



DEPARTMENT OF LABOR

Office of Labor-Management Standards

Information Collection Request; comment request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to **comment** on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA). Currently, the Office of Labor-Management Standards (OLMS) of the Department of Labor (Department) is soliciting comments concerning the proposed extension of the collection of information requirements implementing the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office using the method below by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-5609, Washington, DC 20210, olms-public@dol.gov, (202) 693-0123 (this is not a toll-

free number), (800) 877-8339 (TTY/TDD).

Please use only one method of transmission (submission via email to olms-public@dol.gov) to submit comments or to request a copy of this information collection and its supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden. You may also request a copy of this information collection and its supporting documentation by sending an email to olms-public@dol.gov.

SUPPLEMENTARY INFORMATION

This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Labor-Management Standards (OLMS) of the Department of Labor (Department) is soliciting comments concerning the proposed extension of the collection of information requirements implementing the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). In particular, the Department seeks to revise the existing ICR in order to ensure a fully comprehensive estimate of such burden associated with the LMRDA, by including the recordkeeping burden associated with union officer elections. See 29 U.S.C. § 481. Under 29 U.S.C. § 481, 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 a labor organization's election of officers. Additionally, the revision is necessary in order to incorporate the reporting burden associated with the voluntary submission of collective bargaining agreements to OLMS pursuant to Labor Management Relations Act

section 211(a) and Secretary's Order 4–2007. Finally, the revision is necessary due to electronic filing changes associated with the Forms LM-1, LM-3, LM-4, LM-10, LM-20, and LM-21. The Department proposes to remove the continuing hardship exemption for Form LM-3 and LM-4 filers, and also seeks to make mandatory electronic filing for labor organizations that file the Form LM-1, labor relations consultants that file the Form LM-20 and Form LM-21, and employers that file the Form LM-10.

I. Background: Congress enacted the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), to provide for the disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. Section 208 of the LMRDA authorizes the Secretary to issue rules and regulations prescribing the form of the required reports. The reporting provisions were devised to implement a basic tenet of the LMRDA: the guarantee of democratic procedures and safeguards within labor organizations, which are designed to protect the basic rights of union members.

Pursuant to section 201 of the LMRDA, the Department established the initial Form LM-1 Labor Organization Information Report, as well as the annual financial disclosure reports: the Forms LM-2, LM-3, and LM-4. These reports detail the receipts, disbursements, assets, and liabilities of covered labor organizations during their previous fiscal year. The Form LM-2 is the most detailed report, for those labor organizations with \$250,000 or more in total annual receipts. The Form LM-3 is available for those labor organizations with fewer than \$250,000 in total annual

receipts, and the Form LM-4 is available for those labor organizations with fewer than \$10,000 in total annual receipts.¹

Section 205 of the LMRDA provides that the reports are public information. Filers submit the reports to the Department's Office of Labor-Management Standards (OLMS), pursuant to the OLMS Information Collection Request (ICR), OMB # 1245-0003 (Form 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). Currently, filers can submit the Forms LM-2, LM-3, LM-4, LM-10, LM-20, LM-21, and LM-30 electronically through the OLMS free and web-based Electronic Forms System (EFS). EFS does not rely on third-party software or require the purchase of digital signatures; instead, EFS is a secure, web-based system that uses electronic signatures, which the filing organization's two principal officers register for, along with the union, obtaining a personal identification number (PIN) each year.² Currently, Form LM-2, LM-3, and LM-4 filers must use EFS, with the Form LM-2 instructions providing a temporary hardship exemption, and the Form LM-3 and LM-4 instructions providing a temporary and continuing hardship exemption process. Form LM-10, LM-20, Form LM-21, and Form LM-30 filers can choose instead to print off the completed form, sign manually, and mail the form to OLMS.

In response to requests from union members, the media, members of Congress, and other interested parties for Internet access to reports filed by unions under the LMRDA, OLMS

¹ Pursuant to LMRDA Titles II and III, the Department also established eight other reporting and disclosure forms: the Form LM-10 Employer Report; Forms LM-15, 15-A, and 16 trusteeship reports; Form LM-20 Agreement and Activities Report; Form LM-21 Receipts and Disbursement Report; Form LM-30 Officer and Employee Report; and Form S-1 Surety Report.

² In May 2011, EFS first became available for LM-3 and LM-4 filers, and those unions with fiscal years ending after June 30, 2011 began to take advantage of electronic filing. Prior to this implementation of EFS, few Form LM-3 and LM-4 unions utilized EFS, since they would be required to purchase a digital signature. As stated, EFS is free of charge.

developed a website (www.unionreports.gov) where individuals may now view union annual financial reports and conduct data searches, displaying the results in a number of preformatted listings, free of charge. OLMS can instantaneously post reports submitted via EFS. Reports submitted via mail must be scanned and then posted, with certain data manually entered.

