SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT 1995: RETIREMENT SAVINGS LOST AND FOUND

This information collection request (ICR) seeks approval of a new 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.

Section 523(a) of the Employee Retirement Income Security Act of 1974 (ERISA)[1] requires the Department of Labor (Department), in consultation with the U.S. Treasury Department, to establish an online searchable database called the Retirement Savings Lost and Found (RSLF) no later than December 29, 2024. The Department has the sole responsibility for establishing and maintaining the RSLF.

The RSLF online searchable database will enable individuals to locate retirement benefits they are owed by providing them with contact information for their plan administrator, the designated trustee or issuer described in section 401(a)(31)(B) of the Internal Revenue Code of 1986 (Code), or the issuer of an annuity described in section 523(e)(3)(C) of ERISA.

Plan administrators have reported much of the information needed for the establishment of the RSLF to the Internal Revenue Service (IRS) on Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) and its predecessor Schedule SSA to the Form 5500. However, citing concerns under section 6103 of the Internal Revenue Code (Code), IRS determined it would not unconditionally authorize its release of this data to the Department for the purpose of communicating either directly with participants and beneficiaries about retirement plans that may still owe them retirement benefits or indirectly through the RSLF online searchable database.

In response to commenters' requests that the Department continue to work with IRS, Social Security Administration (SSA), or both, to obtain Form 8955-SSA information directly from those agencies instead of requesting such information from plan administrators, the Department notes that it continues its discussions with both agencies. However, because of the uncertainties involved and the statutory deadline contained in section 523 of ERISA, the Department is moving forward with the voluntary information collection request. Accordingly, the Department is requesting plan administrators to voluntarily furnish the information specified below directly to the Department.

[1] Added by section 303 of the SECURE 2.0 Act, Division T of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328).

The information being collected on a voluntary basis, is basic information about individuals of a certain age who are owed benefits under their plans. Specifically, the Department is asking plans to voluntarily provide the name and social security number of any participant that separated from service, who is owed a benefit, and is age 65 or older (or in the case of a deceased individual, would have been age 65 or older if such individual was still alive).[2] The Department is also asking for current contact information for the plan administrator so that individuals meeting these characteristics may contact the plan administrator and make an inquiry.

2. Indicate how, by whom, and for what purpose the information is to be used.

The information collected would be used by the Department to establish and maintain the RSLF for the purposes described in the response to question 1 of this supporting statement. Section 523(a) of the Employee Retirement Income Security Act of 1974 (ERISA) requires the Department, in consultation with the U.S. Treasury Department, to establish the RSLF. The Department has the sole responsibility for establishing and maintaining the RSLF. The RSLF online searchable database will enable individuals to locate retirement benefits they are owed by providing them with contact information for their plan administrator. The information collected will populate RSLF. Section 523(a)(1)(B) and (f) of ERISA specially provides that the Department may use collected data to allow individuals to conduct searches and to assist such individuals in locating their plans.

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 Department established a direct electronic portal for plan administrators or their recordkeepers to submit the information directly into the RSLF database, instead of submitting the information as an attachment to the Form 5500 using EFAST2 as was contemplated by the Proposed ICR. The Department also created a template to assist filers. The template is a designed to capture details on separated vested participants who have reached age 65 and who are owed a benefit, and basic information about their plans. Once OMB approves the information collection, the Department will publish a notice in the Federal Register letting the public know the template is available and how to access it. The plan administrator or the plan's recordkeeper may download, populate, and then upload the completed Excel/CSV file directly with EBSA through RSFL at https://lostandfound-intake.dol.gov/. This direct portal approach allows recordkeepers to

[2] As further explained in question 8 below, the final information collection request is significantly narrower than the proposed information collection request. In response to public comments, the Department narrowed the request to reduce burdens at the outset by focusing on individuals at or near retirement age, as these individuals may realize immediate benefits from the information collection request, and with respect to these individuals, only their names and social security numbers.

file on behalf of multiple plans simultaneously. RSFL requires filers to have a free Login.gov account, and to create a user profile. The Department has developed line-by-line instructions to guide filers through the process. Once OMB approves the information collection, the Department will publish a notice in the Federal Register letting the public know the filing instructions are available and how to access them.

See Filing Instructions (included as supplemental material to this Supporting Statement).

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.

