

REQUEST FOR HEARING — MATTER OF NATIONAL SECURITY

U.S. Department of Labor — Employee Benefits Security Administration

Agency	U.S. Department of Labor — Employee Benefits Security Administration
Docket	EBSA omnibus PRA notice — OMB Control Nos. 1210-0076, 1210-0094, 1210-0039, 1210-0090, 1210-0121
Federal Register	91 FR 7528 (Feb. 18, 2026); FR Doc. 2026-03145
RIN	See procedural-posture note.
Deadline	April 20, 2026
Procedural posture	PRA 60-day omnibus notice bundling five distinct information collections under ERISA. Creates no statutory hearing right. Filing requests OIRA meeting and preserves record for APA and PRA review.
Position	Support the ERISA participant-protection framework. Oppose OMB renewal of the bundled package on the current record. Request OIRA meeting before disposition.
Filed by	James Hunter Poole, Executive Chairman & Chief Executive Officer, Obelisk Tech Systems, Inc.
Date	April 19, 2026

1. Executive Summary

The Department proposes a bundled three-year extension of five distinct information collection requests under ERISA: 1210-0076 (Plan Loans), 1210-0094 (PTE 85-68 Customer Notes), 1210-0039 (Summary Plan Description Requirements), 1210-0090 (Participant-Directed Account Disclosures), and 1210-0121 (Electronic-Delivery Consent). Combined reported burden: 4,197,872 respondents; approximately 1,094,947,258 responses; 7,585,247 burden hours; \$313,530,487 operating cost. Bundling five collections of this magnitude into a single omnibus notice suppresses per-collection analysis required under 5 CFR §1320.8(d), produces facially implausible burden ratios on 1210-0039 (0.71 minutes per response) and 1210-0090 (1,678 responses per respondent per year), omits third-party recordkeeper burden entirely, and does not reflect the technology-displacement effects of the 2002 electronic-safe-harbor regulation at 29 CFR §2520.104b-1(c) and the 2020 default-electronic-delivery rule at 29 CFR §2520.104b-31.

This filing is submitted because the posture of the docket fails elementary procedural tests on the face of the notice. The requested procedural remedy is an OIRA meeting under Executive Order 12866 §6(b)(4) before disposition, republication or correction of the defective record items identified in this filing, and preservation of all objections for downstream Administrative Procedure

Act, Paperwork Reduction Act, Privacy Act, Federal Records Act, FOIA, and applicable agency-specific review. The Loper Bright and Corner Post frameworks are preserved.

2. Doctrinal Frame

Power must move through valid process. An information collection, rulemaking, or tolerance action that will govern federal regulatory authority cannot proceed on a record that fails elementary procedural tests.

Procedural defects in this posture cascade across seven regimes. A Paperwork Reduction Act failure under 44 U.S.C. §§3506–3508 and 5 CFR Part 1320 exposes downstream enforcement to the public-protection defense at 44 U.S.C. §3512 and precludes penalizing nonresponse under 5 CFR §1320.5(a). An Administrative Procedure Act failure under 5 U.S.C. §§551(4)–(5), 553, and 706(2)(D) exposes the rule to invalidation. A Federal Register Act publication failure under 44 U.S.C. §§1503, 1505, 1507, 1510 and 1 CFR chapter I renders the operative rule not valid against persons without actual knowledge. A FOIA §552(a)(1) and §552(a)(2) publication failure compounds that problem. A Federal Records Act failure under 44 U.S.C. §§3101, 3105, 3106 and OMB Circular A-130 corrodes the administrative record that any §706 defense presupposes. An OIRA prepublication failure under EO 12866 §§3, 4, 6, EO 14094, and the 2025 OMB interim guidance implementing EO 14215 removes the centralized-review layer. An OMB Circular A-4 failure exposes the need determination to arbitrary-and-capricious review.

The 1 CFR chapter I architecture sits over all of it. Part 1 governs what is a "rule"; captions do not control. Part 8 governs CFR codification traceability. Part 18 governs transmission and preamble adequacy. Part 19 governs presidential routing where applicable. Part 22 governs notice-content adequacy.

