

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTIONS:
Labor Organization and Auxiliary Reports**

OMB CONTROL NUMBER: 1245-0003

Annual Financial Reports: Form Revisions and Recordkeeping

This submission is a revision to an Information Collection Request (ICR) currently approved under 1245-0003. The ICR contains information collection requirements of the Labor-Management Reporting and Disclosure Act (LMRDA). The currently approved collection includes Forms LM-1, LM-2, LM-3, LM-4, Simplified Annual Report, LM-10, LM-15, LM-15A, LM-16, LM-20, LM-21, LM-30, and S-1, as well as the LMRDA Title IV recordkeeping requirements and the OLMS collective bargaining agreement (CBA) database.

This proposed ICR revision is necessary to implement the final rule (RIN 1245-AA10) which establishes a longer Labor-Management (LM) form for the largest labor organizations (Form LM-2 Long Form), revises a slightly shorter form for most labor organizations at and above the \$350,000 threshold (Form LM-2), makes a parallel revision to Form LM-3, and updates reporting thresholds for Forms LM-3 and LM-4 to promote financial integrity and transparency.

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.

Congress enacted the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 401 et. seq., to provide for the disclosure of information about the financial transactions and administrative practices of labor organizations, employers, and employers' labor relations consultants. The statute also provides, under certain circumstances, reporting by labor organization officers and employees, and surety companies. In addition, the statute requires: (a) the maintenance and retention of supporting records for five years after the required reports are filed, and (b) the preservation for one year of records of elections of labor organization officers. Section 208 of the Act authorizes the Secretary of Labor to issue rules and regulations prescribing the form of the required reports and such other rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as may be necessary to prevent circumvention or evasion of the reporting requirements.

The LMRDA reporting provisions were devised to protect the basic rights of workers from questionable conduct by employers, labor relations consultants, and labor organizations. The LMRDA's employer and consultant reporting requirements protect workers from conduct that interferes with the right of employees to organize labor unions and to bargain collectively. See, e.g., S. Rep. No. 86-187 ("S. Rep. 187") at 6, 10-12 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA Leg. Hist."), at 397, 402, 406-408. Union reporting requirements were enacted to protect labor organization members and to guarantee the democratic procedures and financial integrity of labor organizations. The 1959 Senate report on the version of the bill later enacted as the LMRDA stated clearly, "The members who are the real owners of the money and property of the organization are entitled to a full accounting of all transactions involving their property." S. Rep. No. 86-187, at 8 (1959), reprinted in 1 NLRB, LMRDA Leg. Hist. at 397, 404. A full accounting was described as "full reporting and public disclosure of labor organization internal processes and financial operations."

The LMRDA applies to employers in the private sector and their labor relations consultants, see 29 U.S.C. 402(e), (m), as well as to labor organizations with private sector employees working in interstate commerce within the meaning of sections 3(i) and (j) of the LMRDA, 29 U.S.C. 402(i) and (j), and labor organizations composed of U.S. Postal Service employees. Labor organizations that represent employees of the executive branch agencies of the Federal Government, the Library of Congress, the

Government Printing Office, and certain employees of the U.S. Congress are subject to the standards of conduct requirements of the Civil Service Reform Act (CSRA), 5 U.S.C. 7120, the Foreign Service Act (FSA), 22 U.S.C. 4117, or the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301. These latter Acts and the implementing regulations at 29 CFR 457.10-.20 provide that, in administering the standards of conduct, the Department will be guided by the interpretations and policies followed by the Department of Labor in applying provisions of the LMRDA. 29 CFR 458.1. In addition, the regulations specifically incorporate by reference the LMRDA reporting and record retention requirements of all LMRDA reports, as well as the requirement for the preservation of election records. Instructions for the forms mention corresponding recordkeeping requirements.

The following is a list of the reporting forms, their regulatory and legislative citations, and a brief description of each form's usage.

LM-1, Labor Organization Information Report, 29 CFR 402.2, 29 U.S.C. 431(a). All labor organizations are required to file an initial Form LM-1 concerning the organization and its governing rules, including copies of its constitution and bylaws, within 90 days after it becomes subject to the LMRDA, CSRA, FSA, or CAA. Labor organizations are also required to file an amended Form LM-1 to report certain changes to this information when they file the annual financial report. This report must be filed electronically.

LM-2 Long Form, Labor Organization Annual Report, 29 CFR 402.5 and 403.3; 29 U.S.C. 431(b). Any labor organization whose total annual receipts are \$40,000,000 or more, and any organization in trusteeship with total annual receipts of \$40,000,000, must file an annual financial report on Form LM-2 Long Form within 90 days after the end of its fiscal year, to disclose its financial condition and operations for the preceding fiscal year. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist. This report must be filed electronically, with a temporary hardship exemption available.