As mentioned in the response to question 1 of this supporting statement, some of the requested information is already collected by the IRS on Form 8955-SSA. However, IRS determined it will not unconditionally authorize the release of this data to the Department for the purpose of communicating either directly with participants and beneficiaries about retirement plans that may still owe them retirement benefits or indirectly through RSLF.

In response to commenters' requests that the Department continue to work with IRS, SSA, or both, to obtain Form 8955-SSA information directly from those agencies instead of requesting such information from plan administrators, the Department notes that it continues its discussions with both agencies. However, because of the uncertainties involved and the statutory deadline contained in section 523 of ERISA, the Department is moving forward with the voluntary information collection request.

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

Because the provision of the requested information is voluntary, the Department expects no negative impact on small businesses or other small entities as they can make the determination of whether to provide the information. Also, larger entities are more likely than smaller entities to provide the requested information.

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.

Absent this collection, the Department will be unable to establish RSLF in the timeline specified by Congress.

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.**

Due to the voluntary nature of this request for information, there are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5. However, we note that some of the requested information is personally identifiable information (PII) and plan information of individuals.

Multiple security measures will be in place to protect plan participant and beneficiary data in the Department’s RSLF online searchable database. A public user will have no access to sensitive data. Government access to the data will also be strictly controlled, and the data will be encrypted both at rest and in transit. The database will implement extensive logging and monitoring mechanisms, and sensitive data masking techniques will be implemented to mask personally identifiable information.

8. If applicable, provide a copy and identify the date and page number of publications 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.

8.1

The Departments' notice required by 5 CFR 1320.8(d), which provided the public with 60 days to comment on the proposed information collection request, was published in the Federal Register on April 16, 2024 (89 FR 26932).

The Department received thirteen comment letters in response to the proposal. As reflected below, the main concern raised by the commenters is with respect to the breadth of the proposed information collection request.

One commenter, for instance, stated that there is very little information the Department needs to build the RSLF database contemplated by section 523 of ERISA. This commenter is of the view that "the only information needed is the participant's name, the plan name and the plan's contact information, and any updates to the latter two." This commenter suggested that the Department reevaluate what actually is needed for the database to function and focus on collecting only that information.

A different commenter stated that, in many respects, the Proposed ICR goes beyond what the Department is expressly authorized to collect under section 523 of ERISA. This commenter also stated that, beyond the authority question, the Proposed ICR goes beyond "what is reasonably necessary to ensure the proper administration and maintenance of the [RSLF], as envisioned by Congress." This commenter suggested that, before moving on to additional services and functionality that might necessitate broader information requests, the Department should limit its information request to only those data elements that are needed for participants to locate and receive information that is needed to access benefits owed them. Information that is reasonably necessary to ensure the proper administration and maintenance of the RSLF, according to this commenter, does not include, for example, information regarding (a) beneficiaries; (b) participant and beneficiary contact information such as phone numbers, email addresses, and physical addresses; and (c) account balances.

A third commenter stated that the Proposed ICR asks plan administrators for an overwhelming amount of information beyond what is specifically authorized. Unauthorized and unnecessary information, according to this commenter, includes (a) plan sponsor information; (b) date of birth, mailing address, email address, and telephone number of the participant; (c) beneficiary information; and (d) historical information. This commenter is of the view that the Proposed ICR unnecessarily complicates what was supposed to be a basic online database, raising serious privacy and administration concerns. This commenter urged the Department to redraft the Proposed ICR to more appropriately fit the statutory authority granted in section 523 of ERISA and abandon the onerous proposal.

A fourth commenter stated that the Proposed ICR requests significantly more information about participants and their beneficiaries beyond the data elements listed in the statute. This commenter also argued that the proposal requests data dating back to the date a plan became covered by ERISA, while the statue specifically authorizes collection of information with respect to plan years beginning in 2024. This commenter is of the view that the Proposed ICR drastically expanded the scope of information – both the data elements themselves and the time period the request covers – far in excess of the reporting contemplated by the statute. This commenter asserted that collecting and providing this expansive amount of data would be prohibitively expensive, placing an enormous cost and burden on plans and their recordkeepers –cost that may ultimately be passed on to plan participants. This commenter also expressed concern that prospect of sharing participants' confidential and personal information raises significant data concerns, and could expose plans and their recordkeepers to liability, particularly in the event of any data breach. This commenter urged the Department to collect no more than the information specified by section 523(e) of ERISA.

