

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995:  
ABANDONED PLAN PROGRAM**

**This ICR seeks revision of an existing control number.**

**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.**

In response to specific recommendations of the Employee Retirement Income Security Act (ERISA) Advisory Council, which convened a Working Group on Orphan Plans and published a report in 2002, the Employee Benefits Security Administration (EBSA) has promulgated three regulations and a prohibited transaction class exemption that address the problem of abandoned individual account pension plans.

The Employee Benefits Security Administration (EBSA) has promulgated an amendment to the 2006 Abandoned Plan Program regulations that allows plans associated with sponsors in liquidation under Chapter 7 of the U.S. Bankruptcy Code (chapter 7 plans) to utilize the Abandoned Plan Program, along with other technical amendments meant to improve the efficiency under the Amended Abandoned Plan Program. The Department is also finalizing an amendment to PTE 2006-06, the prohibited transaction exemption accompanying the Abandoned Plan Interim Final Rule. The following summarizes the information collections covered by OMB Control No. 1210-0127.

**Abandoned Plan 2023 Interim Final Rule and Amendments to PTE 2006-06**

The IFR and PTE comprising the Abandoned Plan Program encourage the orderly termination of abandoned plans and the timely distribution of their assets to participants and beneficiaries. Because the financial institutions holding assets of abandoned plans usually do not have the authority to take any of these steps, participants and beneficiaries would likely be denied access to the money in their individual account plans in the absence of these regulations and exemption.

Because the IFR and PTE relate to terminating or abandoned plans and/or to distribution and rollover of distributed benefits for which no participant investment election has been made, the Department has combined the paperwork burden for all of these actions into one ICR. In the Department's view, this combination allows the public to have a better understanding of the aggregate burden imposed for these related regulatory actions.

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The Abandoned Plan Program includes the following actions, which impose the following information collections:

*1. Qualified Termination Administrator (QTA) Regulation (29 CR 2578.1):* The QTA regulation creates an orderly and efficient process by which a financial institution that holds the assets of a plan that is qualified to utilize the Abandoned Plan Program may undertake to terminate the plan and distribute its assets to participants and beneficiaries holding accounts under the plan, with protections and approval of the Department under the standards of the regulation. The interim final rules expand the regulations to cover chapter 7 plans so that bankruptcy trustees may use the Abandoned Plan Program's streamlined procedures to terminate and wind-up chapter 7 plans. The regulation requires QTAs to provide certain notices to the Department, to participants and beneficiaries, and to the plan sponsor (or service providers to the plan, if necessary), and to keep certain records pertaining to the termination.

*2. Abandoned Plan Terminal Report Regulation (29 CFR 2520.103-11):* The terminal report regulation provides an alternative, simplified method for a QTA to satisfy the annual report requirement otherwise applicable to a terminating plan by filing a special simplified terminal report with the Department after terminating a plan and distributing its accounts to participants and beneficiaries as part of the Abandoned Plan Program.

*3. Terminated Plan Distribution Regulation (29 CFR 2550.404a-3):* The terminated plan distribution regulation establishes a safe harbor method by which fiduciaries who are terminating individual account pension plans (whether abandoned or not) may select an investment vehicle to receive account balances distributed from the terminated plan when the participant has failed to provide investment instructions. The regulation requires the fiduciaries to provide advance notice to participants and beneficiaries of how such distributions will be invested, if no other investment instructions are provided.

*4. Abandoned Plan Class Exemption (PTE 2006-06):* The exemption permits a QTA that terminates an abandoned plan under the QTA regulation to receive payment for its services provided in terminating and winding up the affairs of the plan. Just as with the expansion of the QTA Regulation, the exemption amendment expands the scope of prohibited transaction relief to cover chapter 7 plans and bankruptcy trustees. For the accounts of missing participants of an abandoned plan, the amendment will also permit certain QTAs to select and pay themselves or an affiliate to establish an IRA or other account and to select the initial investment product. The amended exemption also permits an "eligible designee" QTA to pay a bankruptcy trustee for services provided to the plan. This includes paying the bankruptcy trustee for services provided to the plan before the eligible designee provided notice to the Department of its intention to serve as QTA or

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for ongoing services provided after the notice is submitted (such as monitoring the QTA). If a QTA wishes to be paid out of plan assets for services provided prior to becoming a QTA, the exemption requires the QTA perform the services according to a written agreement executed before becoming the QTA or perform such services pursuant to the QTA Regulation. If there is a written agreement, the QTA must submit a copy of the executed agreement to the Department.

