

**PAPERWORK REDUCTION ACT
LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORT
SUPPORTING STATEMENT**

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 on the financial transactions and administrative practices of labor organizations, and, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. Section 208 of the Act, 29 U.S.C. 438, authorizes the Secretary 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.

Pursuant to section 208, the Secretary established the Form LM-30 Labor Organization Officer and Employee Report, 29 CFR Part 404 and 29 U.S.C. 432. The Form LM-30 requires every labor organization officer and employee (other than an employee performing exclusively clerical or custodial services) to file a Form LM-30 report within 90 days of the end of his/her fiscal year listing and describing certain financial transactions engaged in, and interests held by, the officer or employee or his/her spouse or minor child:

- (1) legal and equitable interests, transactions with, and economic benefits from an employer whose employees his/her union represents or seeks to represent;
- (2) legal and equitable interests in, transactions with, and economic benefits from certain businesses which deal with the business of the employer whose employees the union represents or seeks to represent, or which deal with the union or a trust in which the labor organization is interested;
- and (3) certain income and other economic benefits received from any employer or labor relations consultant.

The Form LM-30 applies to officers and employees of 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 of labor organizations composed of U.S. Postal Service employees. It does not apply to officers and employees of labor organizations that represent employees of the executive branch agencies of the Federal Government, the Library of Congress, the Government Printing Office, or employees of the U.S. Congress. Form LM-30 filers must ensure the maintenance and retention of supporting records for five years after the required reports are filed.

Copies of sections 202 and 208 of the LMRDA, 29 U.S.C. 432 and 438, are included in this document as appendices. Also, attached for your information are copies of the 2007 Form LM-

30, the pre-2007 Form LM-30, the instructions for each, and 29 CFR Part 404.

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 Form LM-30 reporting requirements is the public disclosure of financial information for covered labor organization employees and officers, which may reveal potential conflicts of interest between the duties of such officers and employees and their respective labor organizations. The information supplied on the reports is used primarily by 1) labor organization members to self-govern their labor organizations; 2) the Department of Labor and other government agencies to detect improper practices on the part of labor organization officers, employees, and other filers; and 3) 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, an Internet Web site (www.unionreports.gov) makes it possible for anyone to view online Form LM-30 reports for year 2000 and later. Additionally, reports for earlier years can be ordered there.

Copies of every report submitted are also maintained for public inspection, for copying, upon request, at the U.S. Department of Labor, Room N-1519, 200 Constitution Avenue, NW, Washington, D.C. 20210.

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.

Form LM-30 filers currently do not have the option of submitting their forms to the Department electronically, although, they do have the option of downloading from the OLMS Web site a fillable PDF of the form. Additionally, since June 2002, an Internet Web site (www.unionreports.gov) makes it possible for anyone to view online Form LM-30 reports for year 2000 and later. Further, reports for earlier years can be ordered there.

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.

The Form LM-30 reporting and recordkeeping requirements are not duplicated by any other federal agency or statute. 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 things, certain payments to labor organization officers and employees. This results in

some duplicate reporting, a result mandated by Congress in designing parallel reporting schemes to facilitate compliance. See 29 U.S.C. §§ 432, 433.

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

This information collection does not have a significant economic impact on a substantial number of small entities.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The LMRDA explicitly sets the frequency of required filings so any change would require a statutory amendment. If the information were collected less frequently, OLMS would not have current information available to make the essential public disclosure and to conduct enforcement and oversight activities.

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.**

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

- 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 September 1, 2009 (74 FR 45255), the Department published a 60-day notice requesting a renewal of the information collection for the pre-2007 Form LM-30, OMB No. 1215-0205. (Attached). The Department only received one comment in response to this notice, from an international labor union. This union expressed support for the Department's proposed extension of the pre-2007 Form LM-30 and Instructions, as well the Department's non-enforcement policy that enabled filers to use either the pre-2007 Form LM-30 or the 2007 Form LM-30 when meeting the obligations of LMRDA section 202.

The union commenter characterized as "onerous" and "burdensome" the 2007 changes to the Form LM-30, which it stated created a "trap for the unwary," discouraged involvement in unions by their members, and made it "impossible" for even the "diligent" to comply with the form. The union primarily blamed the expanded definitions in the 2007 Form LM-30 Instructions for these problems, particularly the scope of "labor organization officer" and "labor organization employee," which brought union members and volunteers, such as shop stewards, under the Form LM-30 reporting requirements for the first time. Further, it stated that the definition of "bona fide employee" mandated stewards and others receiving union leave and no docking payments to report such payments, which the commenter believed discouraged involvement by members in the affairs of their unions, while not revealing actual or potential conflict of interest payments. Additionally, it stated that the scope of "labor organization," creating "top down" reporting for international and intermediate union officials, as well as the expanded definitions of "actively seeking to represent" and "substantial part," required union officials to engage in a great deal of research to determine if particular payments and transactions, from certain employers and businesses, were reportable.

As a result of the asserted problems created by the 2007 Form LM-30, the union concluded that an extension of the pre-2007 Form LM-30 was necessary to provide filers with the use of the pre-2007 form while the Department reviews the 2007 changes and proceeds with

rulemaking to revise the form and instructions. Finally, the commenter urged the Department to acknowledge its 2005 Web site advisory regarding the “de minimis exemption,” which enabled filers to not report “insubstantial gifts” totaling less than \$250 in the aggregate in a fiscal year, and to not include infrequent gifts of less than \$20 when calculating the \$250 threshold. The union also supported the non-enforcement policy enabling Form LM-30 filers to use either the pre-2007 or 2007 Form LM-30 in meeting the requirements of LMRDA section 202. As explained in the Note to Reviewer, the Department seeks an extension of this pre-2007 Form LM-30 information collection so it can continue to provide both forms to filers seeking to comply with section 202 pending the outcome of further rulemaking. Further, the Department will review the other Form LM-30 reporting issues raised by the commenter, as it proceeds with rulemaking to revise the Form LM-30 reporting regime.