Another commenter expressed its concern with the Proposed ICR's request for data on individuals that exceeds the data described in the statute. This commenter stated that the statute contemplates the name and taxpayer identifying number of terminated vested participants whose benefits were distributed during the plan year, together with certain limited additional information such as whether an annuity was distributed to such an individual and the name and assess of the annuity issuer. This commenter asserted that the more personal information the Department requests beyond what is necessary, the greater the potential liability if such data is compromised, and the greater the possibility that plans will not provide any information. This commenter encourages the Department not to proceed with any voluntary information collection request, but instead proceed directly to the rulemaking process and limit the information required to what is required by the statute.

This commenter also strongly objected to the historical information requested by the Proposed ICR. This commenter argued that the statute does not contemplate requiring administrators to report the plan-related information described in Internal Revenue Code section 6057(b)(1)-(4) or 6057(a)(2)(A)-(B) on a retroactive basis, let alone as far back as to the date a covered plan became subject to ERISA. This commenter submits that the re-creation of historical plan data by administrators would in many cases be exceedingly challenging and time-consuming, and for some plans it will be impossible to produce.

The Department agrees that the voluntary information collection request should be structured to reduce cost and burden on responders in order to encourage participation. Therefore, the Department has significantly narrowed the scope of the voluntary information collection request in response to these public comments. This final information collection request generally is limited to the name and social security number of any participant who separated from service, is owed a benefit, and is age 65 or older, as well as current contact information for the plan. Unlike the Proposed ICR, this revised information collection request does not seek, among other things, data on: (a) historical practices dating back to the date the covered plan became subject to ERISA; (b)

beneficiaries; (c) date of birth, mailing address, email address, and telephone number of each separated vested participant; (d) benefits distributed under section 401(a)(31)(B) of the Internal Revenue Code; and (e) benefits distributed pursuant to an annuity contract described in 29 CFR 2510.3-3(d)(2)(ii).

A galley mockup showing the reduced scope of this final information collection request, relative to the proposed information collection request, has been included as supplemental material to this Supporting Statement. The Department believes the reduction in scope of this final information collection request both responds to and addresses the material concerns of the commenters.

In terms of consultation efforts, shortly after enactment of section 523 of ERISA, the Department began coordinating with staff at the U.S. Department of the Treasury on the RSLF online searchable database. On March 3, 2023, the Department first commenced discussions with SSA about how to request and receive Form 8955-SSA data in order to populate the database. The Department ultimately was advised by SSA that the Department must receive permission not from the SSA but from the IRS to use Form 8955-SSA. Thereafter, the Department continued its dialogue with IRS on this matter for many months. On February 16, 2024, IRS Chief Counsel issued a memorandum concluding that although the IRS is legally authorized, but not required, to disclose the data from Forms 8955-SSA to the Department to the extent necessary in the administration of section 523 of ERISA, the Department is not authorized to redisclose any return information from the Form 8955-SSA to individuals using the RSLF online searchable database. This decision from IRS was an unanticipated event. After further discussions with the IRS, extending into March 2024, it has become clear that the Department cannot rely upon the Form 8955-SSA as an effective means of initially populating the RSLF online searchable database. As noted above, the Department continues to work with SSA and the IRS to obtain this information.

8.2
OMB received five comment letters in response to the 30-day notice (89 FR 74291) published on September 12, 2024. Below are EBSA's responses to those comments.

(a) **Failure to Reflect Payments**

Commenters raised concerns about what they described as "false positives." They described this as the potential for RSLF searches to indicate that participants are owed previously distributed benefits if RSLF is not updated to reflect distributions. These commenters requested that the Department establish a mechanism for filers to submit data indicating that a participant has been paid their benefits. Otherwise, RSFL would show false positives, leading to confusion. These commenters suggested that the Department remove participants from the RSLF once benefits are paid.

The Department agrees with these comments on the need to reduce confusion and is taking the following actions. Two data elements are being added to the RSLF upload

template in Columns V and W. These modifications permit the filer to indicate (1) whether the present value of the total accrued benefit has been paid and (2) the date of payment. In addition, when searches run queries, RSLF results will display the payment information captured in these new fields, if applicable. This outcome will mitigate the concerns raised by the commenters.