Without the amendment, bankruptcy trustees of chapter 7 plans and/or their eligible designees would be unable to receive payment for services rendered out of plan assets without violating ERISA's prohibited transaction provisions and would therefore be highly unlikely to undertake the termination of abandoned plans. One of the conditions of the exemption requires that the QTA keep records necessary to enable certain persons (including the Department and participants and beneficiaries) to determine if the applicable conditions have been met.

Changes to the Special Terminal Report for Abandoned Plans

In response to comments, the interim final rules streamline and update the process for filing notices and reports in two significant ways. First, the Special Terminal Report for Abandoned Plans (STRAP) *see* § 2520.103-13 is now a single, stand-alone form, as opposed to a collection of data from various parts of the Form 5500 Annual Return/Report of Employee Benefit Plan. Second, the interim final rules establish a new optional online method to file the STRAP and other notices, as opposed to the existing email or paper-based system.

With respect to the STRAP, the Department added language to 29 CFR 2520.103-13(b) to clarify that content requirements of the STRAP must be provided in accordance with the instructions for the STRAP posted on the Department's website. Pursuant to § 2520.103-13(b)(1), which authorizes the collection of plan information, the Department added a question to the STRAP to assist the Department in understanding the types of defined contribution plans that are terminated under the Abandoned Plan Program (e.g., single-employer, multiemployer, multiple-employer, 401(k), 403(b) plans, etc.). These interim final rules add new paragraphs (b)(6) and (7) to § 2520.103-13, which ask for the total number of distributions and the number of distributions to missing participants included in that total. Because the Department often requests this information, these interim final rules add this information requirement to the STRAP to improve the efficiency of the program.

**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.**

The information collections in this ICR are used by the Department and by participants and beneficiaries in abandoned, terminated, chapter 7 plans, or ongoing plans that make distributions into selected vehicles. These parties rely on the information collections to monitor activities undertaken by financial institutions holding plan assets or plan fiduciaries, when either terminating a plan or making benefit distributions. This information enables such parties to protect the interests of participants and beneficiaries in their benefits and to ensure that plans utilizing the Abandoned Plan Program are properly terminated.

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

To the extent that the information collection is a third-party disclosure, respondents may use electronic methods of communication pursuant to the standards established in the Department's regulation at 29 C.F.R. § 2520.104b-1(b) concerning plans' use of electronic communication media to satisfy ERISA disclosure requirements. That regulation provides that plan sponsors and administrators may distribute notices to employees who have access to e-mail at the place of business. In addition, notices may be distributed electronically to employees or their family members who are beneficiaries if they have electronic access at their homes and give prior approval to this type of distribution. The Department generally encourages affected entities to distribute required notices electronically whenever possible, provided that these regulatory standards are met. For the purposes of paperwork burden analysis, EBSA has developed a set of assumptions concerning the use of electronic technology generally for distribution of information to participants and beneficiaries. Based on these assumptions, EBSA has assumed that 94.2 percent of such third-party disclosures will be made electronically<sup>1</sup>

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<sup>1</sup> The Department estimates approximately 94.2% of participants receive disclosures electronically under the combined effects of the 2002 electronic disclosures safe harbor and the 2020 electronic safe harbor. The Department estimates that 58.2% of participants will receive electronic disclosures under the 2002 safe harbor. According to the National Telecommunications and Information Agency (NTIA), 40.0% of individuals age 25 and over have access to the Internet at work. According to a Greenwald & Associates survey, 84.0% of plan participants find it acceptable to make electronic delivery the default option, which is used as the proxy for the number of participants who will not opt-out of electronic disclosure that are automatically enrolled (for a total of 33.6% receiving electronic disclosure at work). Additionally, the NTIA reports that 40.4% of individuals age 25 and over have access to the internet outside of work. According to a Pew Research Center survey, 61.0% of internet users use online banking, which is used as

The Department also generally fosters and facilitates use of electronic communications media in its interactions with the public and will, to the extent feasible given available resources and systems, accept electronic notifications under the regulations.

**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 2 above.**

There is no duplication of any requirement to collect or disclose information or to report to the Federal government. Where possible, the Department has made every effort to allow parties required to collect/disseminate information to use existing records.