Authority:

The legal authority for this notice is set forth in 35 U.S.C. 3506(c)(2), and sections 203 and 208 of the LMRDA, 29 U.S.C. § 432, 438. Section 208 of the LMRDA provides that the Secretary of Labor shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under Title II of the Act and such other reasonable rules and regulations as he may find necessary to prevent the circumvention or evasion of the reporting requirements. 29 U.S.C. 438. The Secretary has delegated his authority under the LMRDA to the Director of the Office of Labor-Management Standards and permits re-delegation of such authority. *See* Secretary's Order 8-2009, 74 FR 58835 (Nov. 13, 2009).

LMRDA Election Recordkeeping Requirements

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 (LMRA), 1947, as amended, and the Railway Labor Act, as amended.

The revised ICR would provide an estimate for the burden associated with labor unions maintaining such union officer election records.

Voluntary Submission of Collective Bargaining Agreements

The Department maintains a collective bargaining agreement (CBA) file pursuant to Section 211(a) of the 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 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.”

The revised ICR would provide an estimate for the burden associated with unions and employers submitting these CBAs to the Department.

Mandatory Electronic Filing of the Forms LM-1, LM-3, LM-4, LM-10, LM-20, and LM-21:

The Department seeks to amend ICR 1245-0003, as well as the Forms LM-1, LM-10, LM-20 and LM-21 instructions, to require mandatory electronic filing of these reports, with a temporary hardship exemption process for the annual Forms LM-10 and LM-21 modeled after the existing

one for the annual Form LM-2 filers, as well as modify the Form LM-3 and Form LM-4 hardship exemption process to eliminate the continuing hardship exemption process and correspond with that of the Form LM-2, which only permits temporary hardship exemption submissions, not continuing. The Department believes that reasonable changes must be made to the means by which the forms required under LMRDA Title II are filed. The most efficient way to provide meaningful access to this information by interested members of the public is to require that the reports filed by employers and labor relations consultants be filed in electronic form. This change will benefit the filers, employees, employers, union members, and the public, as well as the Department. Labor organizations of all sizes have generally accounted no difficulties in submitting the forms electronically, and Form LM-2 filers have filed electronically since 2005, with no continuing hardship exemption since 2017. Some consultants have also already filed electronically in 2019, with little difficulty.

The Department invites comments regarding any alternative procedures that might better address problems associated with mandatory electronic filing of the Forms LM-1, LM-3, LM-4, LM-10-, LM-20, and LM-21.

The mandatory Forms LM-1 and LM-20 e-filing, as well as the changes to the Forms LM-3 and LM-4, would begin immediately after the Department finalizes this ICR revision. Mandatory Form LM-21 and Form LM-10 e-filing, however, would begin for reports due in 2021.

While no other changes to any other forms covered by this ICR are contemplated at this time, the agency seeks comments on any aspect of this information collection. The Department will use the comments as it seeks to revise and extend OMB authorization under the PRA for this

information collection.

II. Review Focus: The Department is particularly interested in comments which:

- * evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * enhance the quality, utility and clarity of the information to be collected; and

- * minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

III. Current Actions: The Department seeks to revise this information collection to provide for electronic filing. The information collected by OLMS is used by union members to help self-govern their unions, by workers making decisions regarding their collective bargaining rights, by the general public, and as research material for both outside researchers and within the Department. The information is also used to assist the Department and other government agencies in detecting improper practices on the part of labor organizations, their officers and/or representatives, and is used by Congress in oversight and legislative functions.

Burden Statement: The Department updated its ICR by providing estimates for the burden associated with the LMRDA Title IV election recordkeeping requirements and the voluntary CBA submission program. The Department also updated its estimates for LM report responses

and total burden hours, as the Department revised its estimates based upon an average of the LM reports received over the most recent five-year period (FY14-18). See:

https://www.dol.gov/olms/regs/compliance/enforcement_data.htm. The Department did not change the hourly burden estimates for Forms LM-1, LM-3, LM-4, LM-10, LM-20, and LM-21, due to the mandatory e-filing changes, since the changes will have little if any impact on filers. Form LM-3 and LM-4 filers submitted very few continuing hardship requests (just 33) in 2018, and just 1 so far in 2019, with all of them rejected by the Department. Further, electronic filing is already available for Form LM-10, LM-20, and LM-21 filers, and will become available shortly for Form LM-1 filers, and the Department expects such filers to adapt quickly to EFS, due to the ease of the system and convenience of e-filing. Indeed, many have already filed electronically.

The total burden for the Labor Organization and Auxiliary Reports information collection is summarized as follows:

Type of Review: Revision.

Agency: DOL-OLMS.

Title of Collection: Labor Organization and Auxiliary Reports.

OMB Control Number: 1245-0003.

Affected Public: Private Sector—businesses or other for-profits, farms, and not-for-profit institutions; and Individuals or Households.

Total Estimated Number of Responses: 35,297.

Total Estimated Annual Burden Hours: 4,644,849

Total Estimated Annual Other Costs Burden: \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget (OMB) approval of the information collection request; they will also become a matter of public record.

Dated: December 11, 2019.

Andrew R. Davis,

Chief of the Division of Interpretations and Standards,

Office of Labor-Management Standards,

U.S. Department of Labor.

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