LM-2, Labor Organization Annual Report, 29 CFR 402.5 and 403.3; 29 U.S.C. 431(b). Any labor organization whose total annual receipts are less than \$40,000,000 but \$350,000 or more, and any organization in trusteeship with annual receipts less than \$40,000,000 but \$350,000 or more must file an annual financial report on Form LM-2 within 90 days after the end of its fiscal year, to disclose its financial condition and operations for the preceding fiscal year. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist. This report must be filed electronically, with a temporary hardship exemption available.

LM-3, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b). Any labor organization that is not in trusteeship whose total annual receipts are

less than \$350,000, but \$25,000 or more may elect to file the simplified Form LM-3 annual report. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist. This report must be filed electronically, with a temporary hardship exemption available.

LM-4, Labor Organization Annual Report, 29 CFR 402.5 and 403.4; 29 U.S.C. 431(b). Any labor organization that is not in trusteeship whose total annual receipts are less than \$25,000, may elect to file the abbreviated Form LM-4 annual report. Labor organizations qualified to use this form may also use it to file the required terminal report if they cease to exist. This report must be filed electronically, with a temporary hardship exemption available.

LM-10, Employer Report, 29 CFR Part 405, 29 U.S.C. 433(a). Any employer, who in any fiscal year has made any payments or certain other financial arrangements with a labor organization, its officers, its agents or its employees; payments to employees for the purpose of causing them to persuade other employees with respect to their bargaining and representation rights; payments for the purpose of interfering with employees in the exercise of their bargaining and representation rights or for obtaining information on employee or labor organization activities in connection with labor disputes involving their company; and arrangements (and payments made under these arrangements) with a labor relations consultant for the purpose of persuading employees with respect to their bargaining and representation rights, or for obtaining information concerning employee activities in a labor dispute involving their company is required to file an annual report on Form LM-10 within 90 days after the end of its fiscal year. This report must be filed electronically, with a temporary hardship exemption available.

LM-15, Trusteeship Report, 29 CFR Part 408, 29 U.S.C. 461. Any labor organization that assumes a trusteeship over a subordinate labor organization is required to file an initial Form LM-15 within 30 days after imposition of the trusteeship. Any labor organization required to file the initial trusteeship report is required to file a semi-annual report on Form LM-15 during the continuance of the trusteeship. This form must be filed electronically.

LM-15A, Report on Selection of Delegates and Officers, 29 CFR Part 408, 29 U.S.C. 461. Any labor organization that assumed a trusteeship over a subordinate labor organization and filed a semiannual or terminal trusteeship report is also required to file a Report on Selection of Delegates and Officers on Form LM-15A if, during the period covered by the report, there was any: convention or other policy-determining body to which the subordinate labor organization sent delegates or would have sent delegates if not in trusteeship; or election of officers of the labor organization which imposed the trusteeship over the subordinate labor organization. This form must be filed electronically.

LM-16, Terminal Trusteeship Report, 29 CFR Part 408.7-8, 29 U.S.C. 461. Any labor organization that has assumed a trusteeship over a subordinate labor organization is required to file a terminal trusteeship report on Form LM-16 within 90 days after the termination of the trusteeship along with a terminal trusteeship financial report on Form LM-2. This form must be filed electronically.

LM-20, Agreement and Activities Report, 29 CFR Part 406, 29 U.S.C. 433(b). Any labor relations consultant or other person or organization that makes an agreement or arrangement with an employer to undertake activities with the object to persuade employees how to exercise their right to organize and bargain collectively or to supply an employer with information concerning the activities of employees or a labor organization involved in a labor dispute with the employer is required to file a report on Form LM-20 on the nature of the agreement and specific details on the activity to be performed. Form LM-20 must be filed within 30 days after entering into the agreement. This report must be filed electronically.

LM-21, Receipts and Disbursements Report, 29 CFR Part 406, 29 U.S.C. 433(b). Any labor relations consultant or other person or organization required to file the preceding agreement and activities report (Form LM-20) must also file a Form LM-21 report of receipts from employer(s) and disbursements made by the filer in connection with labor relations advice or services provided to employer(s) for any fiscal year during which payments were made or received as a result of the reportable agreement or arrangement. The Form LM-21 report is required to be filed within 90 days after the end of the fiscal year. This report must be filed electronically, with a temporary hardship exemption available.