The QTA, under the abandoned plan regulation, is required to inform the Department and/or participants and beneficiaries about the need to terminate the plan, the applicable costs, and the balances in individual accounts that will be distributed to participants and beneficiaries. The Department believes that participants in plans utilizing the Abandoned Plan Program have not been otherwise made aware of the above-mentioned information; therefore, this requirement is not duplicative.

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

With respect to abandoned plans, data provided by the Form 5500 Annual Report indicate that most abandoned plans are small plans. However, the financial entities that are eligible to become QTAs and undertake termination of the abandoned plans are not likely to be small entities. Because the abandoned plan regulations and exemption apply to the financial entities and not to the plan itself, there is less concern that these regulations and exemption may have a negative impact on small entities. In fact, the Department has devoted considerable effort to shaping the termination process to minimize burden on the plan, especially to the extent that the abandoned plan's assets may be used to pay for the QTA's services.

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the proxy for the number of internet users who will affirmatively consent to receiving electronic disclosures (for a total of 24.7% receiving electronic disclosure outside of work). Combining the 33.6% who receive electronic disclosure at work with the 24.7% who receive electronic disclosure outside of work produces a total of 58.2%. The remaining 41.8% of participants are subject to the 2020 safe harbor. According to the 2019 American Community Survey, 86.6% of the population has an internet subscription. The Department estimates that 0.5% of electronic disclosures will bounce back and will need to be sent a paper disclosure. Accordingly, for the 41.8% of participants not affected by the 2002 safe harbor, 86.1%, or an additional 36.0% (41.8% x 86.1%), are estimated to receive electronic disclosures under the 2020 safe harbor. In total, the Department estimates that 94.2% (58.2% + 36.0%) would receive electronic disclosures.

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The Department has adopted the terminal report regulation, which permits simplified reporting to the government and provides simplified recordkeeping and notice requirements for winding up the plan's affairs. For example, the Department has provided that QTAs need only make a good faith effort to update records and that a standard of reasonable care is sufficient for calculating participant benefits. Finally, the Department has provided the QTA with model notices for the Notice of Intent to Terminate Plan; Notification of Plan Abandonment; Notice of Plan Termination to Participants and Beneficiaries; and the Final Notice to the Department. The guidance and model notices in the regulations will make terminating abandoned plans easier and less costly, encouraging financial institutions to efficiently wind up the plans' affairs, thereby eliminating ongoing administrative costs that would otherwise reduce plan assets and the amount of benefits accruing to participants and beneficiaries.

In addition, the abandoned plan regulations permit, but do not require, financial institutions to undertake the termination of abandoned plans whose assets are held by the financial institution. To the extent that the information collections involve the distribution of benefits into proprietary or affiliated investment vehicles, the requirements apply only when the plan fiduciary or QTA elects to do so. Therefore, these information collections will be undertaken only voluntarily, when the QTA or fiduciary believes that termination and/or distribution into a related investment vehicle is efficient and cost-effective.

**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.**

The information collection requirements of the amended abandoned plan regulations and the exemption are mandatory only when a financial institution holding plan assets chooses to act as a QTA to terminate and wind up the affairs of a plan utilizing the amended abandoned plan regulations, or a plan fiduciary decides to establish and make use of proprietary investment vehicles for mandatory distributions and/or distributions where the participant or beneficiary has failed to provide investment direction. The frequency of response therefore depends on a voluntary decision to utilize the Abandoned Plan Program or provide automatic distribution investments, rather than a pre-determined time period. If the collection were not conducted, the Department, and participants and beneficiaries in an affected pension plan, would likely remain uninformed about important matters affecting their benefits, such as the status of the plan and the need for termination; the costs and fees for winding up the affairs of the plan; the amount of benefits payable to participants and beneficiaries and where benefits will be invested upon distribution; and, under the abandoned plan exemption, whether the QTA has complied with the terms of the exemption. Participants in terminating plans that are not abandoned plans might similarly lack sufficient information about their rights and

opportunities for directing the balances in their individual accounts into other investment products.

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.**

Under Section IV of the final amendment to PTE 2006-06, QTAs that hold assets of an abandoned plan and fiduciaries of ongoing or terminating plans that choose to distribute account balances into proprietary investment vehicles (or investment vehicles of an affiliate) when participants or beneficiaries fail to provide direction are required to maintain, for a period of six years, records that would support a determination of compliance with the exemption. The records must be available for examination by the Department of Labor, the Department of the Treasury, and any account holder of an Individual Retirement Plan or other account established pursuant to the exemption or any duly authorized representative of such account holder. The six-year recordkeeping requirement is consistent with section 107 of ERISA, as well as general recordkeeping requirements for tax information under the Internal Revenue Code.