Post-*Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024), the agency's interpretation of its organic statute no longer receives Chevron deference; a reviewing court applies the best-meaning canon. Under *Corner Post, Inc. v. Board of Governors*, 603 U.S. ____ (2024), the limitations period for facial APA challenge runs from first injury, not promulgation. Under *Motor Vehicle Manufacturers Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983), and *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891, 1907–08 (2020), post-hoc rationalizations cannot cure a defective record.

3. Institutional Exposure

The following items are publicly retrievable and tie the agency's current posture on this docket to documented institutional findings. The agency cannot dispute them on the face of its own filings.

1210-0090 responses-per-respondent ratio anomaly.

EBSA reports 619,650 respondents and 1,039,819,787 responses for 1210-0090 — approximately 1,678 responses per respondent per year. For participant-directed individual account plans, the plausible response unit is the combination of automatic annual disclosures,

quarterly plan-fee disclosures, annual comparative chart, and event-driven pass-through materials. A 1,678 count implies over 4 distinct disclosure events per plan per day on average — facially implausible without disaggregation between event-driven and periodic disclosure counts. Under 5 CFR §1320.5(d)(1)(iv) the methodology must be transparent enough for a member of the public to test.

1210-0039 minutes-per-response ratio anomaly.

EBSA reports 3,214,973 respondents and 117,968,000 responses for 1210-0039 Summary Plan Description compliance, with 1,397,000 burden hours — equal to 0.71 minutes per response. An SPD/SMM/SMR cycle involves legal-counsel review under 29 CFR §2520.102-2, formatting against style requirements, §2520.102-3 content requirements, translation where required, distribution under §§2520.104b-1 through 104b-3, and record retention. A 0.71-minute-per-response average cannot credibly capture any of those steps. The \$88,872,000 operating-cost line is likewise unsupported by a unit-cost derivation.

Third-party recordkeeper ecosystem not reflected.

ERISA disclosure compliance is overwhelmingly produced by third-party recordkeepers — Fidelity, Vanguard, Empower, Schwab, Principal, Voya, T. Rowe Price, Alight, Transamerica — and by retained ERISA counsel. Under 5 CFR §1320.8(a)(4), burden imposed on third parties through a covered instrument must be counted. The five bundled ICRs do not disclose whether third-party recordkeeper burden is captured; the ratios above suggest it is not.

Technology displacement.

The 2002 regulatory safe harbor at 29 CFR §2520.104b-1(c) permits electronic delivery with affirmative consent. The Department's 2020 final rule at 29 CFR §2520.104b-31 permits default electronic delivery with a limited opt-out. Uptake has materially changed the burden profile for 1210-0039, 1210-0090, and 1210-0121. Under 5 CFR §1320.5(d)(2) the agency must minimize burden through technology. Estimates that do not reflect electronic-delivery displacement double-count paper burden.

1210-0094 single-respondent necessity question.

EBSA reports 1 respondent and 1 response per year for the PTE 85-68 collection. A collection with a single respondent per year raises the necessity question at 5 CFR §1320.5(d)(1)(i). If only one plan in the United States operates under PTE 85-68 in a given year, OMB should consider whether the collection is necessary or whether the exemption itself warrants reassessment.

4. Internal Inconsistencies and Notice Defects

The following inconsistencies and omissions are independently preserved as record defects regardless of the institutional-exposure findings above.

Bundled omnibus notice structurally forecloses per-collection public comment.

No per-collection certification under 5 CFR §1320.9 disclosed for each of the five ICRs.

1210-0090 and 1210-0039 ratios facially implausible without methodology disclosure.

No technology-displacement reconciliation for the 2020 default-electronic rule.

Operating-cost line items (\$221M, \$88M) without unit-cost derivation.

No RFA analysis disaggregated for small plan sponsors and small service providers.

5. Procedural Invalidity Analysis

A. Administrative Procedure Act — 5 U.S.C. §§551, 553, 706

Governing rule.

APA §551(4)–(5) classifies rules by function, not caption. §553 governs notice-and-comment. §706(2)(A), (C), (D) sets the judicial-review standards.

Record weakness.

By bundling five distinct information collections into a single omnibus notice, EBSA has structured the filing to foreclose per-collection analysis. Under APA §553(b) the public must be given an opportunity to comment on each proposed action. A comment addressing the 1210-0090 responses-per-respondent anomaly cannot be severed from a comment addressing the 1210-0094 single-respondent PTE without creating administrative-record ambiguity.

Why it matters.

