit plans to file annual information returns. IRC section 6047e requires certain employee stock ownership plans (ESOP) to file annual information returns.

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 5500 and schedules.

In response to the Federal Register Notice dated March 31, 2016, we received 15 comments from 5 separate organizations that raised issues and concerns with the new data collection items on the 2016 Forms 5500 and schedules (Annual Return/Report of Employee Benefit Plan); 5500-SF (Short Form Annual Return/Report of Small Employee Benefit Plan), and 5500-SUP (Annual Return of Employee Benefit Plan Supplemental Information) and the related instructions.

The organizations that submitted comments are:

- 1) AARP, Inc.
- 2) American Benefits Council (ABC)
- 3) American Retirement Association (ARA)
- 4) Keller Rohrback L.L.P.
- 5) Wrangle L.L.C.

IRS RESPONSE TO COMMENTS ON THE 2016 IRS CHANGES ON FORM 5500s

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Comment/Concern	Rec	From	IRS Response
<p>1. AARP supports the IRS proposed changes to the Form 5500, but believes that additional amendments to the form could further improve its usefulness to participants and the agencies.</p> <p>2. AARP recommends adding some questions on reporting of risk shifting transactions, successor plans, plan investments, fees, service provider information, small plans, plan administration and design, and audits and financial reporting.</p>	5/31/16	AARP	<p>(1) The IRS appreciates the support for the IRS changes. Otherwise, the recommendations do not relate to Form 5500-SUP but relate to parts of Form 5500 under DOL jurisdiction, such as reporting on investments, fees, service providers, audits and financial reporting, etc.</p> <p>(2) The three-agency (IRS, DOL, PBGC) 21st century Form 5500 project is in the process of making significant changes relating to these recommendations that will be published in the Federal Register soon.</p>
<p>(1) ABC urges the Service to consider delaying the changes until EFAST3 roll-out in the 2019 plan year to allow service providers to coordinate their programming. Alternatively delay implementation for two reporting years (i.e. 2018 plan year).</p> <p>(2) ABC urges the Service to (a) continue to keep the preparer information optional, (b) avoid calling into question existing guidance that preparing Form 5500 generally does not cause the preparer to be a “tax return preparer” under section 7701, (c) avoid inadvertently subjecting preparers to the risk of additional liability to plan parties, and/or to (d) adopt this requirement through the regulatory process rather than merely changing the form.</p> <p>(3) ABC requests clarification as to whether question 5 applies to a Defined Contribution plan with a frozen money purchase pension plan account, whether the question can be left blank without an invalidation error in the EFAST2 system, and whether the question was intended to ask about an employee who has not attained age 62.</p> <p>(4) Urges the Service to make these questions optional for two years in order to give plan sponsor/administrators lead time for</p>	5/31/16	ABC	<p>(1) These compliance questions are critical for IRS enforcement of the tax law relating to employee benefit plans. Lack of information adversely affects the IRS’s ability to effectively focus on specific factors of noncompliance when selecting retirement plans for examination, which may result in the IRS selecting relatively more compliant plans, thereby increasing the burden on these plans, and may result in participants in noncompliant plans receiving incorrect benefits.</p> <p>The Federal Register published the 2015 proposed Form 5500-SUP in December 2014 and May 2015. In 2016, the IRS worked to significantly simplify the version of the compliance questions provided on the 2015 proposed form. The 2016 version of the IRS proposed questions was published in March 2016. Annually, Form 5500 series changes are released in December of the year before the year in which the Form is effective. The vast majority of filings are not due until at least the following July 31. Historically, this standard timeframe has been sufficient for preparers. Thus, plan administrators should be able to timely collect the data and file returns. In any case, plan sponsors and plan administrators must retain the relevant data for tax qualification purposes, such as section 401(k) nondiscrimination, section 410(b) coverage, plan qualification, etc. Thus, the data should be readily accessible.</p> <p>(2) (a) Requiring preparer information is necessary for IRS enforcement purposes. (b) Except in</p>