(b) **Cybersecurity**

Commenters stated that the Department needs to provide a more detailed description of RSLF's security protocols. Commenters are concerned that the descriptions in the proposed ICR and in the 30-day notice are insufficiently generic for fiduciaries to satisfy their fiduciary duty to mitigate cybersecurity risks. Commenters requested that the Department provide a technical description of the applicable cybersecurity protocols, mindful that total transparency of security details is itself a potential security vulnerability.

RSLF is being developed in accordance with the U.S. Department of Commerce National Institute of Standards and Technology (NIST) SP 800-53 Revision 5 security controls, including implementation of all applicable privacy controls. RSLF administrators will use the Department's login credential practices to access the RSLF, including Multi-Factor Authentication login and Single Sign-On account access via Personal Identity Verification certificate authentication. Plan Administrators (or the plan recordkeeper, on their behalf) will have to have Login.gov credentials and an account to access the portal. Public users (search users) will require Login.gov credentials to access the RSLF. Top industry standards for data encryption will be used to encrypt data while at rest and in transit. Accordingly, the submission of data to the RSLF in accordance with the system's instructions on submission would not violate fiduciaries' duties of prudence and loyalty, but rather would promote participant interests in securing promised benefits in accordance with those obligations.

(c) **Abandon the Voluntary Information Collection**

Commenters recommended the Department consider alternative methods for implementing the RSLF. One commenter suggested that the Department consider hiring a private sector contractor to operate the RSLF. Another commenter stated its concern that the voluntary ICR approach to populating the RSLF with information will compromise the content and effectiveness of the RSLF and, thus, the Department should abandon its current approach and instead proceed to formal notice and comment rulemaking.

The Department declines to abandon its current approach. The current approach gives the Department the best chance to comply with the Congressional directive in a timely manner. The current approach has substantially reduced the burden of responding to the ICR. In addition, the current approach does not foreclose the Department from making improvements to RSLF in the future. The Department will take these comments into consideration regarding any future improvements.

(d) **Use of Other Authorities Under ERISA to Collect RSLF Information**

Some commenters requested that the Department retract previously made statements that it has the authority to collect information through investigations and under a general grant of rulemaking authority. The Department declines to retract the statements. See sections 504 and 505 of ERISA. Questions regarding the Department's investigative authority and its general rulemaking authority are beyond the scope of this ICR.

(e) **DOL Should Get Data from IRS/SSA**

Commenters repeated their position that much of the information necessary to populate the RSLF is already reported on the Form 8955-SSA and in the government's possession, and thus the Department should coordinate with the IRS and SSA to obtain the information from them.

This supporting statement already explains that the Department is working with the SSA and IRS to obtain the 8955-SSA directly from SSA.

(f) **Fiduciary Safe Harbors**

Commenters requested that the Department provide fiduciary safe harbors to incent plan administrators to participate in the voluntary ICR. For example, commenters requested that the Department state that a fiduciary that prudently submits data will be deemed to mitigate cybersecurity risks under section 404 of ERISA. In addition, commenters requested that the Department provide a fiduciary safe harbor to address interactions with state privacy laws. Commenters also requested that the Department provide a fiduciary safe harbor under which plan administrators that submit data under the ICR will deemed to have satisfied their duty under section 404 of ERISA to search for missing participants.

As noted above, the submission of data to the RSLF in accordance with the system's instructions on submission would not violate fiduciaries' duties of prudence and loyalty, but rather would promote participant interests in securing promised benefits in accordance with the fiduciary obligations set forth in Section 404(a)(1) of ERISA. The Department is actively considering requests for additional assurances and exploring options to provide guidance to plan fiduciaries (and their recordkeepers) outside the supporting statement of the ICR. The Department intends to publish in the Federal Register a notice announcing OMB's approval of the ICR. The notice will address these comments.

(g) **Multi-vendor Plans**

Commenters raised a concern with what they described as "multi-vendor" situations. Commenters explained that this occurs when a plan has more than one recordkeeper, such as in the case of ERISA-covered 403(b) plans. Commenters stated that the Department did not address this situation in the April 16, 2024, Federal Register notice or the September 12, 2024, Federal Register notice. Commenters are concerned that RSLF may not be able to intake and integrate more than one upload template for a single plan. The

Department understands this issue and confirms that RSLF is able to accommodate multiple filings from different recordkeepers for the same plan.