LM-30, Labor Organization Officer and Employee Report, 29 CFR Part 404, 29 U.S.C. 432. Any labor organization officer and employee (other than an employee performing exclusively clerical or custodial services) is required to file a Form LM-30 within 90 days after the end of his/her fiscal year if during that year the officer or employee received certain payments from, or had certain interests in:

- (1) an employer whose employees the official's labor organization represents or actively seeks to represent; or
- (2) an employer or a labor relations consultant to an employer that (a) is in competition with an employer whose employees the official's labor organization represents or is actively seeking to represent, (b) is a trust in which the official's labor organization is interested, (c) is a not-for-profit organization that receives or is actively and directly soliciting money, donations, or contributions from the official's labor organization, (d) is a labor organization that: (i) has employees the official's labor organization represents or is actively seeking to represent,

- (ii) has employees in the same occupation as those represented by the official's labor organization; (iii) claims jurisdiction over work that is also claimed by the official's labor organization; (iv) is a party to or will be affected by any proceeding in which the official has voting or policy-influencing authority; or (v) has made a payment to the official for the purpose of influencing the outcome of an internal labor organization election; or (e) has interests in actual or potential conflict with the interests of the official's labor organization or the official's duties to the labor organization; or
- (3) any employer for the purpose of (a) not organizing employees; (b) influencing employees in any way with respect to their right to organize; (c) taking any action with respect to the status of employees or others as members of a labor organization; (d) taking any action with respect to bargaining or dealing with employers whose employees the official's labor organization represents or is actively seeking to represent; or (e) influencing the outcome of an internal labor organization election; or
- (4) a business (for example, a vendor or a service provider) that meets any of the following conditions: (a) 10% or more of its business consists of buying or selling or otherwise dealing with an employer whose employees the official's labor organization represents or is actively seeking to represent, (b) any part of its business consists of buying or selling or otherwise dealing with the official's labor organization, or (c) any part of its business consists of buying or selling or otherwise dealing with a trust in which the official's labor organization is interested.

This report must be filed electronically, with a temporary hardship exemption available.

S-1, Surety Company Annual Report, 29 CFR Part 409, 29 U.S.C. 441. Each surety company that issues a bond required by Section 502 of the LMRDA or Section 412 of the Employee Retirement Income Security Act (ERISA) is required to file a report within 150 days after the end of its fiscal year describing its bonding experience under the Acts. The report provides for detailed information on premiums, loss data, and specific items of losses occurring during the report year. This form must be filed electronically.

Simplified Annual Report Format (SAFR), 29 CFR Part 403.4, 29 U.S.C. 431(b). Extremely small labor organizations (those with no assets, liabilities, receipts, or disbursements during the fiscal year) are permitted to have their parent national or international labor organization file the annual financial report on their behalf in a simplified format. This form must be filed electronically.

Union Officer Elections, 29 U.S.C. § 481. In addition to the LMRDA's reporting and disclosure requirements, the Act requires covered labor organizations to hold periodic elections for their officers. See LMRDA section 401, 29 U.S.C. § 481. Under 29 U.S.C.

§ 481(e), election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. This provision advances Congress' goal of promoting union democracy by protecting employees' rights to choose their own representatives. The enactment of this Act was necessary to eliminate or prevent improper practices on the part of labor organizations, employers, labor relations consultants, and their officers and representatives which distorted and defeated the policies of the Labor Management Relations Act, 1947, as amended, and the Railway Labor Act, as amended.

Collective Bargaining Agreements File, Section 211(a) of the Labor Management Relations Act (LMRA) and Secretary's Order 4–2007, issued in May 2007. The authority for maintaining the Department of Labor's CBA file was transferred to the Office of Labor-Management Standards (OLMS) from the Bureau of Labor Statistics (BLS), pursuant to Secretary's Order 4–2007. The CBA file has been maintained by the Department since 1947, pursuant to Section 211(a) of the LMRA, which directs the Department of Labor to collect these agreements “for the guidance and information of interested representatives of employers, employees, and the general public.”

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.

Pursuant to § 205 of the LMRDA, the purpose of the reporting requirements is the public disclosure of administrative information and financial reports for covered labor organizations, labor organization employees and officers, employers, labor relations consultants, and other entities. The information supplied on the reports is used primarily by 1) labor organization members to participate in the governance of their labor organizations; 2) workers in making determinations regarding the exercise of their protected rights to organize and bargain collectively; 3) the Department of Labor and other government agencies to detect improper practices on the part of labor organizations, their officers, and/or representatives, employers, labor relations consultants, and other filers; and 4) the Congress in oversight and legislative functions. The general public, the media, and researchers may also use the information for their own purposes.

Violations of Title II and Title III LMRDA reporting requirements may be subject to civil action by the Secretary of Labor or may be referred to the Department of Justice for appropriate criminal action. Certain receipts or transactions reported may also involve violations of other Federal laws and may be referred to the Department of Justice for appropriate criminal action.

Since June 2002, the Department's Office of Labor-Management Standards (OLMS), on its website (www.unionreports.gov), makes it possible for anyone to view labor organization annual financial reports, conduct data searches, and display the results in a number of user-definable reports, free of charge. Individuals can view and print facsimiles of reports for year 2000 and later, and the reports are searchable by a variety of criteria, including labor organization name, file number, affiliation, designation name and number, and location. The Department's Office of Labor-Management Standards (OLMS) website (www.olms.dol.gov) also features a powerful search system where users can search for specific labor organizations. Users can obtain information about labor organization officers and employees and payers and payees, define the scope of the search to be conducted, and generate a number of reports using the search results. Users can also download archive files that contain raw data in pipe delimited format of labor organization financial information as reported for public disclosure.

