within the meaning of section 6702(c) of the Code (regarding listing of frivolous positions).

(3) *Multiple requests for referral to Appeals.* The taxpayer has not previously requested consideration by Appeals, pursuant to section 7803(e)(5), of the same matter or issue in a taxable year or period.

(4) *Previous Appeals consideration.* Appeals has not previously considered the matter or issue in a taxable year or period that is the subject of the request and determined that the matter or issue could not be settled or a settlement offer was rejected, except as provided in § 301.7803–2(f)(2) with respect to a taxpayer participating in an early consideration program.

(5) *Notice of deficiency with more than one matter or issue.* If the notice of deficiency for which the taxpayer requests Appeals consideration includes more than one matter or issue in a taxable year or period, the taxpayer must request referral for Appeals consideration and submit all such matters or issues at the same time.

(b) *Applicability date.* This section is applicable to relevant requests for consideration by Appeals made on or after [insert date of Treasury decision finalizing these rules is published in the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2022–19662 Filed 9–9–22; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 405

RIN 1245–AA13

Revision of the Form LM–10 Employer Report

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Proposed form revision; request for comments.

SUMMARY: The Office of Labor-Management Standards of the Department of Labor (Department) is proposing revisions to the Form LM–10 Employer Report, required under section 203 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). Employers must file a Form LM–10 Employer Report with the Department to disclose certain payments, expenditures, agreements, and arrangements. The Department proposes to add to the Form LM–10 report a checkbox requiring certain reporting entities to indicate whether such entities were Federal contractors or subcontractors in their prior fiscal year, and two lines for entry of filers' Unique Entity Identifier and Federal contracting agency(ies), if applicable.

DATES: Comments must be received on or before October 13, 2022.

ADDRESSES: You may submit comments, identified by RIN 1245–AA13 only by the following method: internet—Federal eRulemaking Portal. Electronic comments may be submitted through *https://www.regulations.gov.* To locate the proposed form revision, use RIN 1245–AA13 or key words such as ''LM–10,'' ''Labor-Management Standards'' or ''Employer Reports'' to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Karen Torre, Chief of the Division of Interpretations and Regulations, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5609, Washington, DC 20210, (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD), *OLMS-Public@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

The legal authority for this proposed form revision is set forth in sections 203 and 208 of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. 433, 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 the Secretary may find necessary to prevent the circumvention or evasion of the reporting requirements. 29 U.S.C. 438. The Secretary has delegated this authority under the LMRDA to the Director of the Office of Labor-Management Standards (OLMS) and permits re-delegation of such authority. *See* Secretary's Order 03–2012—Delegation of Authorities and Assignment of Responsibilities to the Director, Office of Labor-Management Standards, 77 FR 69375 November 16, 2012.

II. Statutory and Regulatory Background

A. History of the LMRDA's Reporting Requirements

The Secretary of Labor administers and enforces the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), Public Law 86–257, 73 Stat. 519–546, codified at 29 U.S.C. 401–531. The LMRDA, in part, establishes labor-management transparency through reporting and disclosure requirements for labor organizations and their officials, employers and their labor relations consultants, and surety companies.

In enacting the LMRDA in 1959, a bipartisan Congress expressed the conclusion, as it relates to this proposed form revision, that in the labor and management fields there had been a number of examples of breach of trust, corruption, and disregard of employee rights. Congress determined that legislation was needed to protect the rights of employees and the public as they relate to employers, labor relations consultants, and others. *See* 29 U.S.C. 401(b).

The LMRDA is the direct outgrowth of an investigation conducted by the Senate Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee, which convened in 1958. Enacted in 1959 in response to the report of the McClellan Committee, the LMRDA addresses various ills identified by the Committee through a set of integrated provisions aimed, among other things, at shedding light on labor-management relations, governance, and management. These provisions include financial reporting and disclosure requirements for employers and labor relations consultants. *See* 29 U.S.C. 431–36, 441.

Among the abuses that prompted Congress to enact the LMRDA was questionable conduct by some employers and their labor relations consultants that interfered with the right of employees to organize labor unions and to bargain collectively under the National Labor Relations Act (NLRA), 29 U.S.C. 151 *et. seq. See, e.g.,* S. Rep. NO. 86–187 (''S. Rep. 187'') at 6, 10–12 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 (''LMRDA Leg. Hist.''), at 397, 402, 406–408. Congress was concerned that labor consultants, acting on behalf of management, worked directly or indirectly to discourage legitimate employee organizing drives and engage in ''union-busting'' activities. S. Rep. 187 at 10, LMRDA Leg. Hist. at 406.