(h) **Scope of Collection—Beneficiaries**

Commenters objected to collecting information about beneficiaries under the ICR. Commenters stated that information about beneficiaries is beyond the scope of section 523 of ERISA. The Department does not agree that information about beneficiaries is outside the scope of section 523 of ERISA. However, the commenters misapprehend the scope of the revised ICR. The ICR does not seek to collect information about beneficiaries. The Department is requesting data on deceased participants who still have benefits under the plan so that the deceased participant's beneficiary or survivor may use the RSLF to search for that benefit.

(i) **Scope of Collection – Participants in Pay Status**

Commenters questioned why the ICR seeks to collect information on separated vested participants aged 65 or older who are in pay status in defined benefit plans. Commenters assert that individuals in pay status are not "missing" or "lost." The ICR seeks this information because these individuals are still owed a benefit under the plan. ERISA section 523 includes missing and lost individuals but is not limited to them.

(j) **Fiduciary Duty Guidance on Searching for Missing Participants**

One commenter requested that the Department issue guidance regarding the steps a plan fiduciary must take under section 404 to search for "missing" participants. This commenter's request is outside the scope of the ICR. In this connection, however, the Department notes that it has given extensive guidance with respect to missing participants, which can be found on its website: Missing Participants Guidance | U.S. Department of Labor (dol.gov).

(k) **Use of Information Collected**

One commenter expressed concern that the Department would use information collected under the ICR to audit plans. Information collected under the ICR is considered information collected under section 523 of ERISA. Section 523(f) of ERISA imposes limits on how the Department uses information collected under section 523. The Department will respect the limitations in section 523(f) in connection with information obtained under the ICR.

(l) **Opt-out Provision**

One commenter requested more information regarding how the Department intends to implement ERISA section 523(c)(2), which permits an individual to contact the Secretary to opt out of inclusion in the RSLF. The Department confirms that RSLF is being constructed in a manner to allow individuals to exercise their opt-out right under section 523(c) of ERISA. If an individual exercises such right, their data will not be disclosed by RSLF in response to a search query. Opt-out support will be provided to the public using existing consumer-oriented tools. More information about the specific procedures for

opting out will be included in a Federal Register notice announcing OMB's approval of the ICR and publicized on EBSA's website and RSLF when the system is live.

(m) **Scope of Collection – Church Plans**

One commenter asked whether the ICR covers non-electing church plans. The scope of the ICR is coextensive with the scope of section 523 of ERISA. Section 523(a)(2) of ERISA generally limits the scope of section 523 to "a plan to which the vesting standards of section 203 apply." Since non-electing church plans are not subject to section 203 of ERISA, the ICR does not cover such plans.

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.

Section 523(c) of ERISA explicitly requires the Department to preserve the confidentiality of PII and the plan information of individuals. Section 523(f) places strict usage requirements on the Department. The Department intends to strictly adhere to these requirements.

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 a sensitive nature, but the Department is collecting individuals' Social Security Numbers.

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. Instead, this cost should be included in Item 14.**

In this analysis, the Department uses the following wage rates: $100.21 (human resource professional), $156.82 (data analyst), $177.97 (attorney), and $180.68 (compensation and benefits manager).[3]

With the approval of plan administrators, plan recordkeepers can voluntarily share information on separated vested participants. As of 2021, there were approximately 765,000 private sector retirement plans with 146 million participants. Approximately 46,000 of these plans are defined benefit (DB) plans with 31 million participants, and approximately 719,000 are defined contribution (DC) plans with 115 million participants.[4] As of 2021, the Department estimates that there are 8.3 million participants (2.1 million DB[5] and 6.2 million DC[6]) aged 65 or older who have vested rights to benefits.