Reports filed by employers, labor relations consultants, labor organization officers and employees, and surety companies for year 2000 and later can also be viewed at the OLMS website and earlier reports can be ordered there.

Election records collected and used for this collection request will be collected by election officials or the secretary of the labor organization holding elections. This information will not be submitted to the Department of Labor unless there is an investigation by the Department of possible election irregularity.

CBAs submitted to OLMS are also available on unionreports.gov. Documents are submitted by signatories on a voluntary basis. Therefore, some materials may not be current or available for all major bargaining units. In addition, OLMS posts CBAs received from either the employer or the labor union, singly or jointly. However, if either party objects, OLMS will not post the CBA. CBAs must be submitted by the labor union or the employer (or their employees or agents) in order to be posted. This requirement is meant to ensure that the CBAs are being submitted voluntarily. Further, OLMS does not collect CBAs from the railroad and airline industries. The National Mediation Board is responsible for copies of CBAs covering railroads and airlines.

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 of using information technology to reduce burdens.

The Department has developed an Electronic Labor Organization Reporting System (e.LORS) that utilizes electronic technology to receive, maintain, and disclose the

information collected under the LMRDA. The objectives of the e.LORS system include permitting the electronic filing of Form LM-2, LM-3, LM-4, LM-10, LM-15, LM-15A, LM-16, LM-20, LM-21, LM-30, and S-1 disclosure of reports via the web-based Electronic Forms System (EFS); improving the accuracy, completeness, and timeliness of reports; and creating efficiency gains in the reporting system. Effective use of the system reduces the burden on reporting organizations, provides increased as well as more accessible and more timely information to labor organization members, and enhances LMRDA enforcement by the Department.

The Government Paperwork Elimination Act, 44 U.S.C. 3504 (codified in note), requires public agencies to provide the public with the option of maintaining, submitting, or disclosing required information collections electronically when practicable.

Election recordkeeping requirements do not require automated, electronic, mechanical, or other technological collection techniques. However, labor organizations may voluntarily use information technology for the purposes of recordkeeping.

CBAs may be submitted electronically to OLMS through email.

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 A.2 above.

Other than certain financial data received by the Internal Revenue Service (IRS), there is no duplication of existing labor organization reporting requirements, nor is similar information required by any other federal agency or statute.

To prevent duplication with the forms, a labor organization is not required to report a Political Action Committee (PAC) fund, if publicly available reports on the PAC's funds are filed with federal or state agencies.

The Form LM-30 requires labor organization officers and employees to report certain payments from employers. Form LM-10 requires employers to report, among other matters, certain payments to labor organization officers and employees and certain agreements and activities involving labor relations consultants. Forms LM-20 and LM-21 require labor relations consultants to report certain agreements with employers and other labor relations consultants, as well as payments pursuant to such agreements. This results in some duplicate reporting, a result mandated by Congress in designing parallel reporting schemes to facilitate compliance and public disclosure. See 29 U.S.C. §§ 432, 433.

Regarding the CBA file, OLMS does not collect CBAs submitted by unions or employers in the railroad or airline industries, since the National Mediation Board collects such CBAs.

As for the election records required by LMRDA Title IV, the Department does not require labor organizations to submit such records, absent an investigation. Rather, the union must maintain such records.

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

OLMS reduces burden where practicable and where transparency goals are not sacrificed. For example, the Forms LM-3 and LM-4 are less detailed than the Form LM-2 Long Form or Form LM-2 (filed by larger labor organizations) and the SAFR allows a parent national or international labor organization to file a simplified annual financial report on behalf of certain extremely small, affiliated labor organizations.

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.

Section 207 of the LMRDA sets frequencies for filings of reports. 29 U.S.C. 437. If the information were collected less frequently, the obligations of the statute would not be met, and the Department would not have current information available to make the essential public disclosure and to conduct enforcement and oversight activities.

Additionally, without the election recordkeeping requirements, members would not be able to exercise their statutory right to contest union officer elections. See LMRDA section 402, 29 U.S.C. 482. The records necessary to investigate such allegations would not exist.

Also, without the CBA requirements, many covered employees would not be able to locate key documents affecting their rights in the workplace.

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.**

Records necessary to verify the LM required reports must be maintained for at least five years after the report is filed, which is the only special circumstance that requires this collection to be conducted in a manner inconsistent with the general guidelines in 5 CFR 1320.6. The five-year retention period is established by the LMRDA (LMRDA Sec. 206, 29 U.S.C. 436).