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

OLMS 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.

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.**

Exhibit 1 details the annualized reporting and recordkeeping burden for the pre-2007 Form LM-30 and Exhibit 2 details the annualized respondent cost estimates for the pre-2007 Form LM-30. These estimates are based upon Fiscal Year 2009 Form LM-30 data available to the Department through its electronic disclosure system. This data reveals that labor union officials submitted 1,932 Form LM-30 reports during calendar Fiscal Year 2009, which is the Department's estimate for the number of responses. The Department multiplied the 1,932 responses by the estimated 0.583 burden hours (or 35 minutes) per respondent (the most current burden hour estimate for the pre-2007 Form LM-30) to yield 1,127 total burden hours. The Department notes that the total burden hours differs slightly from the emergency information request submitted in March, due to an error involving the total burden per filer and the use of an updated figure for the number of responses based upon the most recent data available, i.e. Fiscal Year 2009. In March, the Department stated that the total burden was 40 minutes per filer, but the instructions to the pre-2007 Form LM-30 indicate that the burden per filer is only 35 minutes. Additionally, as discussed below, the Department has updated its figure for costs based upon Fiscal Year 2009 data.

**EXHIBIT 1
ANNUALIZED REPORTING AND RECORDKEEPING BURDEN**

Form	Responses	Reporting and Recordkeeping Hours per Respondent	Total Reporting and Recordkeeping Hours
LM-30	1,932	0.583	1,127

Note: The number of reporting and recordkeeping hours has been rounded.

Exhibit 2 shows estimates of the annualized cost to respondents for the burden hours estimated for the information collection. Source information for labor organization salaries is taken directly from data submitted in Fiscal Year 2009 by filers of the Form LM-2, Labor Organization Annual Report. The Form LM-2 is filed by the largest unions (those with over \$250,000 in annual receipts), and this report requires unions to indicate salary payments to their officers and employees. From this data, the Department was able to calculate average wages for three categories of union officials most likely to complete a Form LM-30: union presidents, union secretary-treasurers, and international union representatives. Next, the Department increased these figures by 43.00% to account for total compensation.¹ As a result, the Department estimates that union presidents earn an average hourly wage of \$34.65 (\$49.55 after adjusting by 43.00% for total compensation); union secretary-treasurers, \$31.87 (\$45.57 after adjusting by 43.00% for total compensation); and international representatives, \$33.83 (\$48.38 after adjusting by 43.00% for total compensation). The Department also estimated that each of these union officials accounted for one third of the Form LM-30 reports

¹ See Employer Costs for Employee Compensation Summary, from the Bureau of Labor Statistics (BLS), at <http://www.bls.gov/news.release/ecec.nr0.htm>. The Department increased the average hourly wage rate for employees (\$20.49 in 2008) by the percentage total of the average hourly compensation figure (\$8.90 in 2008) over the average hourly wage, i.e., 43.00 %.

submitted and thus one third of the total burden hours (1,127 hours divided by three equals approximately 375.67). Therefore, the total cost was \$53,908.64 (375.67 times \$49.55; 375.67 times \$45.57; and 375.67 times \$48.38). For the reason noted above, the total cost burden also differs marginally from the Department's submission in March.

**EXHIBIT 2
ANNUALIZED RESPONDENT COST ESTIMATES**

Form	Responses	Burden Hours	Cost
LM-30	1,932	1,127	\$53,908.64

Note: Some numbers may not add due to rounding.

- 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 the 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.**

Exhibit 3 provides a summary of federal costs associated with the various reporting forms included in most recent ICR approval for OMB # 1215-0188. Since the Office of Labor-Management Standards (OLMS) calculates the Federal costs associated with administering its forms as a whole, it cannot break down the Federal cost associated exclusively with the pre-2007 Form LM-30. 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; (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.

EXHIBIT 3

ANNUALIZED FEDERAL COST ESTIMATES

National Office	\$4,263,214
Field Offices	<u>\$3,471,991</u>
Total	\$7,735,205

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

As noted in Item 12, the total burden hours and costs differ slightly from the emergency information request submitted in March, due to a five-minute error involving the total burden per filer and an updated number of respondents based on Fiscal Year 2009 experience. There are no other program changes or adjustments from the emergency submission in March.

- 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.**

This is not applicable to the pre-2007 Form LM-30 renewal information collection.

- 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 to the display of the expiration date of the OMB approval of the information collection.

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

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

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.

Attachments

2007 Form LM-30
2007 Form LM-30 Instructions
Pre-2007 Form LM-30
Pre-2007 Form LM-30 Instructions
29 C.F.R. part 404
74 FR 45255 (Sept. 1, 2009)

Appendix A

Report of Officers and Employees of Labor Organizations

(29 U.S.C. 432)

SEC. 202. (a) Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year-

(1) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;

(2) any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(3) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(4) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;

(5) any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and

(6) any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended.

(b) The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under

the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived therefrom.

(c) Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

Appendix B

Rules and Regulations

(29 U.S.C. 438)

SEC. 208. The Secretary shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under this title and such other reasonable rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as he may find necessary to prevent the circumvention or evasion of such reporting requirements. In exercising his power under this section the Secretary shall prescribe by general rule simplified reports for labor organizations or employers for whom he finds that by virtue of their size a detailed report would be unduly burdensome, but the Secretary may revoke such provision for simplified forms of any labor organization or employer if he determines, after such investigation as he deems proper and due notice and opportunity for a hearing, that the purposes of this section would be served thereby.