Bundling is a PRA-evasion pattern that converts five separate procedural duties into one boilerplate recitation.

Remedy consequence.

Unbundle the five ICRs; publish five separate supporting statements with independent certification; reopen comment period on each.

B. Paperwork Reduction Act — 44 U.S.C. §§3506–3508, 3512; 5 CFR Part 1320

Governing rule.

5 CFR §1320.8(d) requires agency evaluation of necessity, practical utility, accuracy of burden, and burden minimization. §1320.9 requires certification. §1320.5(d)(1)(iv) requires methodology disclosure. §1320.8(a)(4) requires counting third-party burden. 44 U.S.C. §3512 provides the public-protection defense against penalties for nonresponse to defective collections.

Record weakness.

Each of the five collections must be independently evaluated under 5 CFR §1320.8(d)(1). The 1210-0090 ratio of approximately 1,678 responses per respondent per year and the 1210-0039 ratio of 0.71 minutes per response are facially implausible. Third-party recordkeeper burden, central to how ERISA disclosures are actually produced, is not addressed under 5 CFR §1320.8(a)(4). Technology-displacement effects of the 2002 safe harbor and the 2020 default-electronic rule are not reflected in the per-collection estimates, violating 5 CFR §1320.5(d)(2).

Why it matters.

A bundle of collections covering 4.2 million respondents and more than a billion annual responses cannot be certified on a record the public cannot test.

Remedy consequence.

Publish disaggregated methodology; count third-party recordkeeper burden; recompute estimates to reflect electronic-delivery uptake.

C. Federal Register Act and 1 CFR chapter I architecture — 44 U.S.C. §§1503, 1505, 1507, 1510; 1 CFR Parts 1, 8, 18, 22

Governing rule.

§1503 governs filing; §1505 publication; §1507 validity-against-the-public; §1510 the CFR. 1 CFR §22.5 requires authority-citation and notice-content adequacy; §18.12 requires a reader-oriented preamble; §18.11 requires verifiable signing authority; §8.7 requires CFR codification traceability.

Record weakness.

The notice does not satisfy §22.5 authority-citation specificity, §18.12 reader-oriented preamble, or §18.11 delegation-trail identification. Under §1507 a public reader cannot determine from the face of the notice what rule is being administered.

Why it matters.

Constructive notice is the foundation of the Federal Register Act. Ambiguity defeats the regime.

Remedy consequence.

Republish with §22.5 specificity, §18.11 delegation trail, and §18.12-compliant preamble.

D. Privacy Act and OMB Circular A-108 — 5 U.S.C. §552a

Governing rule.

§552a(e)(4) requires Federal Register publication of SORNs. §552a(e)(11) requires 30-day comment on new or materially changed routine uses. §552a(e)(10) requires safeguards. A-108 governs timing and content of SORN publication.

Record weakness.

To the extent the collection or rule touches records about individuals, the notice does not document SORN crosswalk, routine-use analysis, or safeguards for the record lifecycle.

Why it matters.

Privacy Act §552a(g) civil-remedy and §552a(i) criminal penalties are preserved against any disclosure through undocumented routine uses.

Remedy consequence.

Identify governing SORN; confirm A-108 compliance for any change; document §552a(e)(10) safeguards.

E. Federal Records Act and OMB Circular A-130 — 44 U.S.C. §§3101, 3105, 3106

Governing rule.

§3101 requires records creation and preservation. §3105 requires records documenting essential transactions. A-130 governs information-lifecycle management.

Record weakness.

The notice does not document retention, disposal, or preservation posture for records generated by or underlying this action.

Why it matters.

A §706 defense requires a reconstructible administrative record; preservation failure compounds every other procedural defect.

Remedy consequence.

Document retention schedule, chain-of-custody, and A-130 lifecycle commitments on the record.

F. FOIA publication obligations — 5 U.S.C. §552(a)(1) and (a)(2)

Governing rule.

§552(a)(1) requires Federal Register publication of substantive rules of general applicability. §552(a)(2) requires reading-room availability of final opinions, policy statements, and staff manuals.

Record weakness.

Operative criteria administered through internal staff guidance not fully published in either §552(a)(1) or §552(a)(2) form cannot be validly applied against persons without actual and timely notice.

Why it matters.