Records collected for the purposes of election recordkeeping requirements must be preserved for at least one year per 29 U.S.C. § 481.

- 8. If applicable, provide a copy and identify the data 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.

On 10/13/2020, the Department published a notice of proposed rulemaking (NPRM) in the *Federal Register* under RIN 1245-AA10 seeking to establish a new Form LM-2 Long Form and revise the Form LM-2. See 85 FR 64726. This notice provided a 60-day period for the public to comment on the proposed changes. See the preamble of the final rule for a full response to the comments received.

A number of commenters opposed the creation of a Form LM-2 Long Form on the grounds that it would impose administrative, financial, and operational burdens on reporting labor organizations, particularly large national and international unions. Several labor organizations and federations asserted that the prior Form LM-2 is already lengthy and complex, often extending to hundreds of pages, and that the proposed Form LM-2 Long Form would increase both the length of filings and the costs of compliance without providing commensurate benefits to union members.

After careful consideration of these comments, the Department determined that the concerns raised do not outweigh the interests of the Department, union members, and public in promoting transparency, accountability, and effective enforcement of the LMRDA.

The Department recognizes that compliance with any version of Form LM-2 Long Form or Form LM-2 involves time and resources. However, Congress expressly authorized the Department under Sections 201 and 208 of the LMRDA to require reporting “in such detail as may be necessary accurately to disclose [a labor organization's] financial condition and operations.” 29 U.S.C. 431(b); see *also* 29 U.S.C. 438 (authorizing the Secretary to prescribe form and publication of required LM reporting). The Department concludes that the additional disclosure required by Form LM-2 Long Form is necessary to fulfill that statutory mandate, particularly for the largest labor organizations with substantial annual receipts and complex financial structures.

The Department recognizes that per capita tax itemization will add substantial length to the filings of large international unions but finds this information essential for verifying proper remittance, detecting potential diversion, and providing transparency.

International unions should already maintain detailed records of per capita tax receipts for internal management purposes. In response to comments about increased burden, the Department has increased the itemization threshold from \$5,000 to \$7,500 to reduce burden for Schedule 1 and Schedule 10 on the Form LM-2 Long Form. The Department also increases the itemization threshold from \$5,000 to \$7,500 for Schedule 1 and Schedule 10 on Form LM-2, as it was a part of the proposed form on the 2020 NPRM. Though this increase was not mentioned in the 2020 NPRM preamble, the Department considers its inclusion on the instructions for the proposed Form LM-2 instructions on the 2020 NPRM as giving proper notice to commenters and that it is finalized here. Though an international labor organization proposed increasing the threshold even further, to \$20,000 for revised Form LM-2 filers and \$50,000 for Form LM-2 Long Form filers, the Department determined that doing so would permit labor organizations to avoid itemizing transactions that could interest members.

Multiple commenters raised concerns about the proposal to split functional reporting categories, noting that it would increase burdens while potentially reducing transparency by creating separate itemization thresholds for each new category. One labor organization stated that this would require thousands of additional project codes in accounting systems.

The Department notes that the Form LM-2 Long Form applies only to labor organizations with annual receipts of \$40,000,000 or more—which are the largest and most financially complex organizations with the greatest resources to devote to compliance. The Department has carefully calibrated the reporting requirements to apply the most extensive obligations to those organizations with the appropriate resources to meet them. These organizations typically employ professional financial staff, utilize sophisticated accounting systems, and have the institutional capacity to implement necessary system modifications.

With respect to claims that the prior Form LM-2 was already lengthy and difficult for members to understand, the Department disagrees that length alone renders the information unusable or unnecessary. On the contrary, the Department finds that greater itemization and clearer categorization of receipts and disbursements will improve the ability of members, the Department, and the public to understand how union funds are received, managed, and spent. The Department determined that the benefit of enhanced union transparency outweighs any obstacles this additional filing may pose. Finally, the Department rejects the argument that increased reporting will divert resources away from representational activities. The Department finds that ensuring accountability in the handling of union funds is itself a fundamental representational interest. Members are entitled to understand how their dues and other funds are used, particularly in large labor organizations where financial activity is extensive and complex. The LMRDA reflects Congress's determination that financial reporting and disclosure are sufficiently important to justify the compliance costs involved. Moreover,

the resources devoted to Form LM-2 Long Form and revised Form LM-2 compliance should be viewed in proportion to organizations' overall budgets. For an organization with \$50 million in annual receipts, even hundreds of hours and tens of thousands of dollars in compliance costs represent a small fraction of total resources and thus constitute a reasonable investment in transparency and accountability.

For these reasons, the Department concludes that the benefits of the rule justify the associated compliance costs and that the burden objections do not warrant withdrawal or substantial narrowing of the rule. The Department has carefully considered specific burden concerns and made appropriate modifications in the final rule as described above to address the most significant concerns while preserving core transparency and accountability objectives.

