

of ALPA's financial information, preventing it from ever meeting the March 31 deadline imposed by the LMRDA. Another international, the International Brotherhood of Electrical Workers (IBEW), stated that it maintains its books on an accrual basis for two reasons: first, it enables the organization to match revenue and expenses to the proper time period; and second, it enables the organization to comply with accounting rules and to receive an "unqualified" opinion from an independent auditor as to the organization's financial health.

In the Department's 1992 rulemaking, the Department specifically proposed that unions would be required to utilize the accrual accounting method. In response to the comments submitted, however, the 1992 final rule allowed unions the option to utilize either the cash or accrual method of accounting in reporting their finances. This option was rescinded in December 1993. This action was taken in response to comments that only relatively few of the larger unions used the accrual method and to correct the mistaken perception held by some unions that the Department's rule, in practice, was encouraging unions to utilize accrual accounting, a departure from the cash basis method that had been prescribed for reports in the past and the method used by the vast majority of unions. One union commenter on the current rule, however, asserted that the option concept was well thought-out because it recognized that although some unions used the accrual method of accounting, imposing this method on many smaller unions would present a real hardship to these unions because they rely on volunteers, not accountants, to prepare the Form LM-2. As discussed immediately below, this option is indeed available to unions, which may choose to track their finances on a cash basis, accrual basis or some other method of accounting.

Since the 1992 rule was rescinded, the Form LM-2 has, in fact, required that receipts and disbursements be reported on a cash basis, but has also required the reporting of certain information more typically maintained in an accrual-based system (*e.g.*, Schedule 1 "Loans Receivable, Schedule 8 "Loans Payable, Accounts Payable, Mortgages Payable). Thus, requiring a combination of both types of information in one form, which might be characterized as modified cash basis accounting, represents no change from the existing Form LM-2 and was not identified as a change in the NPRM. The statement in the Instructions to the existing Form LM-2 that the form "must

be prepared using the cash method of accounting," was dropped, however, as it was not wholly accurate and could be misleading.

As explained in greater detail below, the Department has not proposed to require unions to establish a particular method to account for, and manage, their finances. Unions, for various reasons, may choose to track their finances on a cash basis, accrual basis, a hybrid of the two, or some other method of accounting. As noted by some commenters, the Form LM-2 reporting format requires unions to utilize some elements of both cash basis and accrual accounting. To a large extent, however, that format is driven by the fact that the statute itself requires both types of information. For example, the statement of "receipts and disbursements" required by the LMRDA is basically an accounting of the inflow and outflow of an organization's cash during the fiscal period. Consequently, a "profit and loss" statement prepared on the accrual basis is unacceptable as compliance with the Act since it reflects the income and expenses of an organization in the fiscal period and not the disposition of its cash. *See* 29 U.S.C. 431(b).

In contrast, the statement of "assets and liabilities" required by the LMRDA is essentially an accrual type of statement and provides for reporting all receivables, payables, accruals and deferred items. Consequently, it should be unnecessary for an organization that maintains its records on the accrual system of accounting to change its procedures in order to prepare the statement of assets and liabilities. Preparation of a "cash receipts and disbursement" statement when the accrual method of accounting is used normally requires only an analysis of the organization's cash receipts and disbursements records in order to properly reclassify the necessary cash transactions to conform to the types of accounting classifications represented by like items on the prescribed forms. More importantly, the necessary modifications to either a cash based or accrual based system that may be necessary to comply with the format of the revised Form LM-2 are no different than modifications that labor organizations currently perform to file the existing Form LM-2.

The Department believes it would be inappropriate to dictate the particular system by which a union keeps track of its finances. While some unions may find it easier to use the accrual method of accounting and convert information to complete Form LM-2 items reporting the inflow and outflow of funds, the

reporting goals can be achieved without directing all unions to use accrual accounting as the foundation of their financial management systems. Such a mandate is unnecessary and has been rejected in light of the comments that most unions maintain their books on the cash basis. Nor is the Department persuaded that accrual accounting should be mandated because it accords with GAAP. As discussed above, GAAP practices are neither binding nor necessarily appropriate for all aspects of financial reporting, particularly insofar as the operations of not-for-profit entities are concerned. The Department's concern is in ensuring the disclosure of information that satisfies the statutory requirements of the LMRDA in a manner best suited to meet the purposes of the statute, which can be accomplished without requiring a labor organization to use an accounting method that may not be best suited to its overall needs.

E. Additional Reforms Considered

Several commenters suggested that the Department should undertake other reforms, in addition to those proposed. While some comments expressed general support for wide dissemination of information filed with the Department of Labor on the labor organization annual financial reports, others thought that more specific dissemination requirements should be imposed. One commenter suggested that unions be required to post their most recent labor organization annual financial report on union bulletin boards in union halls and on employer bulletin boards reserved for union use in employer workplaces, while another suggested that labor organizations should make their annual financial reports available at their membership meetings. One comment suggested that information reported on the labor organization annual financial reports should be sent by unions to their members by mail or included in newsletters, as well as be made available on the Internet. Finally, one comment urged the Department to implement the provisions of section 105 of the LMRDA, requiring "[e]very labor organization [to] inform its members concerning the provisions of this Act." *See* 29 U.S.C. 415.

Section 205 of the LMRDA provides that the reports filed with the Department under Title II of the Act "shall be public information" and permits the Secretary of Labor to publish any information obtained. *See* 29 U.S.C. 435. Section 208 gives the Secretary of Labor authority to issue rules and regulations prescribing the