8. **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**

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**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.**

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2) (A)), the Department solicited comments concerning the information collection requirements (ICRs) included in the December 12, 2012 proposed amendments to the 2006 regulations at 77 FR 74063 and the proposed amendments to the class exemption PTE 2006-06 at 77 FR 74055. At the same time, the Department also submitted the ICR to OMB in accordance with 44 U.S.C. 3507(d). The Department received seven comments on the proposal.

One commenter raised several questions about the model notices associated with 29 CFR 2578.1. The Department responded to the commenter, including by making some changes to the model notices, as discussed above in section C.7. of the preamble. Another commenter suggested that in the context of the potential expansion of the program to include FDIC receivers, the FDIC receiver should not be required to review ERISA section 408(b)(2) notices and prepare and distribute ERISA section 404(a)(5) notices detailing fees and costs for a plan that is being terminated. As the Department did not expand the program to include FDIC receivers as part of these interim final rules, this comment was not addressed.

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

There are no payments or gifts in this information collection.

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

No assurance of confidentiality has been 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.**

There are no questions of sensitive nature in this information collection, and thus there is no assurance of confidentiality provided to respondents.

**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 and aggregate the hour burdens in Item 13.**
- **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.**

The Department has assumed that most of the tasks that will be undertaken by QTAs in connection with plans utilizing the Abandoned Plan Program are the same as those required in normal plan administration, such as calculating or distributing benefits and annual reporting, and therefore are not accounted for as burden in this ICR because they are either part of the usual business practices of plans or have already been accounted for in ICRs for other statutory and regulatory provisions under Title I of ERISA.

The QTA Regulation requires a QTA to send five notices in the process of winding up an abandoned plan. The Department has provided model notices in the regulations for the

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first four of the notices. Before undertaking the termination of a plan, the QTA is to send a notice to the last known address of the plan sponsor notifying the sponsor of the intent to terminate the plan and allowing the sponsor an opportunity to respond. The QTA then sends a notice to the Department expressing eligibility to serve as a QTA to terminate the abandoned plan and providing other specified plan information. The QTA then sends a notice to the participants and beneficiaries of the termination of the plan and their rights under the termination and how they will receive their distribution from the plan. Upon termination and distributing the assets of the plan the QTA then must send a final notice to the Department stating that the plan has been terminated. The QTA then files the Form 5500 terminal report. The Department has estimated this burden as an hour burden to the plan. This burden is described below.

*Notice to Plan Sponsor*

The Department uses 1,340 as an estimate of the number of plans that would utilize the traditional abandoned plan program; this estimate is based on the Department's records over the 2015-2021 time period. The plans utilizing the program over this same period served, on average, 6.38 participants for a total of roughly 8,549. The Department assumes this level of utilization will continue and uses it as the estimate for the group of plans wound up annually under the 2006 regulations and assumes that the plans wound up under the amended regulations will be of similar size.

To estimate the number of plans associated with sponsors in Chapter 7 that will utilize the amended regulations the Department considered: (1) Establishment Chapter 7 bankruptcy rates, (2) Defined Contribution plan prevalence and utilization rates for small establishments (defined as less than 50 employees) and (3) an assumed utilization rate of 25% of plans with sponsors in Chapter 7 bankruptcy. This results in an estimated increase in program utilization of 1,166 plans covering approximately 7,439 participants for a total of 2,506 plans covering 15,988 participants per year.

The Department estimates that for each of the estimated 1,340 abandoned terminating plans using the Abandoned Plan Program, a QTA requires 10 minutes of a clerical staff time at an hourly labor rate of \$63.45 to fill-in the needed information on the Plan Sponsor notice, and 5 minutes of a financial professional's time at an hourly labor rate of \$116.86 to review and sign the forms. This results in roughly 223 hours of clerical staff time (1,340 plans x 10 minutes per plan = 223 hours) and a cost of \$14,171 (\$63.45 per hour x 223 hours = \$14,171) and 112 hours (1,340 plans x 5 minutes per plan) of a financial professional's time with an equivalent cost of \$13,049 (112 hours x \$116.86 per

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hour).<sup>2</sup> In total, this results in an hour burden of 335 hours with an equivalent cost of \$27,220.<sup>3</sup>