The Department recognizes that the Form LM-2 Long Form will require additional effort and expense from the largest reporting labor organizations. However, the Department finds that these burdens are justified by the transparency, accountability, and member protection benefits the enhanced reporting will provide. The Department concludes that the labor organizations subject to Form LM-2 Long Form have the institutional capacity to comply with the reporting requirements. The Department remains committed to working with labor organizations during the implementation period to facilitate compliance and address specific questions or concerns that may arise.

The Department received numerous comments on the burden associated with additions to the new Form LM-2 Long Form as compared to the prior Form LM-2 and on the revised Form LM-2, as well as a few comments addressing burden hour estimates on the Department's initial PRA analysis.

Several commenters challenged OLMS's burden estimates under the PRA, arguing that the Department's assumption that each new schedule would require only five additional hours of reporting time was unrealistic given the volume of transactions involved. A major labor federation noted that the burden analysis in the 2009 Final Rule spanned six pages and considered each proposed schedule, while the 2020 NPRM contained only four paragraphs. The labor federation characterized the 2020 analysis as "patently absurd," stating that different schedules call for different items at various levels of detail, making uniform time estimates contrary to common sense. The federation additionally stated that OLMS failed to adequately consider regulated entities' experience with the prior Form LM-2 and relied on an internal staff canvas rather than engagement with regulated unions or their members. They further stated that the Department underestimated the compliance burden under the PRA, stating that the Department was repeating flaws that led to the withdrawal of the 2009 LM-2 rulemaking.

Large international unions provided examples of the rule's burden impact. One large international labor organization stated that it already files Form LM-2 reports

approaching 1,000 pages and that the addition of 12 new schedules, particularly those requiring itemization of per capita tax receipts, would “add thousands of pages,” overwhelm members attempting to understand the reports, and require extensive reprogramming of accounting systems and the hiring of additional staff.

The same international labor organization noted that with over 3,000 affiliated local unions and councils, the proposed per capita tax itemization schedule would be too burdensome. The organization noted that in 2019, its per capita tax receipts totaled more than \$180,000,000—almost 18 times the amount reported in its “Other Receipts” schedule, which resulted in 96 pages of itemization. The labor organization stated the proposed itemization would likely double or even triple the size of the international labor organization’s filing. Another labor organization similarly stated the itemization of then-Schedule 19—Sale of Supplies would create a burden on the labor organization that was not properly accounted for by the Department’s burden estimate.

Another large labor organization similarly asserted that OLMS grossly underestimated the hours required to comply with new receipt-side itemization and investment reporting requirements. The labor organization stated that OLMS’s estimate of five hours per new schedule was “irreconcilable” and that implementing entirely new categories imposes a significantly greater burden than simply adding new line items.

Two accounting firms stated that the proposed itemization of receipts and investment transactions would be burdensome, time-consuming, and of limited value to members. One firm stated that for building trades unions with hundreds of contractors, recordkeeping and reporting of itemized dues would be substantial and time-consuming. The firm stated that for international unions with hundreds of affiliated locals, itemization of per capita taxes could require thousands of additional transaction lines. One accounting firm stated that “we do not embrace the theory that an increase in the volume of information automatically improves its understandability or usefulness to a reader.”

The Department disagrees that its burden estimates are flawed or unsupported. In developing the rule, the Department relied on its extensive experience administering and enforcing the LMRDA, including decades of reviewing LM reports, conducting audits, and investigating financial misconduct. The Department has also carefully reviewed the comments submitted and further considered feedback from OLMS field staff, whose enforcement experience indicated that additional itemization and clearer reporting structures materially assist in detecting embezzlement, conflicts of interest, and reporting violations. In light of those considerations, the Department determined that the estimates made in the 2003 Final Rule were accurate and a fair standard for use in calculating this PRA burden. The Department’s estimate of five hours of additional burden per new schedule for the revised Form LM-2 is based on the key assumption that labor organizations maintain adequate books and records in the

ordinary course of business, as required by Section 206 of the LMRDA. Organizations that comply with their prior recordkeeping obligations should possess the underlying data necessary to complete the Form LM-2 Long Form without extensive additional data collection. The Department has decided to keep its estimate of 5 burden hours for each of the new schedules introduced to the revised Form LM-2.