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<p>substantial programming.</p> <p>(5) ABC asks why the Form 5500 requires the date of the most recent determination letter since the Service is terminating the determination letter program, whether the date of letter and series number is as of the beginning date or ending date of the plan year, and if a plan has utilized more than one preapproved plan in the same year, what date should be entered.</p> <p>(6) Material change to 2015 instructions for Schedule H, Line 4l</p>			<p>limited situations, the Form 5500 preparer is not a tax return preparer under IRC § 7701(a) (36). (c) The preparer’s status as a paid preparer creates the risk of additional liability to plan parties, not the IRS’s requirement for disclosure. (d) The IRS has authority under IRC § 6058 to require preparer information; it is not necessary to engage in a rulemaking.</p> <p>(3) A Defined Contribution plan with a frozen money purchase pension plan account is required to answer this question for the frozen account if the plan identified the money purchase account on line 8a.</p> <p>The question is clearly stated: Were any distributions made during the plan year to an employee who attained age 62 and had not separated from service?</p> <p>(4) See response (1) above.</p> <p>(5) A qualified plan must timely amend the plan to reflect the tax law changes within the remedial amendment period as required under IRC § 401(b). The date of the most recent determination letter will help the IRS to determine whether the plan complies with the tax law changes. The determination letter program is not being terminated for individually designed plans; only curtailed.</p> <p>Both advisory and opinion letters contain an issue date and a series number which should be used in the response. If a plan has utilized more than one pre-approved plan in the same year, the date and series number of the most current pre-approved plan should be entered.</p> <p>(6) This comment does not relate to the proposed tax compliance line items addressed in this Paperwork Reduction Act notice. This Schedule H item is in the previous year (2015) instructions.</p>
<p>1. The effective date for mandatory collection of information solicited by the new compliance questions should be delayed to coincide with the proposed</p>	<p>5/31/16</p>	<p>ARA</p>	<p>(1) These compliance questions are critical for IRS enforcement of the tax law relating to employee benefit plans. Lack of information negatively affects the IRS’s ability to effectively focus on</p>