According to the Department's analysis of 2021 Form 5500 data, there were 2,345 recordkeepers providing services to private sector DC retirement plans.[7] The 20 largest recordkeepers account for approximately 71 percent of DB and DC plans that are required to file the Schedule C. As the collection is voluntary, the Department is not able to estimate with great certainty the number of recordkeepers that are willing to provide the requested information. To develop burden estimates, the Department considers the 20 largest recordkeepers as the most likely to voluntarily provide the information. While

[3] Internal DOL calculation based on 2024 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.
[4] Employee Benefits Security Administration, *Private Pension Plan Bulletin: Abstract of 2021 Form 5500 Annual Reports*, (September 2023).
[5] As of 2021, there were 8,922,000 DB participants with retired or separated participants who have vested rights to benefits. (*Source*: Employee Benefits Security Administration, *Private Pension Plan Bulletin: Abstract of 2021 Form 5500 Annual Reports*, (September 2023).) The Department also estimates that approximately 24 percent of the 25 and older population is 65 or older (*Source:* Department's estimates based on the Census Bureau, *Table 1. Total U.S. Resident Population by Age, Sex, and Series: April 1, 2020 (In Thousands)*). Thus, the number of DB plans with retired or separated participants aged 65 or older who have vested rights to benefits is calculated in the following manner: 8,922,000 DB participants x 24 percent = 2,141,280.
[6] As of 2021, there were 25,634,000 DC participants with retired or separated participants who have vested rights to benefits. (*Source*: Employee Benefits Security Administration, *Private Pension Plan Bulletin: Abstract of 2021 Form 5500 Annual Reports*, (September 2023).) The Department also estimates that approximately 24 percent of the 25 and older population is 65 or older (*Source:* Department's estimates based on the Census Bureau, *Table 1. Total U.S. Resident Population by Age, Sex, and Series: April 1, 2020 (In Thousands)*). Thus, the number of DC plans with retired or separated participants aged 65 or older who have vested rights to benefits: 25,634,000 DC plans x 24 percent = 6,152,160.
[7] The analysis only included plans with nonzero plan assets and nonzero participants. Calculations based on the 2021 Form 5500.

other recordkeepers may also decide to provide the information, their decision will have a small impact on burden estimates. In addition, plan administrators themselves may file (instead of their recordkeepers) but the Department does not expect this to be a large group.

Recordkeepers must obtain authorization from plan administrators prior to filing. In the first year, the Department estimates this communication will annually take 50 hours per recordkeeper (5 hours for a legal professional, 45 hours for a mix of human resource and data analyst personnel). In subsequent years, recordkeepers may seek to obtain authorization again from plan administrators, or they may also seek to obtain authorization from additional plan administrators. Thus, the Department estimates this communication will annually take 20 hours per recordkeeper in subsequent years (5 hours for a legal professional, 15 hours for a mix of human resource and data analyst personnel).

There is significant uncertainty regarding the number of plans whose information will be provided. To show the uncertainty of the estimate, for the purpose of this information collection, the Department estimates that the information for 50 percent of plans (or 271,619 plans[8]) will be provided in the first year. In subsequent years, the Department assumes that a number equivalent to one-third of plans will work to provide authorization to recordkeepers (or 90,540 plans[9]). These could be plans providing consent for the first time or plans reviewing their previous consent. The Department anticipates that the response rate will increase over time and in future years program data will be available to improve this estimate.

The Department does not assume that the plan administrator's consent will take any particular form, but that it will be done prudently. The Department estimates that it will annually take 10 minutes per plan for this consent.

Plan administrators and recordkeepers should maintain documentation of such authorization in their records for a period of time equal to or greater than the period of time described in section 107 of ERISA. The Department expects maintenance cost to be minimal.

The recordkeepers will then send the data to RSLF database. This burden is estimated as 40 hours per recordkeeper annually with a mix of human resource and data analyst personnel working to prepare and submit the information.[10]

Please see Table 1 for calculations and burden totals.

Table 1. Hour Burden to Provide the Requested Information

[8] The number of plans is calculated in the following manner: 765,124 plans x 71 percent x 50 percent = 271,619 plans. Note: Due to rounding values may not sum.
[9] The number of plans is calculated in the following manner: 271,619 plans x (1/3) = 90,540 plans.
[10] The combined wage rate of a data analyst and human resource professional is $128.52. The combined wage rate is calculated in the following manner: ($156.82 x 0.5) + ($100.21 x 0.5) = $128.52.

