

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT OF 1995:
PETITION FOR FINDING UNDER THE EMPLOYEE RETIREMENT INCOME
SECURITY ACT SECTION 3(40)**

This information collection request (ICR) seeks approval for an extension without change 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.

The term "multiple employer welfare arrangement" (MEWA) is defined in Section 3(40) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to mean, in pertinent part:

(A) . . . an employee welfare benefit plan, or any other arrangement, (other than an employee welfare benefit arrangement), which is established or maintained for the purpose of offering or providing [welfare plan benefits] to the employees of two or more employers, (including one or more self-employed individuals), or their beneficiaries.

Under Section 514(b)(6) of ERISA, an employee welfare benefit plan that is a MEWA is generally subject to state insurance law. However, any such plan or other arrangement that is established or maintained under or pursuant to one or more agreements that the Secretary of Labor (the Secretary) finds to be collectively bargained is not subject to state insurance law.

Rules, codified at 29 CFR 2570.150, set forth an administrative procedure ("procedural rules") for obtaining a determination by the Secretary as to whether a particular MEWA that is an employee welfare benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. These procedural rules set forth specific criteria in 29 CFR 2510.3-40 that, if met, constitute a finding by the Secretary that a plan is collectively bargained.

To initiate adjudicatory proceedings, an entity is required to file a petition for a determination under Section 3(40) of ERISA with an Administrative Law Judge (ALJ). The petition must identify the parties, describe the basis on which the petition is being

filed and the plan in question, provide evidence that the plan satisfies the criteria to be a plan, and include affidavits as to both the competency of the affiant to testify and the facts that allegedly establish the plan as being established under or pursuant to agreements that the Secretary finds to be a collective bargaining agreement.

The procedures provide that administrative hearings are available only when the jurisdiction or law of a state has been asserted against a plan or other arrangement and the entity that is a MEWA contends that it meets the collectively bargained exception.

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.

This collection of information is used by the Department in connection with proceedings to determine whether a plan or other arrangement is established or maintained pursuant to one or more agreements that which the Secretary finds to be a collective bargaining agreement under Section 3(40) of ERISA.

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.

The use of electronic methods of compliance is neither required nor precluded in this information collection. The Department has assumed that the information collection requirements under this exemption will be performed by plans, or sophisticated financial entities that act on behalf of employee benefit plans and sellers that are sophisticated financial entities connected with the transaction.

The Department's regulation, codified at 29 CFR 2520.107-1, allows all pension and welfare plans covered under Title I of ERISA to use electronic media to satisfy disclosure and recordkeeping obligations, subject to specific safeguards. The supporting documentation can be submitted electronically to the Department and copies of the documentation can be sent electronically to parties of record.

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.

A petition for an administrative hearing under the Department's procedures is based on information unique to the set of facts and circumstances that moved the petitioner to request an administrative hearing. Other than routine identifying information, the information collection requirements are not duplicated elsewhere.

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

The Department has determined that this information collection will not have a significant impact on small entities.

The purpose of this regulation is to make available to plans an administrative procedure for a hearing before an ALJ (or, for an appeal, before the Secretary or the Secretary's delegate) to resolve a dispute regarding whether a plan is established under or pursuant to a collective bargaining agreement. Generally, plans form arrangements under collective bargaining agreements to gain purchasing and negotiating power through economies of scale. By their very nature, therefore, most entities seeking a determination regarding collective bargaining status are arrangements with a large number of participants, and not small plans, small businesses, or small entities. In addition, because the jurisdiction or law of a state must be asserted against an arrangement before a petition may be filed, only a limited number of arrangements are expected to file a petition in any one year, further limiting any effect the regulation might have on small businesses or other small entities.

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.

An ALJ hearing is available when the jurisdiction or law of a state has been asserted against a plan or other arrangement, which contends that it meets the exception for plans established or maintained under or pursuant to one or more collective bargaining agreements, and the plan or arrangement wishes to contest the state's assertion. Without access to the ALJ hearing process, plans or arrangements would be unable challenge the state's assertion. The hearing process should generally result in clearer guidance for plans and arrangements and improve adherence to applicable requirements.