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<p>Form 5500 revisions expected from the Department of Labor which are currently being reviewed by OMB before being published and public comment solicited.</p> <p>2. The request for the EIN of the plan’s trust at 1(b)[1] should remain an optional question at least for the next 2 plan years so as to provide time for plan sponsors to determine whether a trust EIN has been deactivated by the IRS or apply for an EIN.</p> <p>3. In the request for comments, the IRS estimated that responding to the new questions should take a respondent approximately 23 minutes. Without adequate time to put system structure and processes in place to gather and maintain this information, ARA disagrees with this estimate. In its supporting documentation to OMB in 2015, IRS had estimated the time it would take a respondent to complete the paper Form 5500-SUP at 14.28 hours. While there has been substantial revision to the questions, they are not significant enough to justify the differences in estimate.</p> <p>4. ARA would prefer to enter the firm’s name instead of the individual’s name in response to the 5500 preparer question.</p>			<p>specific factors of noncompliance when selecting retirement plans for examination, which may result in the IRS selecting relatively more compliant plans, thereby increasing the burden on these plans, and may result in participants in noncompliant plans receiving incorrect benefits.</p> <p><i>The Federal Register published the 2015 proposed Form 5500-SUP in December 2014 and May 2015. In 2016, the IRS worked to significantly simplify the version of the compliance questions provided on the 2015 proposed form. The 2016 version of the IRS proposed questions was published in March 2016. Annually, Form 5500 series changes are released in December of the year before the year in which the Form is effective. The vast majority of filings are not due until at least the following July 31. Historically, this standard timeframe has been sufficient for preparers. Thus, plan administrators should be able to timely collect the data and file returns. In any case, plan sponsors and plan administrators must retain the relevant data for tax qualification purposes, such as section 401(k) nondiscrimination, section 410(b) coverage, plan qualification, etc. Thus, the data should be readily accessible.</i></p> <p>(2) The IRS agrees that the trust EIN remains optional. The form instructions don’t mandate use of the trust EIN. The instructions request the “Trust’s EIN” if one has been issued. However, if there is no trust EIN, there is an option to enter the EIN that would be used on Form 1099-R (reporting distributions from employee benefit plans) or Form 945 (reporting withheld amounts of income tax from those payments).</p> <p>(3) The 23 minutes is for filing time only. The original calculation considered the total preparation time based on IRS’ historic method originally developed by Arthur D. Little (ADL). The requested data should be available since plans must know if they meet the requirements for plan qualification, and the information is generated annually. The plan sponsor, its attorney, accountant and benefit consultant generally work on a collaborative basis to gather the information to file the annual Form 5500.</p>
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			<p>The information for these new items need only be added to the annual information request issued by the Form 5500 preparer and should put little additional burden on the taxpayer and its advisors and preparer.</p> <p>(4) The IRS agrees to afford the option of entering either the name of the individual 5500 preparer or the name of the preparer’s firm. Although it’s not feasible to revise the draft 2016 Form 5500, IRS will update the instructions accordingly.</p>
<p>1. Keller Rohrback LLP supports the IRS proposed changes to the Form 5500, but believes that additional amendments to the form could further improve its usefulness to participants and the agencies.</p> <p>2. Keller Rohrback LLP recommends adding some questions on reporting of plan investments, service providers, plan fiduciaries, and insurance. Keller Rohrback LLP also recommends adding a question to identify whether the reporting plan previously filed under a different EIN.</p>	5/31/16	Keller Rohrback LLP	<p>(1) The IRS appreciates the support for the IRS changes. Otherwise, the recommendations do not relate to Form 5500-SUP but relate to parts of Form 5500 under DOL jurisdiction, such as reporting on investments, fees, service providers, insurance, etc.</p> <p>(2) The three-agency (IRS, DOL, PBGC) 21st century Form 5500 project is in the process of making significant changes relating to these recommendations that will be published in Federal Register soon.</p>
Wrangle LLC recommends leaving the preparer information as an optional field at the bottom of page 1 of the Form 5500	4/25/16	Wrangle LLC	IRC section 6058(a) mandates the annual return of an employee benefit plan (i.e. Form 5500) reflecting information prescribed by the IRS relating to the operation of the plan (among other things). The preparation of the Form 5500 relates to the operation of the plan, and thus, the prescribed information is required.

In response to the Federal Register Notice dated June 30, 2016, we received 50 comments..... This request is seeking approval to update the records currently approved by OMB to include the 2016 tax year returns and applicable burden estimates. A list of these comments and responses is included in a separate document. Please note that, at the time of the notice’s publication and as indicated in its text, IRS had planned to add some IRS-only questions to the Form 5500 as soon as possible. IRS has decided to direct filers to skip these questions for 2016.

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.

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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 are required by law to be made available for inspection at the Agencies and at the offices of the plan administrators. Accordingly, the Agencies provide no assurance of confidentiality to respondents.

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.*

This information collection poses no questions of a sensitive nature.

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.*
 - *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 the 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

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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. This ICR requests approval of only the portion of the total paperwork burden of the Form 5500 Series that is attributed to the Internal Revenue Service, although it includes information on the other portions of the total paperwork burden. The IRS has been advised by the DOL and the PBGC that they intend to submit separate requests to OMB for a revision of the ICR. The discussion below, therefore, describes the unified methodology underlying the Agencies' estimates of the aggregate burden imposed by the forms revisions as a whole, but requests approval only of the IRS' portion of that burden.

DOL has adopted several assumptions in performing this burden estimation. First, the methodology used for this ICR excludes certain types of activities entirely from the calculation of "burden." If an activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it is not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities and income and expenses for the purposes of operating the business or entity. DOL has not attributed any recordkeeping burden to the Form 5500 Annual Return/Report because it believes that plan administrators' practice of keeping financial records necessary to complete the Form 5500 Annual Return/Report arises from usual and customary management practices that would be used by any financial entity and is not the result of any ERISA or Code annual reporting and filing requirements.