*Notice of Plan Abandonment to DOL*

The Department estimates that for each of the estimated 2,506 terminating plans, a QTA will use 30 minutes of clerical staff time at an hourly rate of \$63.45 to fill in the needed information on the notice. It is also assumed that 40 minutes of a financial professional's time with an hourly labor rate of \$116.86 will be needed to prepare required plan information, and to review and sign the forms. This results in about 1,253 hours of clerical staff time with an equivalent cost of \$79,503 (2,506 plans x 30 minutes per plan x \$63.45), and 1,671 hours of a financial professional's time with an equivalent cost of \$195,234 (2,506 plans x 40 minutes per plan x \$116.86 per hour). In total, this results in an hour burden of 2,924 hours with an equivalent cost of \$274,737.

*Notice of Fiduciary Breach to the Department*

The amendments require QTAs of chapter 7 plans to report to the Department delinquent contributions owed to the plan, and any activity that the QTA believes may be evidence of other fiduciary breaches by a prior plan fiduciary that involve plan assets. While the Department has no basis for estimating the percentage of arrangements that will be subject to each of these reporting provisions, the Department assumes for purposes of this analysis that a report will be required for 20 percent of chapter 7 plans. Thus, given an estimated 1,166 chapter 7 plans utilizing the program each year, the Department estimates that 233 plans will need to report such information. The Department anticipates that 30 minutes of a financial professional's time and five minutes of clerical time will be required to prepare and process the information. The Department therefore estimates that the burden for plans will be approximately 117 hours of a financial professional's time (233 plans x 30 minutes) at an equivalent cost of \$13,626 (117 hours x \$116.86 per hour) and 19 hours of clerical time (233 plans x 5 minutes) at an equivalent cost of \$1,233 (19 hours x \$63.45 per hour). This results in an estimated labor cost of approximately \$14,859 to produce and distribute notices of fiduciary breaches to the Department.

*Notice of Bankruptcy Trustee's Appointment (Chapter 7 plans)*

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<sup>2</sup> Internal DOL calculation based on 2023 labor cost data. For a description of the Department's methodology for calculating wage rates, see <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebbsa-opr-ria-and-pra-burden-calculations-june-2019.pdf>.

<sup>3</sup> Values may differ slightly due to rounding throughout.

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For an estimated 1,166 chapter 7 plans, an additional cost would be incurred for the QTA to attach to the notice of plan abandonment a copy of the order entered in the case reflecting the bankruptcy trustee's appointment to administer the case. The Department estimates that it will take 10 minutes of an accountant's time to prepare the required statement and collect required documents and five minutes of clerical time to make required copies. This is expected to impose an additional burden of approximately 194 hours (1,166 plans × 10 minutes) for accountants with an equivalent cost of \$22,710 (194 hours × \$116.86 per hour). For the clerical professionals, the burden is estimated at 97 hours (1,166 plans × 5 minutes) with an equivalent cost of \$6,165 (97 hours × \$63.45 per hour). This results in a labor cost of approximately \$28,875 to produce the notice of bankruptcy trustee's appointment.

*Notice to Participants and Beneficiaries*

As detailed above, the Department assumes each plan has 6.38 participants which yields an estimate of 15,988 participants benefiting from the program each year. The Department estimates that it will take a clerical professional an average of 2 minutes to prepare and mail the notices. This results in approximately 533 hours (15,988 participants × 2 minutes per participant) of clerical time with an equivalent cost of \$33,815 (533 hours × \$6.45 per hour). A QTA will also utilize 15 minutes of a financial professional's time to review the notices for each plan. This results in approximately 627 hours (2,506 plans × 15 minutes per plan) of financial professional time with an equivalent cost of \$73,213 (627 hours × \$116.86 per hour). In total, this results in an hour burden of 1,159 hours with an equivalent cost of \$107,028.

*Final Notice*

The Department estimates that for each of the estimated 2,506 terminating plans, a QTA will use 10 minutes of a financial professional's time to review the forms. This results in approximately 418 hours (2,506 plans × 10 minutes) of financial professional time with an associated cost burden of \$48,809 (418 hours × \$116.86 per hour). Clerical staff are expected to spend on average 10 minutes per plan in preparing and submitting the notices. This results in about 418 hours (2,506 plans × 10 minutes) of clerical staff time with an equivalent cost of \$26,501 (418 hours × \$63.45 per hour). In total, this results in an hour burden of 835 hours with an equivalent cost of \$75,309.