Congress concluded that such consultant activities ''should be exposed to public view,'' id., S. Rep. at 11, because they are ''disruptive of harmonious labor relations and fall into a gray area,'' id. at 12, even if the consultant's conduct was not unlawful or did not otherwise constitute an unfair labor practice under the NLRA.

As a result, Congress imposed reporting requirements on employers and their consultants under LMRDA section 203. 29 U.S.C. 433. Under LMRDA section 208, the Secretary of Labor is authorized to issue, amend, and rescind rules and regulations prescribing the form and publication of required reports, as well as ''such other reasonable rules and regulations . . . as he may find necessary to prevent the circumvention or evasion of such reporting requirements.'' 29 U.S.C. 438. The Secretary is also authorized to bring civil actions to enforce the LMRDA's reporting requirements. 29 U.S.C. 440. Willful violations of the reporting requirements, knowing false statements made in a report, and knowing failures to disclose a material fact in a report are subject to criminal penalties. 29 U.S.C. 439.

B. Statutory and Regulatory Requirements for Employer Reporting

Section 203(a) of the LMRDA, 29 U.S.C. 433(a), requires employers to file a report, subject to certain exemptions, covering the following payments and arrangements made in a fiscal year: certain payments to, or other financial arrangements with, a labor organization or its officers, agents, or employees; payments to employees for the purpose of causing them to persuade other employees with respect to their bargaining and representation rights; payments for the purpose of interfering with employees in the exercise of their bargaining and representation rights or for obtaining information on employee or labor organization activities in connection with labor disputes involving their company; and arrangements (including related payments) with a labor relations consultant for the purpose of persuading employees with respect to their bargaining and representation rights, or for obtaining information concerning employee activities in connection with a labor dispute involving their company. 29 U.S.C. 433.

If an employer has engaged in reportable activity, the employer must file a report, signed by its president and treasurer showing in detail the date and amount of each payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made. *See* 29 U.S.C. 433. The Department of Labor's implementing regulations require employers to file a Form LM–10 Employer Report (''Form LM–10'') that contains this information. *See* 29 CFR part 405.

C. Overview and History of the Form LM–10

The Form LM–10 Employer Report must be filed by any employer who has engaged in certain financial transactions or arrangements, of the type described in LMRDA section 203(a), with any labor organization, union official, employee, or labor relations consultant, or who has made expenditures for certain objects relating to activities of employees or a union. Employers are required to file only one Form LM–10 each fiscal year that covers all instances of reportable activity even if activity occurs at multiple locations.

In its current iteration, the Form LM–10 is divided into two parts: Part A and Part B. Part A consists of pages 1 and 2 of the Form LM–10. In Part A, Items 1–7 request basic identifying information about the employer, namely file number, fiscal year, address of the employer, address of the president or corresponding officer, any other address where records needed to verify the report can be made available for examination, a checklist of each location where records needed to verify the report can be made available for examination, and what type of legal entity is filing the report (''Corporation, Partnership, Individual, Other (specify)''). Item 13 and Item 14 are also featured on page 1 of Part A and are the signature boxes for the president and treasurer of the employer, respectively. Page 2 consists entirely of Part A, Item 8, which contains six ''Yes or No'' questions pertaining to reportable employer activities. If the employer-filer can answer ''No'' to every question in Item 8, then no LM–10 Report needs to be filed. With each question answered ''Yes,'' the filer must complete a separate Part B for every person or organization with whom a reportable agreement was made or to whom a reportable payment was made as to that ''Yes'' answer. The form also asks for the total number of Part Bs filed for each question in Item 8.

Part B comprises page 3, and requires the name of the reporting employer and the file number again to ensure it is matched with Part A. Similarly, the next field is a checkbox indicating the questions in Item 8 (labeled a through f) to which this Part B applies. Items 9–12 require various details regarding the agreement or payments the employer-filer made.

Item 9 consists of four parts, 9.a.–9.d. Item 9.a. asks whether this Part B concerns itself with an ''Agreement,'' a ''Payment,'' or ''Both.'' Item 9.b. requires the name and address of the person with whom or through whom a separate agreement was made or to whom payments were made. Item 9.c. requires the position of any persons mentioned in 9.b. Item 9.d. requires the name and address of the labor organization or firm any person mentioned in 9.b. is a part of.