However, the Department understands the concerns about the proposed burden hour estimates on the new and prior schedules requiring itemization of transactions. In the 2020 NPRM, the Department estimated that each of the new schedules in the Form LM-2 Long Form would account for 5 recurring burden hours for all new schedules (4.4 hours of recordkeeping burden and 0.6 hours of reporting burden). This was based upon the Department's 2003 Final Rule amending Form LM-2, in which new disbursement schedules and itemization requirements were introduced. See 68 FR 58439 (Oct. 9, 2003), Table 4 (Summary of Average Additional First Year Burden for the Revised Form LM-2). The burden estimates from the Department's 2003 Final Rule were made by considering Form LM-2 filers in three tiers, based on annual receipts: those with annual receipts between \$250,000-\$499,999, those with receipts between \$499,000-\$49,999,999, and those with receipts of \$50,000,000 or above. As the Form LM-2 Long Form deals mostly with those in that third tier, it is unfair to make a burden calculation based on all three tiers. Based on these comments, and reflection on the time labor organizations may take to record this data and report to OLMS, the Department increases its estimates for the 12 new schedules on Form LM-2 Long Form to 10 burden hours each.

A large labor organization stated that new revenue-side itemization would require reprogramming the labor organization's accounting system, a process that would be extremely burdensome. As noted above, the labor organization emphasized that its CPA described the 2003 transition as a "nightmare." At the same time, system modifications undertaken for Form LM-2 Long Form compliance may also strengthen organizations' internal financial controls and provide better information for management decision-making.

Multiple commenters raised concerns about the proposal to split functional reporting categories, stating that it would significantly increase burdens while potentially reducing transparency by creating separate itemization thresholds for each new category. The same large labor organization stated that this would require thousands of additional project codes in accounting systems.

The Department distinguishes between one-time implementation costs and ongoing annual compliance burden. While some organizations may need to modify accounting systems, these are primarily one-time costs. Once systems are appropriately configured, the ongoing annual burden should be modest for organizations with proper internal controls. Although some commenters stated that compliance will require system

modifications, the Department notes that modern accounting software and electronic filing tools substantially reduce the burden of producing itemized reports, particularly for large labor organizations with significant financial resources. Contemporary accounting systems routinely generate detailed transaction reports, and electronic filing systems allow for bulk uploads of transaction data.

The Department also recognizes that some organizations may need to modify systems and processes. However, several important considerations apply. System modifications are primarily one-time costs that will facilitate ongoing compliance. During implementation, the Department will provide extensive technical assistance including detailed instructions, educational webinars, individualized consultation, engagement with accounting software vendors, and partial review of draft forms. Still, the Department acknowledges the comments describing the burden associated with making these changes in the first year and thus increases the nonrecurring recordkeeping burden and nonrecurring report burden hours associated with this final rule. For the Form LM-2 Long Form, the Department increases the nonrecurring recordkeeping burden by 63.14 hours and the nonrecurring reporting burden hours by 45.02 hours, for a total increase of 108.16 nonrecurring burden hours. For the revised Form LM-2, the Department increases the nonrecurring recordkeeping burden by 12.36 hours and the nonrecurring reporting burden hours by 0.38 hours, for a total increase of 12.74 non-recurring burden hours. More details on the exact breakdown of these non-recurring burden hours can be found in the next section.

Multiple commenters identified investment transaction reporting as particularly burdensome. An international labor union commenter noted that large portfolios are often actively traded and that the volume of information would be overwhelming rather than helpful to readers. One accounting firm observed that “many large unions have tens of millions of dollars in aggregate investment transactions that are not processed in detail within the labor organization’s own accounting system. A bridge will be required to allow for significant numbers of transactions to be transmitted to the Department. This will require significant time and money to implement...” One union stated that the investment reporting changes alone would likely account for the entire nonrecurring costs OLMS estimated, and that documentation and cataloging of transactions would cost dozens of hours per year and add hundreds of pages to filings.

The Department has carefully reviewed these specific concerns and adjusted the final rule, as previously noted in the preamble, that labor organizations do not need to report transactions on a registered securities exchange when the purchaser/seller is unknown. The Department acknowledges that reporting individual transactions for large portfolios could involve substantial numbers of line items. However, labor organizations have fiduciary obligations to monitor investments and should already be receiving detailed transaction reports from custodians. The Department does increase its burden hour

estimate by 10 hours for the Form LM-2 Long Form and by 5 hours for the revised Form LM-2 based on this requirement for itemization to account for the changes in recordkeeping and reporting that labor organizations will need to implement.

9. Explain any decision to provide any payment or gift to respondents, other than re-numeration of contractors or grantees.

The Department does not provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. (Note: If the submission will serve as Joint ICR and Privacy Impact Assessment per OMB Memorandum 03-22, Section II.D, the relevant justification shall be included as part of the agency's response to this Item)

The contents of the reports filed pursuant to the LMRDA reporting requirements are, by law, public information. Therefore, no assurances of confidentiality are provided.

Election records are not public information by law and do not require disclosure to any outside party with the exception of OLMS investigations.

OLMS posts CBAs received from either the employer or the labor union, singly or jointly. However, if either party objects, OLMS will not post the CBA.

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.

No sensitive information is collected on the form.