§552(a)(1) provides that a person cannot be required to comply with a matter of general applicability not published unless the person has actual and timely notice.

Remedy consequence.

Publish operative criteria or make them available in the §552(a)(2) reading room with effective-date notice.

G. OIRA review — EO 12866, EO 14094, 2025 OMB interim guidance, OMB Circular A-4

Governing rule.

EO 12866 §§3, 4, 6 establish OIRA prepublication review. EO 14094 modernizes. The 2025 OMB interim guidance implementing EO 14215 extends prepublication submission expectations. Circular A-4 establishes the need-and-alternatives analytical standard.

Record weakness.

No significance determination, no A-4 analysis, and no OIRA prepublication submission is disclosed on the record.

Why it matters.

Centralized review is not optional for significance-warranting actions under the 2025 OMB guidance.

Remedy consequence.

OIRA meeting under §6(b)(4); publish significance determination and A-4 analysis.

H. Agency-specific ERISA layer — 29 U.S.C. §§1001 et seq.; 29 CFR §§2520.102, 2520.104b

Governing rule.

ERISA §§102, 104, 105 govern participant disclosures. 29 CFR §§2520.102-2, 2520.102-3, 2520.104b-1, 2520.104b-31 implement content, formatting, and delivery requirements.

Record weakness.

The bundled notice does not identify which regulatory section governs each of the five collections, does not reconcile estimates with the 2020 default-electronic rule, and does not disaggregate burden by plan size.

Why it matters.

A \$221M and \$88M operating-cost line cannot be certified without regulatory traceability.

Remedy consequence.

Publish regulatory-section-by-collection crosswalk; reconcile with 2020 rule; disaggregate by plan size.

6. Docket-Specific Defects Table

#	Defect / Hook	Authority	Why It Matters	Requested Remedy
1	Bundled omnibus filing structurally forecloses per-collection public comment	5 CFR §1320.8(d); APA §553(b); 1 CFR §18.2	Per-collection certification not possible under bundled recitation	Unbundle into five separate supporting statements with independent certification
2	1210-0090 ratio of ~1,678 responses per respondent per year facially implausible	5 CFR §1320.5(d)(1)(iv); 44 U.S.C. §3516 note	Methodology not testable; IQA violation	Publish disaggregated methodology distinguishing event-driven from periodic disclosures
3	1210-0039 ratio of 0.71 minutes per response facially implausible	5 CFR §1320.5(d)(1)(iv)	SPD/SMM/SMR cycle cannot be produced in 43 seconds	Publish methodology with task-level decomposition and wage-rate source

#	Defect / Hook	Authority	Why It Matters	Requested Remedy
4	Third-party recordkeeper burden (Fidelity, Vanguard, Empower, Schwab, Principal, Voya, T. Rowe Price, Alight, Transamerica) not counted	5 CFR §1320.8(a)(4)	Systematic burden understatement	Capture third-party burden; disaggregate from plan-sponsor internal burden
5	Technology displacement from 2002 safe harbor (29 CFR §2520.104b-1(c)) and 2020 default-electronic rule (§2520.104b-31) not reflected	5 CFR §1320.5(d)(2)	Double-counted paper burden	Recompute estimates to reflect electronic-delivery uptake
6	\$221M operating cost for 1210-0090 and \$88M for 1210-0039 without unit-cost derivation	44 U.S.C. §3516 note; IQA	Record inadequacy	Publish unit-cost derivations
7	No RFA analysis disaggregated by plan size or small service provider	5 U.S.C. §§603–605	Small-plan-sponsor variation masked	Disaggregate by plan size; publish §605(b) certification if appropriate
8	No OIRA prepublication record for package of this magnitude	EO 12866 §3(f), §6; 2025 OMB interim guidance	Centralized review bypassed for 4.2M respondents and >1B responses	Submit to OIRA; publish significance determination; grant §6(b)(4) meeting
9	1210-0094 single-respondent PTE raises necessity question	5 CFR §1320.5(d)(1)(i)	PTE itself may warrant reassessment	Evaluate continued necessity of PTE 85-68 collection independently
10	No cumulative-burden analysis across the five bundled ICRs	44 U.S.C. §3506(c)(3)(l)	Cross-collection duplication not eliminated	Publish cumulative-burden analysis

7. Ready-to-File Short Version (regulations.gov companion text)

The text below is the ready-to-file short version for the regulations.gov comment field. It preserves the hearing-request title and the national-security framing, states the principal procedural defects, and requests relief. Character count is under the 4,800 regulations.gov target.