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;**

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Expiration Date: 01/31/2026

- **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 the regulation, a respondent could be required to produce more than two copies of a petition and supporting documents. Petitioners are required to file the original petition with the Office of Administrative Law Judges' Chief Docket Clerk and send a copy with attachments to all parties of record. Parties of record must include the Secretary and at least one state which has jurisdiction of law over the petitioner. If more than one state is named as a respondent, the petitioner is required to provide additional copies of the petition and attachments. The Office of the Administrative Law Judges' policy for the preparation and distribution of copies to multiple parties is governed by the Federal Rules of Civil Procedure.

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 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.

The Department published a notice in the Federal Register, as required by 5 CFR 1320.8 (d), on July 11, 2025 (90 FR 30984), soliciting comments on the request for extension of approval of this ICR and providing the public with 60 days for submitting such comments. No comments were received for this ICR.

9. 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.

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 is 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.

This information collection does not ask questions of a sensitive nature.

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. General, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

In order to obtain an ALJ hearing, a petitioner is required to file a petition and supporting documents with the Chief Docket Clerk of the Office of Administrative Law Judges. The filing of a petition is an infrequent event with some years having no filings.

Based on the Department's experience that such petitions are rare, the Department estimates that one entity will annually petition for an administrative hearing under the Department's procedures.

For the majority of plans, the documents relevant to a petition for an administrative hearing will have either been generated in the usual course of business or prepared for pre-hearing discussions with the state or other authority that has asserted jurisdiction over the plan, giving rise to the right to a hearing under the Department's procedures. With respect to preparation of the petition itself, the Department believes that a plan or other arrangement seeking an administrative hearing will contract with a third-party service provider to prepare the petition and supplementary documentation for the Administrative Law Judge (ALJ). Thus, the bulk of the burden is not performed within the plan.

However, the Department does believe that plans will need to engage in discussions with the third-party service provider concerning the drafting of the documents. This work is assumed to be done by a plan administrator who would be an expert on the details of the plan and the underlying arrangements. The Department assumes that each plan will require 5 hours of work for a plan administrator at an hourly labor rate of \$201.38.¹ Please see Table 1 for calculations and burden.

The collection of information includes the initial pleadings required by the court for review at the hearing. Because of the expertise required in drafting the documents, the

¹ Internal DOL calculation based on 2025 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-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf>. A wage rate for a financial manager is used for the plan administrator.

Department believes the entities will purchase services from a third-party service provider, such as an attorney, rather than perform this work in-house. The Department estimates that each plan will require 30 hours of an attorney's time to prepare the required documents. The Department also estimates each plan will require two hours of a clerical worker, at a wage rate of \$70.29, to file, organize and mail the documents. Please see Table 1 for calculations and burden.

TABLE 1. Estimated Annualized Respondent Hour Burden and Hour Equivalent Cost

Activity	Number of Respondents	Number of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Wage Rates	Equivalent Cost
Plan administrator discusses with the third-party service provider regarding draft documentation	1	1	1	5	5	\$201.38	\$1,007
Attorney prepares documentation	1	1	1	30	30	\$181.05	\$5,432
Clerical staff file, organize, and mail the document	1	1	1	2	2	\$70.29	\$141
Total	1	-	1	37	37	-	\$6,579

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 and 14).

- The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of 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 start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The Department assumes that two petitions are mailed through USPS priority mail package. The mailing costs are estimated at \$9.70 per petition.² Therefore, the total annual cost burden for this information collection is estimated to be \$10.³

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.**

This information collection is prepared by a plan or other arrangement for the purpose of petitioning the ALJ to open a case file for a hearing at some future date. Actions following establishment of a proceeding by the ALJ are excepted from paperwork analysis and approval requirements under the provisions of 5 CFR 1320.4(a)(2).

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

The estimated number of entities that will annually petition for an administrative hearing under the Department's procedures has decreased from 10 to 1. The burden estimates

2 This is based on the cost of USPS priority mail. (Source: United States Postal Service, *Price List*, https://pe.usps.com/text/dmm300/Notice123.htm?gl=1*1gvyho9*ga*MTkyNzA4MzgwOS4xNzQwNzU2NzQ5*ga_QM3XHZ2B95*czE3NTUwMTk2NDckbzkkZzEkdDE3NTUwMTk3MDEkajYkbDAkaDA.#_c078).

3 This estimate is calculated in the following manner: 2 petitions x \$9.70 = \$10.

have also been adjusted to account for the updated wage and postage rates. As a result, the number of responses has decreased by 9, the hour burden has decreased by 333 hours, and the cost burden has decreased by \$77.

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.

The results of the collection of information will not be published.

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.

Not applicable.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

Not applicable. There are no exceptions to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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