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.**
- **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.**

The impetus for the proposed revision of this information collection is the Department's final rule to establish the Form LM-2 Long Form, to significantly revise Form LM-2 and minorly revise Form LM-3, and to update the thresholds for Form LM-2, Form LM-3, and Form LM-4.

Table 1 details the annualized reporting and recordkeeping burden for all LMRDA public disclosure forms, as well as the CBA and election recordkeeping requirements. Except for Form LM-2 Long Form, Form LM-2, Form LM-3, and Form LM-4, the estimates are identical to the last ICR revision, in which LM report estimates reflect filing figures based on recent five-year averages for submitted forms.¹ The estimates for the Form LM-2 Long Form, Form LM-2, Form LM-3, and Form LM-4 derive from the burden analysis in the Final Rule. The burden hour estimates for the LM reports are indicated on the instructions for such forms, with the same reporting and recordkeeping breakdown as past ICRs.

**TABLE 1
ANNUALIZED REPORTING AND RECORDKEEPING BURDEN**

¹ See: <https://www.dol.gov/agencies/olms/data>.

Form	Responses	Hours Per Response for Reporting	Reporting Burden Hours
M-1	173.00	0.83	143.59

Note: Some numbers may not add due to rounding.

Labor Organization and Auxiliary Reports

OMB Control Number: 1245-0003

OMB Expiration Date: 01/31/2028

* The burden described here is for those Form LM-2 filers that also have subsidiary organizations. The burden for Form LM-3 subsidiary reporting is included in the Form LM-3 burden numbers.

** Simplified Annual Report Format

Table 2 shows estimates of the annualized cost to respondents for the hour burdens for the information collection, and the estimates used in this ICR revision are identical to those used in the most recently approved ICR except for Form LM-2 Long Form, Form LM-2, Form LM-3, and Form LM-4, which were derived from the burden analysis in the final rule. The “responses” and “burden hours” in Table 2 reflect totals described in Table 1.

TABLE 2
ANNUALIZED RESPONDENT COST ESTIMATES

Form	Responses	Burden Hours
M-1	173	159.16

Note: Some numbers may not add due to rounding.

* The burden described here is for those Form LM-2 filers that also have subsidiary organizations. The burden for Form LM-3 subsidiary reporting is included in the Form LM-3 burden numbers.

** Simplified Annual Report Format

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items A.12 and A.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 services 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.**

There are no operation and maintenance costs to respondents or recordkeepers resulting from this collection of information beyond the cost of the burden hours addressed in Item 12. Any capital investments including computers and software that

are usual and customary expenses incurred by persons in the normal course of their business are excluded from the regulatory definition of burden as capital investments.

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

Table 3 provides a summary of federal costs associated with the information collections included in OMB # 1245-003. Federal estimated costs include costs for contractors and operational expenses such as equipment, overhead, and printing as well as salaries and benefits for the OLMS staff in the National Office and field offices who are involved with reporting and disclosure activities. These estimates include time devoted to: (a) receipt and processing of reports and CBAs; (b) disclosing reports to the public; (c) obtaining delinquent reports; (d) reviewing reports, (e) obtaining amended reports if reports are determined to be deficient; and (f) providing compliance assistance training on recordkeeping and reporting requirements.

The OLMS national and field staff costs were derived from the GS scale. OLMS derived the other costs, associated with contractors, office space, and overhead and supplies, from its operating budget.

TABLE 3

ANNUALIZED FEDERAL COST ESTIMATES

National Office	\$4,326,488
Field Offices	<u>\$3,429,140</u>

- 15. Explain the reasons for any program changes or adjustments.**

In comparison to the previous submission (35,067 responses and 4,644,740 burden hours), there is a total decrease of 1,936 responses and 1,302,221 burden hours. The 1,936 less responses, as well as the reduction of 82,516 burden hours, are attributable to updated estimates on the number of Forms LM-2, LM-3, and LM-4. The other 1,219,705 annual burden hour reduction is attributable to the introduction of the Form

LM-2 Long Form, the revisions to Forms LM-2 and LM-3, and the increase in thresholds for Forms LM-2, LM-3, and LM-4.

- 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.**

OLMS publishes the information collected pursuant to the LMRDA as reported. The submitted reports are made public via the OLMS website or upon request. While the public may download data from the published reports, OLMS does not post analyses of the data on its website.

OLMS does not publish information collected pursuant to the recordkeeping requirements of 29 U.S.C. § 481.

CBAs are made public via the OLMS website or upon request. CBAs submitted to OLMS are also available on unionreports.gov. While the public may download individual CBAs, OLMS does not calculate data related to CBAs.

- 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 Department is not seeking an exemption from the display of the expiration date of the OMB approval of the information collection.

- 18. Explain each exception to the certification statement in ROCIS.**

The Department is not requesting any exceptions to the certification statement required by the Paperwork Reduction Act. The Department is able to certify compliance with all provisions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.