	Number of Respondents	Number of Hours per Respondents	Total Hour Burden	Wage Rate	Hour Equivalent of Cost Burden
	(A)	(B)	(C)	(D)	(A × B × C × D)
Recordkeepers work to obtain authorization- Legal Professional (first year)	20	5	100	$177.97	$17,797
Recordkeepers work to obtain authorization- Data analysts and human resource professionals (first year)	20	45	900	$128.52	$115,668
Recordkeepers work to obtain authorization- Legal Professional (subsequent years)	20	5	100	$177.97	$17,797
Recordkeepers work to obtain authorization- Data analysts and human resource professionals (subsequent years)	20	15	300	$128.52	$38,556
Plans- Plan administrators work to provide authorization to recordkeepers (first year)	271,619	0.166667	45,270	$180.68	$8,179,353
Plans- Plan administrators work to provide authorization to recordkeepers (subsequent years)	90,540	0.166667	15,090	$180.68	$2,726,461

Recordkeepers work to provide the data to the RSLF database-Data analysts and human resource professionals (annual)	20	40	800	$128.52	$102,816
First-year cost	**271,639**	**-**	**47,070**	**-**	**$8,415,634**
Subsequent-year cost	**90,560**	**-**	**15,490**	**-**	**$2,782,814**
Three-year average cost	**150,920**	**-**	**26,017**	**-**	**$4,660,421**

In summary, the three-year average hour burden associated with information collection is 26,017 hours with an equivalent cost of $4,660,421.

Table 2. Estimated Annualized Respondent Hour Burden and Equivalent Cost of Hour Burden

Activity	Number of Respondents	Number of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Equivalent Cost of Hour Burden
Recordkeepers work to obtain authorization-Legal Professional (first year)	20	1	20	5	100	$177.97	$17,797
Recordkeepers work to obtain authorization-Data analysts and human resource professionals (first year)	20	1	20	45	900	$128.52	$115,668
Recordkeepers work to obtain authorization-Legal Professional (subsequent years)	20	1	20	5	100	$177.97	$17,797
Recordkeepers	20	1	20	15	300	$128.52	$38,556

work to obtain authorization- Data analysts and human resource professionals (subsequent years)							
Plans- Plan administrators work to provide authorization to recordkeepers (first year)	271,619	1	271,619	0.166667	45,270	$180.68	$8,179,353
Plans- Plan administrators work to provide authorization to recordkeepers (subsequent years)	90,540	1	90,540	0.166667	15,090	$180.68	$2,726,461
Recordkeepers work to provide the data to the RSLF database- Data analysts and human resource professionals (annual)	20	1	20	40	800	$128.52	$102,816
Total (Three-year average)	**150,920***	**-**	**150,940****	**-**	**26,017**	**-**	**$4,660,421**

Note:

*In the first year, the number of respondents was calculated in the following manner: 271,619 plans + 20 recordkeepers = 271,639. In subsequent years, the number of respondents and responses was calculated in the following manner: 90,540 plans + 20 recordkeepers = 90,560. Thus, the three-year average number of respondents is 150,920.

**In the first year, the number of responses was calculated in the following manner: 20 responses (Recordkeepers work to obtain authorization) + 271,619 responses (Plan administrators work to provide authorization to recordkeeper) + 20 responses (Recordkeepers work to provide the data to the RSLF database) = 271,659 responses. In subsequent years, the number of responses was calculated in the following manner: 20 responses (Recordkeepers work to obtain authorization) + 90,540 responses (Plan administrators work to provide authorization to recordkeeper) + 20 responses (Recordkeepers work to provide the data to the RSLF database) = 90,580 responses. Thus, the three-year average number of responses is 150,940.

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 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 does not expect the information collection to create any burden not accounted for in question 12 as hour burden. The hour burden is measured as the time for recordkeepers to obtain authorization, the time for plan administrators to provide authorization to the recordkeepers, and the time for recordkeepers to provide data to the RSLF database. The cost burden for this information collection is limited to costs associated with the maintenance and transmission of this data. The Department anticipates that plan recordkeepers will download and upload the Excel/CSV file electronically directly with EBSA through the Department of Labor/EBSA's RSLF. Recordkeepers' request for consent, and plan's notice granting consent are expected to be sent electronically at no additional burden. Therefore, the Department does not anticipate recordkeepers needing to expend additional burden above what it accounted for as hour burden to transmit this data to the Department or obtain authorization of consent, resulting in a cost burden of zero.

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.

EBSA received $3,465,000 in Technology Modernization Funding to build the RSLF online system. This includes the costs of labor, hardware/software, and customer experience testing.

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

This is a new information collection.

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. The data will be used to populate an online searchable database accessible to the public.

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.

This information collection will display the expiration date.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

There are no statistical methods used in this information collection.