*Special Terminal Report for Abandoned Plans (29 CFR 2520.103-13)*

The Department estimates that it will take small plans 3.25 hours to file the Special Terminal Report for Abandoned Plans (STRAP) in accordance with the instructions on the Department's website. It is assumed that financial accounting professionals will spend

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approximately 8,145 hours (2,506 plans x 3.25 hours) performing this task for abandoned plans resulting in an equivalent cost of \$951,766 (8,145 hours x \$116.86 per hour). Additionally, to submit a STRAP electronically, an account must be established. The Department estimates all QTAs will submit STRAPS electronically resulting in approximately 1,031 accounts being established annually. Establishing an account is expected to take, on average, 20 minutes of a financial professional time. This results in an additional hour burden of 344 hours annually (20 minutes x 1,031 QTAs) and an equivalent cost of \$40,298 (344 hours x \$117.26 per hour). Combining these estimates yields an hour burden of 8,488 with a cost equivalent of \$992,065 in total.

*Safe Harbor for Distributions from Terminated Individual Account Plans (29 CFR 2550.404a-3)*

Additionally, an hour burden was assumed to arise from the burden associated with the notice to participants as required under “The Safe Harbor for Distributions from Terminated Individual Account Plans” (29 CFR 2550.404a-3). To meet the safe harbor, fiduciaries of terminating plans must furnish a notice to participants and beneficiaries informing them of the plan’s termination and the options available for distribution of their account balances. Based on 2020 Form 5500 data, the Department estimates that 1,136,306 participants and beneficiaries will receive notices from approximately 24,897 plan sponsors. The Department estimates that clerical professionals will spend, on average, two minutes per notice preparing and distributing the notices. The benefits manager will spend approximately 10 minutes reviewing the notices for a plan. This results in an annual hour burden of approximately 42,026 hours (approximately 37,877 hours in clerical time + 4,150 hours in benefit manager time),<sup>4</sup> and an equivalent cost burden of \$2,963,179, calculated as follows: \$2,403,287 (37,877 hours x \$63.45 per hour) in clerical costs and \$559,892 (4,150 hours x \$134.93 per hour) in benefit manager costs.<sup>5</sup>

*Summary*

The total annual hour burden for this ICR is estimated to be 56,196 hours with an equivalent cost of \$4,483,272.

**Estimated Annualized Respondent Hour Burden and Equivalent Cost of Hour Burden**

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41.136 million participants x 2 minutes per participant in clerical time + 24,897 plans x 10 minutes per plan in benefit manager time.

<sup>5</sup>Internal DOL calculation based on 2020 labor cost data. For a description of the Department’s methodology for calculating wage rates, see <https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebbsa-opr-ria-and-pra-burden-calculations-june-2019.pdf>.”

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<b>Activity</b>	<b>No. of Respondents</b>	<b>No. of Responses per Respondent</b>	<b>Total Responses</b>	<b>Average Burden (Hours)</b>	<b>Total Burden (Hours)</b>	<b>Hourly Wage Rate</b>	<b>Equivalent Cost of Hour Burden</b>
Clerical staff prepares and distributes notices to plan sponsors	1,340	1	1,340	10/60	223	\$63.45	\$14,171
Accountant staff prepares and distributes notices to plan sponsors	1,340	1	1,340	5/60	112	\$116.86	\$13,049
Clerical staff prepares and distributes notices of plan abandonment	2,506	1	2,506	30/60	1,253	\$63.45	\$79,503
Accountant Staff prepares and distributes notices of plan abandonment	2,506	1	2,506	40/60	1,671	\$116.86	\$195,234
Clerical staff prepares and distributes notice of bankruptcy trustee's appointment	1,166	1	1,166	5/60	97	\$63.45	\$6,165
Accountant staff prepares and distributes notice of bankruptcy trustee's appointment	1,166	1	1,166	10/60	194	\$116.86	\$22,710
Clerical staff prepares and distributes notices to participants and beneficiaries	2,506	6.4	15,988	2/60	533	\$63.45	\$33,815
Accountant staff prepares and distributes	2,506	1	2,506	15/60	627	\$116.86	\$73,213