REQUEST FOR HEARING – MATTER OF NATIONAL SECURITY

Obelisk Tech Systems, Inc. files this submission to the administrative record for EBSA omnibus PRA notice – OMB Control Nos. 1210-0076, 1210-0094, 1210-0039, 1210-0090, 1210-0121 (91 FR 7528 (Feb. 18, 2026); FR Doc. 2026-03145). Obelisk requests an OIRA meeting under EO 12866 §6(b)(4), opposes agency disposition on the current record, and preserves all objections for downstream review under APA 5 U.S.C. §706 and PRA 44 U.S.C. §3512.

The Department bundled five distinct ERISA ICRs (1210-0076, 1210-0094, 1210-0039, 1210-0090, 1210-0121) into a single omnibus notice covering 4.2M respondents, >1B annual responses, 7.6M burden hours, and \$313M operating

cost. 1210-0090 reports ~1,678 responses per respondent per year; 1210-0039 reports 0.71 minutes per response. Both ratios are facially implausible without methodology disclosure. Third-party recordkeeper burden not counted. 2002 electronic safe harbor and 2020 default-electronic rule technology displacement not reflected.

Power must move through valid process. The current posture fails that test on the face of the notice.

Relief requested. (1) OIRA §6(b)(4) meeting; (2) disposition held pending disclosure of missing record materials; (3) republication or correction as appropriate to the procedural posture; (4) preservation of all objections for downstream APA, PRA, Privacy Act, FOIA, and FRA review.

All objections preserved under APA 5 U.S.C. §706(2)(A), (C), (D); PRA 44 U.S.C. §3512; *Loper Bright Enterprises v. Raimondo*, 603 U.S. ____ (2024); *Corner Post, Inc. v. Board of Governors*, 603 U.S. ____ (2024).

James Hunter Poole

Executive Chairman & CEO, Obelisk Tech Systems, Inc.

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Date: April 19, 2026

8. Relief Requested

1. Hold an OIRA meeting with Obelisk Tech Systems, Inc. under Executive Order 12866 §6(b)(4) before disposition of this docket.
2. Hold agency disposition pending disclosure of missing record materials identified in §4 (Internal Inconsistencies) and §6 (Defects Table).
3. Publish the supporting statement, burden model, and per-task assumptions in a form the public can test clause by clause, consistent with 5 CFR §1320.5(d)(1)(iv) and the Information Quality Act at 44 U.S.C. §3516 note.
4. Identify the governing §1320.9 certifying official or equivalent signing authority with delegation citation.
5. Document OIRA prepublication review consistent with Executive Order 12866, Executive Order 14094, and the 2025 OMB interim guidance implementing Executive Order 14215.
6. Publish an OMB Circular A-4 need-and-alternatives analysis appropriate to the magnitude of the action.
7. Unbundle the five ICRs into five separate supporting statements with independent §1320.9 certification.

8. Publish methodology reconciling the 1210-0090 and 1210-0039 ratios with disaggregated event-driven vs. periodic counts.
9. Capture third-party recordkeeper burden (Fidelity, Vanguard, Empower, Schwab, Principal, Voya, T. Rowe Price, Alight, Transamerica) under 5 CFR §1320.8(a)(4).
10. Recompute all estimates to reflect 2002 safe-harbor and 2020 default-electronic-delivery uptake.
11. Evaluate continued necessity of the 1210-0094 single-respondent PTE 85-68 collection independently.
12. Disaggregate burden by plan size; publish RFA analysis or §605(b) certification.
13. Reopen the public comment period for sixty days after the missing supporting materials are published, to permit meaningful public participation consistent with APA §553(b)(4) principles.
14. Preserve all objections under APA 5 U.S.C. §706(2)(A), (C), and (D); PRA 44 U.S.C. §3512; Loper Bright Enterprises v. Raimondo, 603 U.S. ____ (2024); Corner Post, Inc. v. Board of Governors, 603 U.S. ____ (2024); Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co., 463 U.S. 29 (1983); and Department of Homeland Security v. Regents of the University of California, 140 S. Ct. 1891 (2020).

Respectfully submitted,

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