

Department has made numerous changes to its proposal that reduce the paperwork burden associated with the rule. Throughout the preamble, the Department has explained its position on adopting, or not, alternative proposals suggested by the commenters. The Department, in crafting the final rule, has sought to reduce the paperwork burden on unions, without compromising the Department's statutory obligation to ensure that union members are provided annual reports on their unions' finances. Both the NPRM and the final rule, in the Department's view, fully comply with its responsibilities under the LMRDA and the PRA. The final rule establishes the least burdensome approach practicable to provide union members and the Department with the information required by the LMRDA.

The comments submitted by the Mercatus Center were largely supportive of the Department's proposal, including the Department's effort to specifically estimate the burden hours associated with the unions' compliance with the proposal. The organization, however, suggested that the burden estimates could be improved if the Department capitalized its estimates of costs and provided additional documentation of the Department's own costs associated with the rule. Although capitalization would be a reasonable alternative to the direct cost approach used in this rulemaking, the Department believes that averaging the costs over the first three years, as the Department has done here, yields approximately the same result in estimating burden. Moreover, in this rulemaking, there was relatively little to be capitalized. Only the computer equipment and software and the one-time labor costs could be considered for capitalization. In its analysis, the Department has assumed that most of the computer equipment and software would be purchased for normal business operations. The minimal additional costs associated with the final rule have been allocated in the first year. This same procedure was used for the one-time labor costs. While the procedure used by DOL does not include any "opportunity costs" for capital (e.g., interest charges), DOL believes that its estimates, by using, in effect, a three year life cycle for all such costs has reasonably estimated the burden.

Mercatus estimated that the average burden associated with the Department's proposal, per union, at about 180 hours. It broke down its estimates as follows: install new software, 4 hours; design/adjust report forms and format structures, 72 hours;

modify existing accounting systems, 32 hours; incorporate electric signatures, 16 hours, systems testing, 24 hours, and employee training, 32 hours (8 hours x 4 employees). To compute the compensation costs associated with these tasks, it used \$27.80 as "fully loaded wage rate of union employees."

Mercatus also noted that the Department's analysis did not appropriately recognize that the Department's proposal would have an impact beyond the union's bookkeeping and accounting staff. Mercatus noted that the rule likely would affect the manner by which union staff document or record their activities, and that such costs, though minimal on a transaction basis, will have a measurable cost in the aggregate. The Department has considered such costs in its analysis of the final rule.

#### b. Methodology for the Burden Estimates

In reaching its estimates, the Department considered both the one-time and recurring costs associated with the final rule. Separate estimates are included for the initial year of implementation as well as the second and third years. For filers, the Department included separate estimates, based on the relative size of unions as measured by the amount of their annual receipts. The size of a union, as measured by the amount of its annual receipts, will affect the burden on reporting unions. For example, larger unions have more receipts and disbursements to itemize and more employees who have to estimate their time allocation.

The primary impact of this final rule will be on the largest labor organizations, defined as those that have \$250,000 or more in annual receipts. There are approximately 4,778 labor organizations of this size that are required to file Form LM-2 reports under the LMRDA (just 19.0 percent of all labor organizations covered by the LMRDA). The rule will also reduce the burden on 501 small unions that will be able to file Form LM-3 instead of Form LM-2 because of raising the LM-2 threshold to \$250,000. These estimates are based on 2001 and 2002 data from the OLMS e.LORS system. This system contains annual receipt data on all Form LM-2, LM-3, and LM-4 filers. Although these estimates may not be predictive of the exact number of small unions that will be impacted by this final rule in the future, the Department believes these estimates to be sound and are derived from the best available information.

The Department's estimates include costs for both labor and equipment that

will be incurred by filers. The labor costs reflect the Department's assumption that the unions will rely upon the services of some or all of the following positions (either internal or external staff, including union president, union secretary-treasurer, accountant, bookkeeper, computer programmer, lawyer, consultant) and the compensation costs for these positions, as measured by wage rates and employer costs published by the Bureau of Labor Statistics or derived from data reported in e.LORS. The Department also made assumptions relating to the time that particular tasks or activities would take. The activities generally involve only one of the three distinct "operational" phases of the rule: first, tasks associated with modifying bookkeeping and accounting practices, including the modification or purchase of software, to capture data needed to prepare the required reports; and second, tasks associated with recordkeeping; and third, tasks associated with sending or exporting the data in an electronic format that can be processed by the Department's import software. Since the analysis is designed to provide estimates for a "representative" union the Department's estimates largely reflect weighted averages. Where an estimate depends upon the number of unions subject to the LMRDA or included in one of the tier groups, the Department has relied upon data in the e.LORS system (for the years stated for each example in the text or tables).

The following methodology and assumptions underlie the Department's burden estimates:

- The size of a union, as measured by the amount of its annual receipts, will affect the burden on reporting unions. Larger unions have more receipts and disbursements to itemize and more employees who have to estimate their time allocation. Three tiers, based on annual receipts, have been constructed to differentiate the burdens among Form LM-2 filers.

- A union's use of computer technology, or not, to maintain its financial accounts and prepare annual financial reports under the current rule, will affect the burden on reporting unions. Although few LM-2 filers do not have computers, the larger the union the greater likelihood that it will be using a specialized accounting program instead of commercial-off-the-shelf accounting software.

- Relative burden associated with the final rule will correspond to the following predictable stages: review of the rule, instructions, and forms; adjustments to or acquisition of