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notices to participants and beneficiaries							
Clerical staff prepares and distributes final notices to the department	2,506	1	2,506	10/60	418	\$63.45	\$26,501
Accountant staff prepares and distributes final notices to the department	2,506	1	2,506	10/60	418	\$116.86	\$48,809
Accountant staff prepares and distributes special terminal report for abandoned plans	2,506	1	2,506	3 15/60	8,145	\$116.86	\$951,766
Benefits specialist creating an online account for special terminal report for abandoned plans submission	1,031	1	1,031	20/60	344	\$117.26	\$40,298
Clerical staff prepares and distributes Safe Harbor Notices	24,897	45.6	1,136,306	2/60	37,877	\$63.45	\$2,403,287
Benefit Managers prepares and distributes Safe Harbor Notice	24,897	1	24,897	10/60	4,150	\$134.93	\$559,892
Clerical staff prepares and distributes notice of fiduciary breach to the department	233	1	233	5/60	19	\$63.45	\$1,233
Accounting staff prepares and distributes notice of	233	1	233	30/60	117	\$116.86	\$13,626

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fiduciary breach to the department							
Total	28,434*	40.89	1,162,551		56,196		\$4,483,272

\* Calculated as the estimated number of terminating plans (24,897) + the number of plans utilizing the Abandoned Plan Program (2,506) + the number of QTA servicing plans utilizing the Abandoned Plan Program (1,031).

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

- **The cost estimate should be split into two components: (a) a total capital and startup cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service 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 startup 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.**

Departmental records support an estimate of 1,340 plans terminating through the Abandoned Plan Program, which is used as the number of plans terminating per year under the 2006 regulations. The Department, as previously described, estimates an additional 1,166 plans with 7,439 participants to utilize the program given the expansion

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to coverage of plans with sponsors in Chapter 7 bankruptcy for a total of 2,506 plans and 15,988 participants benefiting from the program annually.

*Notice to Plan Sponsor*

The rule requires plan sponsor notices to be sent by a method requiring acknowledgement of receipt. Therefore, mailing costs include \$6.25 for certified mail postage.<sup>6</sup> The mailing costs also include paper and print cost of five cents per page for the one-page notice. This notice is only applicable to abandoned plans as defined in the 2006 regulation. Therefore, the material and mailing costs are estimated to be \$8,442 for the 1,340 notices (1,340 notices x (\$6.25/ mailing + 1 page x \$.05/page).

*Notice of Plan Abandonment to DOL*

Based upon recent filing trends between QTAs and the Department, 100 percent of plans are expected to furnish the information electronically at de minimis cost.

*Notice of Fiduciary Breach to the Department*

Based upon recent filing trends between QTAs and the Department, 100 percent of plans are expected to furnish the information electronically at de minimis cost.

*Notice of Bankruptcy Trustee's Appointment (Chapter 7 plans)*

Based upon recent filing trends between QTAs and the Department, 100 percent of plans are expected to furnish the information electronically at de minimis cost.

*Notice to Participants and Beneficiaries*

Updated filings by the Office of Enforcement show that there are, on average, approximately 6.38 participants per plan in the Abandoned Plan Program. This translates to approximately 15,988 participants each year in plans expected to utilize the Program.

The model notice to participants is two pages at a materials cost of \$0.05 per page. Therefore, the mailing and material costs including certified mail are estimated to be \$6.35 per mailing (2 pages x \$0.05 + \$6.25). All affected participants are expected to receive the notice by certified mail therefore the expected annual cost is \$101,524 (15,988 participants x \$6.35 material and mailing cost).

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<sup>6</sup> USPS Certified mail with mail return receipt was calculated on 03/09/2023 as \$4.15 for certified mail and \$2.10 for email return receipt.

*Final Notice*

Based upon recent filing trends between QTAs and the Department, 100 percent of plans are expected to furnish the information electronically at de minimis cost.

*Special Terminal Report for Abandoned Plans (29 CFR 2520.103-13)*

Based upon recent filing trends between QTAs and the Department, 100 percent of plans are expected to furnish the information electronically at de minimis cost.

