

DEPARTMENT OF LABOR**Office of Labor-Management Standards****29 CFR Parts 403 and 408****RIN 1215-AB34****Labor Organization Annual Financial Reports**

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.
ACTION: Final rule.

SUMMARY: The Department proposed to revise the forms used by labor organizations to file the annual financial report required by the Labor-Management Reporting and Disclosure Act (LMRDA). This document sets forth the Department's review of and response to comments on the proposal and the changes that will be made to the Form LM-2 used by the largest labor organizations to file the required report. The Department will require each labor organization that has annual receipts of \$250,000 or more to file a Form LM-2 electronically and to itemize receipts and disbursements of \$5,000 or more, as well as receipts not reported elsewhere from, or disbursements to, a single entity that total \$5,000 or more in the reporting year, in specified categories. The Department has combined two proposed categories ("Contract Negotiation and Administration" and "Organizing") into a single schedule entitled "Representational Activities," added a category entitled "Union Administration," combined the proposed categories for "Political Activities" and "Lobbying" into a single schedule, and eliminated the category entitled "Other Disbursements." Reporting labor organizations will be permitted, however, to report sensitive information for some categories that might harm legitimate union or privacy interests with other non-itemized receipts and disbursements, provided the labor organization indicates that it has done so. Using this procedure, however, will constitute just cause for any union member to review the underlying data upon request. Moreover, under the statute (29 U.S.C. 436), the labor organization must maintain the records for inspection by the Department. The new Form LM-2 will have schedules for reporting information regarding delinquent accounts payable and receivable, but specific information need only be reported for accounts that total \$5,000 or more during the reporting year. The revised Form LM-2 will require labor

organizations to report investments that have a book value of over \$5,000 and exceed 5% or more of the union's investments. A new schedule will require labor organizations to report the number of members by category, but will allow each labor organization to define the categories used for reporting. Reporting labor organizations must estimate the proportion of each officer's and employee's time spent in each of the functional categories on the Form LM-2 and report that percentage of gross salary in the relevant schedule.

Labor organizations that have \$250,000 or more in annual receipts will be required to file a Form T-1 for any trust in which the labor organization is interested, if the trust has \$250,000 or more in annual receipts and the labor organization contributed \$10,000 or more to the trust during the reporting year, or that amount was contributed on the labor organization's behalf. Unions with less than \$250,000 in annual receipts will not be subject to this requirement. No Form T-1 will be required if the trust files a report pursuant to 26 U.S.C. 527, or pursuant to the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1023 (ERISA), or if the organization files publicly available reports with a Federal or state agency as a Political Action Committee (PAC). Finally, a labor organization may substitute an audit that meets the criteria set forth in the Instructions for the financial information otherwise reported on a Form T-1 for a qualifying trust.

EFFECTIVE DATE: This rule will be effective on January 1, 2004, but will apply only to annual financial reports filed by unions for fiscal years beginning on or after January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Lary Yud, Deputy Director, Office of Labor-Management Standards (OLMS), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5605, Washington, D.C., olms-public@dol.gov, (202) 693-1265 (this is not a toll-free number). Individuals with hearing impairments may call 1-800-877-8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION:**I. Background**

On December 27, 2002, the Department issued a notice of proposed rulemaking (67 FR 79820) proposing revisions of the forms used by labor organizations to file the annual financial reports required by section 201(b) of the LMRDA, 29 U.S.C. 431(b). As the notice explained, the proposed revisions were based upon the fact that the American

workforce and labor organizations have changed dramatically over the last forty years and the fact that the form used by labor organizations to report financial information has not changed significantly in the same time period. The proposed revisions also reflected the Department's belief, based on the accumulated experience of investigators and other staff in the Employment Standards Administration's (ESA's) OLMS, that more detailed and transparent reporting of labor organizations' financial information would be more useful to union members, more effectively deter fraud, and enable OLMS investigators to more easily discover fraud when it occurs. Finally, the proposal noted the Department's view that, because of technological advances, these revisions will impose less burden on labor organizations than revisions proposed in previous years.

Before issuing this proposal, various Department officials met with many representatives of the regulated community, including union officials and their legal counsel, to hear their views on the need for reform and the likely impact of changes that might be made. The Department's proposal, developed with these discussions in mind, requested comments on numerous specific issues in order to base any revisions on a complete record reflecting the views of the parties affected and the Department's responses. In addition, the Department contracted with a professional provider of information technology services, SRA International (SRA), to assess the technical feasibility of electronically collecting and reporting the information that would be required by the proposed changes. The Department initially provided for a 60-day comment period, but later extended that period for an additional 30 days.

When the comment period closed, on March 27, 2003, ESA/OLMS had received over 35,000 comments. Most of the comments received were copies of approximately 110 different form letters signed by individuals who said they were members or officers of unions and commented in general terms. Although many of these form letters expressed opposition to the Department's proposal to revise the forms, many other form letters expressed support for the proposal. In addition, approximately 1,200 unique comments, including lengthy, substantive and specific comments, were received from union members, local, intermediate, national and international labor organizations, employers and trade organizations, public interest groups, accountants,