This burden analysis includes only the time needed for gathering and processing information associated with compliance with the tax return/annual reporting requirements. In addition, an activity that must be performed for both IRS and Departmental purposes is counted once for burden analysis purposes.

The Agencies also have designed the instruction package for the Form 5500 Annual Return/Report so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions and have assumed that there is no additional burden for research.

A new burden estimating model, initially based on the Form 5500 Burden Model that a contractor, Mathematica Policy Research, Inc. (MPR) had used for estimating burdens in October 2004, has been developed, for purposes of this burden analysis, by Actuarial Research Corporation (ARC). ARC assembled a simplified model by drawing on implied burdens associated with subsets of filer groups represented in the MPR model. The new model uses a level of detail consistent with reflecting burden differences associated with the various proposed Forms revisions, as described below.²

² The new burden model developed by ARC has been used to calculate burdens for the paperwork reduction

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The types of plans that have similar reporting requirements were grouped together to estimate aggregate burdens for this submission. Thus, calculations were prepared for different subsets of types of plans, as appropriate based on the specific reporting requirements. The universe of filers was first divided into three basic plan types: defined benefit pension plans, defined contribution pension plans, and welfare plans. Each of these major plan types was further subdivided into multiemployer and single-employer plans. Since filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large plans (100 participants or more), defined benefit plans were further divided into very large (1,000 participants or more) and other large (at least 100 but less than 1,000 participants). For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and for each of up to seven schedules.

In addition to separating plans by type and size, costs were estimated separately for the form and for each schedule. The burden for the Form 5500-SF, as well as the simplified filing requirements for certain small plans was built from the estimated current burden associated with the various line items included in it. When items on a schedule are required by more than one Agency, the estimated burden associated with that schedule was allocated among the Agencies. This allocation was based on whether only a single item on a schedule is required by more than one Agency or whether several or all of the items are required by more than one Agency. Because filers must read not only the instructions for particular items but also instructions pertaining to the general filing requirements, the burden associated with reading the instructions was tallied and allocated accordingly.

The burden for a specific type of plan has been estimated in light of the specific items and schedules that type of plan must complete, as well as its size, funding method, and investment structures. For example, the annual report for a large fully insured welfare plan would consist of only the Form 5500 and the Schedule A (Insurance Information), and Schedules C and G, where applicable. By contrast, a large defined benefit pension plan that is intended to be tax-qualified and that uses a trust fund and invests in insurance contracts and direct filing entities would be required to submit an annual report completing the Form 5500, plus Schedule A (Insurance Information), Schedule SB, or MB (Actuarial Information), whichever one is applicable, Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), possibly the Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and Schedule R (Retirement Plan Information), and would be required to submit an IQPA's report and opinion. The methodology used to develop the aggregate burden estimates attempts to capture, through its categorization, these different reporting burdens, thereby providing meaningful estimates of significant differences in the burdens placed on different categories of filers.

burdens of the Notice of Proposed Rulemaking, the Proposed Forms Revisions, and the Notice of Supplemental Proposed Forms Revisions. This burden model was further updated for the Final Forms Revisions and Final Rules.

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The aggregate baseline burden for the Form 5500 is the sum of the burden estimates per form and schedule filed multiplied by the estimated aggregate number of forms and schedules. The simplified model developed by ARC draws on Form 5500 Annual Return/Report data representing each plan's filing for plan year 2007 (the most recent year for which complete data is available).