*Safe Harbor for Distributions from Terminated Individual Account Plans (29 CFR 2550.404a-3)*

The PRA analysis also includes the burden associated with the notice to participants as required under “The Safe Harbor Distribution from Terminated Individual Account Plans.” To meet the safe harbor, fiduciaries of terminating plans must furnish a notice to participants and beneficiaries informing them of the plan’s termination and the options available for distribution of their account balance. Based on 2020 Form 5500 data, the Department estimates that 1,136,306 participants will receive notices, with 5.8 percent receiving the notice by first class mail and 94.2 percent receiving the notice electronically at de minimis cost. The Department estimates that mailing the notices will produce a cost burden of \$44,816 (1,136,306 participants x 5.8 percent receiving mailed notices) x (\$0.63 for postage + (\$0.05 per page x 1 page)).<sup>7</sup>

*Abandoned Plan Class Exemption, PTE 2006-06*

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<sup>7</sup> The Department estimates approximately 94.2% of participants receive disclosures electronically under the combined effects of the 2002 electronic disclosures safe harbor and the 2020 electronic safe harbor. The Department estimates that 58.2% of participants will receive electronic disclosures under the 2002 safe harbor. According to the National Telecommunications and Information Agency (NTIA), 40.0% of individuals age 25 and over have access to the Internet at work. According to a Greenwald & Associates survey, 84.0% of plan participants find it acceptable to make electronic delivery the default option, which is used as the proxy for the number of participants who will not opt-out of electronic disclosure that are automatically enrolled (for a total of 33.6% receiving electronic disclosure at work). Additionally, the NTIA reports that 40.4% of individuals age 25 and over have access to the internet outside of work. According to a Pew Research Center survey, 61.0% of internet users use online banking, which is used as the proxy for the number of internet users who will affirmatively consent to receiving electronic disclosures (for a total of 24.7% receiving electronic disclosure outside of work). Combining the 33.6% who receive electronic disclosure at work with the 24.7% who receive electronic disclosure outside of work produces a total of 58.2%. The remaining 41.8% of participants are subject to the 2020 safe harbor. According to the 2019 American Community Survey, 86.6% of the population has an internet subscription. The Department estimates that 0.5% of electronic disclosures will bounce back and will need to be sent a paper disclosure. Accordingly, for the 41.8% of participants not affected by the 2002 safe harbor, 86.1%, or an additional 36.0% (41.8% x 86.1%), are estimated to receive electronic disclosures under the 2020 safe harbor. In total, the Department estimates that 94.2% (58.2% + 36.0%) would receive electronic disclosures.

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The class exemption requires a QTA to ensure that the records necessary to determine whether the conditions of the exemption have been met are maintained for a period of six years, so that they may be available for inspection by any account holder of an individual retirement plan or other account established pursuant to this exemption, or any duly authorized representative of such account holder, the Internal Revenue Service, and the Department. The Department expects that, based on customary business practices and ERISA requirements, QTAs will already be maintaining the records required under the terms of the class exemption.

#### *Summary*

The total annual cost burden for this ICR is estimated to be \$8,442 for the Abandoned Plan Regulations and \$44,816 for the material costs of the Safe Harbor exemption, resulting in a total cost burden of approximately \$53,258 annually.

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

The Department estimates that for the estimated 2,506 plans terminated annually under the QTA regulation, data entry of the information derived from the Notice to the Department and the Final Notice will require 1/4 hour of a clerical FTE's time, at \$44.30 per hour,<sup>8</sup> or \$27,751 on an annual basis. Supervisory costs, for 1/4 hour of an FTE's time, at \$138.03 per hour<sup>9</sup> will cost \$86,478 annually. The total cost to the Federal government annually is \$114,230.

**15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14.**

The Department has revised its cost estimates to reflect revisions made by the Interim Final Rule and amendment to PTE 2006-06 account for increases in wage rates, increase in the usage of the Abandoned Plan Program, as well as an increase in the number of terminating plans.

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<sup>8</sup> GS-6, Step 5: \$25.95 ([2023 Washington, DC Wage rate](#)) / 0.703 (Salary to compensation ratio) x 1.2(Overhead Load Factor) = \$44.30

<sup>9</sup> GS-14, Step 5: \$71.88 ([2023 Washington, DC Wage rate](#)) / 0.703 (Salary to compensation ratio) x 1.35(Overhead Load Factor) = \$138.03

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Additionally, the Department is now accounting for the burden of an outside QTA as part of the hour burden captured in Item 12 above. As a result, the total hour burden and the equivalent cost of the total hour burden has increased, whereas the total cost burden has decreased. Making this transition moved 8,294 hours of burden that would have otherwise been reported as cost burden in question 13 to be reported in question 12 as an hour burden. The updating of assumptions, primarily dealing with how notices are sent, and the incorporation of the features of the new rule resulted in a net decrease in cost burden of \$5,731.

**16. 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.**

There are no plans to publish the results of this collection of information.

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

The expiration date will be displayed.

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

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

The use of statistical methods is not relevant to this collection of information.