Estimated time needed to complete the forms listed below reflects the combined requirements of the IRS, the DOL, and the PBGC. The times will vary depending on individual circumstances. The estimated average times are:

Table 1 – Estimated Average Time

	Pension Plans		Welfare Plans	
	Large	Small	Large	Small
Form 5500	1 hr., 54 min.	1 hr., 19 min.	1 hr., 45 min.	1 hr., 14 min.
Schedule A	2 hr., 52 min.	2 hr., 51 min.	3 hr., 39 min.	2 hr., 43 min.
Schedule C	3 hr., 4 min.		3 hr., 38 min.	
Schedule D	1 hr., 39 min.	20 min.	1 hr., 52 min.	20 min.
Schedule G	11 hr., 29 min.		11 hr.	
Schedule H	7 hr., 42 min.		8 hr., 35 min.	
Schedule I		2 hr., 5 min.		1 hr., 55 min.
Schedule MB	7 hr., 52 min.	4 hr., 14 min.		
Schedule R	1 hr., 43 min.	1 hr., 5 min.		
Schedule SB	6 hr., 38 min.	6 hr., 49 min.		
Form 5500-SUP (filing time only)		23- 25 min.		23-25 min.
Simplified Filing Option for Certain Small Plans				
	Pension Plans		Welfare Plans	
Form 5500-SF	2 hr., 32 min.		2 hr., 32 min.	
Schedule MB	3 hr., 20 min.			

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Schedule SB	6 hr., 49 min.	
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We are making this 2016 submission to reflect the IRS portion of the burden developed by DOL. The number of responses will decrease by 16,000 and the wage rates will increase. This produced a slight decrease in the hour burden and a slight increase in the cost burden by \$104,000. The IRS burden is 320,000 hours for Form 5500 and schedules.

The Form 5500-SUP can also be filed on paper with the IRS. The paper Form 5500-SUP should only be used if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500-SF. The paper submission of this form will increase the estimated number of responses by 500 and the estimated annual burden by 208 hours.

The new IRS combined annual burden will be 320,208 hours.

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 methodology used to calculate the total annual cost burden for this ICR was developed by DOL and included, in item 12, of the supporting statement to their 2016 OMB submission.

Including burden attributed to the Internal Revenue Service and the Pension Benefit Guaranty Corporation, the aggregate tri-agency cost burden for the entire Form 5500 Annual Return/Report is estimated at \$351.3 million annually. IRS estimates of the annualized cost to respondents for the hour burdens of Form 5500 and schedules is \$120,611,000.

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 \$ 13.1 million annually (including oversight), 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

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was approved by the agencies at the beginning of EFAST2 operations in 2010, and updated most recently in 2015, as the methodology that would be used for identifying agencies' shares of EFAST2 costs. Under the model, the agencies pay for their relative share of the total filing volume. Based on the model, IRS's share of the total cost is approximately \$5.25 million, which includes EFAST2 Production System costs such as EFAST2 Operations (Steady-State, Modifications, and 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 12 or 13.*

The IRS is updating the burden to reflect updated data on filing counts and wage rates.

We are making this 2016 submission to reflect the IRS portion of the burden developed by the Department of Labor. The number of responses will decrease by 16,000 and the wage rates will increase. This produced a slight decrease in the hour burden and a slight increase in the cost burden by \$104,000. The IRS burden is 320,000 hours for Form 5500 and schedules. An addition of \$ 8,419,000 is being added to the annual cost burden to account for discrepancies with the current DOL methodology cost estimates.

The Form 5500-SUP can also be filed on paper with the IRS. The paper Form 5500-SUP should only be used if certain IRS compliance questions are not answered electronically on the Form 5500 or Form 5500-SF, and only by plans not subject to the e-filing mandate (the Treasury Department and IRS issued the final regulations mandating electronic filing for certain employee benefit plans on September 29, 2014, thereby enabling IRS to collect IRS compliance questions electronically starting in 2015). The paper submission of this form will result in an estimated number of responses by 500 and the estimated annual burden by 208 hours.

The new combined annual burden will be 320,208 hours.

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. The Form 5500 dataset on EBSA's website is updated once a month to reflect that most recent filings that are received.

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.*

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OMB previously granted approval for the IRS to omit the expiration date from the Form 5500, because the Form 5500 is a multi-agency form and it is difficult to maintain the expiration dates for three separate agencies. The IRS requests continued approval to omit the expiration date.

30. *Explain each exception to the certification statement identified in the "Certification for Paperwork Reduction Act Submission."*

The IRS seeks no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in these collections of information.