Item 10 consists of two parts, 10.a. and 10.b. Item 10.a. requires the date of the promise, agreement, or arrangement pursuant to which payments or expenditures were agreed to or made. Item 10.b. consists of three checkboxes and filers are required to mark whether the promise, agreement, or arrangement was ''Oral,'' ''Written,'' or ''Both.'' If the agreement is written and entered into during the fiscal year, it must be attached to the report.

Item 11 consists of three parts, 11.a.–11.c. Item 11.a. requires the date of each payment or expenditure referred to in Item 9. Item 11.b. requires the amount of each of those payments. Item 11.c. requires the filer to indicate the kind of each payment or expenditure, specifying whether it was a payment or a loan and whether it was made in cash or property.

Item 12 requires a narrative response from the filers with a full explanation identifying the purpose and circumstances of the payments, promises, agreements, or arrangements included in the report. The explanation must contain a detailed account of services rendered or promised in exchange for promises or payments the filer has either already made or agreed to make. The explanation must also fully outline the conditions and terms of any oral agreement or understanding pursuant to which they were made. Lastly, the filer must indicate whether the payments or promises reported specifically benefited the person or persons listed in Item 9.b., or the firm, group, or labor organization named in Item 9.d. If the employer-filer made payments, promises, or agreements through a person or persons not shown above, they must provide the full name and address of such person or persons. The explanation must clearly indicate why the filer must report the payment, promise, or agreement. Any incomplete

responses or unclear explanations render a report deficient.

III. Proposed Revisions to the Form LM–10

In this document, the Department proposes a revision to the Form LM–10 Employer Report to supplement the identifying information that OLMS already collects from employers required to file, such as the employer's name, address, and status as a corporation, partnership, or individual. The proposed revision would not change which employers are required to file Form LM–10; it would require filers to provide an additional item of identifying information—whether the employer is a Federal contractor or subcontractor—and, if so, a short entry indicating the Federal contracting agency(ies) and the contractor's Unique Entity Identifier (UEI), if the contractor has one. If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency. All Federal prime contractors, and, in some cases, subcontractors performing on Federal prime contracts, must have a UEI in order to do business with the Federal Government or to meet reporting requirements per the Federal Acquisition Regulation (FAR). For example, FAR regulations at 48 CFR 52.204–6 requires prime contractors to obtain a UEI in order to register to obtain contracts with the Federal Government (as of April 2022, the Unique Entity Identifier replaced the Data Universal Numbering System (DUNS) number).[1]

In order to collect this information quickly and efficiently, the Department proposes adding one ''Yes,'' ''No,'' or ''N/A'' checkbox at the end of the form regarding Federal contractor status. Not all filers will be required to complete Item 12.b. Filers who answer ''Yes'' to Item 8.a., but ''No'' to Items 8.b.–8.f., would not be required to complete Item 12.b., and the electronic form would automatically check the ''N/A'' box and grey out the remaining portions of Item 12.b. for those filers so that no entry can be made.[2] Additionally, the Department proposes to add two lines where filers who are Federal contractors would enter their Unique Entity Identifier and the Federal contracting agency(ies) involved.

The instructions would also make explicit that filers would enter information that the Form LM–10 already requires—the unit or division of employees that is the subject of the report. *See* Item 12 (''Provide a full explanation identifying the purpose and circumstances of the payments, promises, agreements, or arrangements included in the report. Your explanation must contain a detailed account of services rendered or promised in exchange for promises or payments you have already made or agreed to make.''). This necessarily includes identifying certain payments, expenditures, agreements, and arrangements regarding employees. Filers must therefore currently identify the employees that are the subject of the report in Item 12. The Department proposes to renumber Item 12 as Item 12.a., and to add Item 12.b. thereafter with the ''Yes,'' ''No,'' or ''N/A'' checkbox and the two lines.

The new Item 12.a. would consist of a narrative section that mirrors the existing Item 12. In both the existing Item 12 and the revised Item 12.a., filers must explain fully the circumstances of all payments, including the terms of any oral agreement or understanding pursuant to which they were made. As the instructions indicate for Item 12 and would indicate for Item 12.a., filers must provide ''a full explanation identifying the purpose and circumstances of the payments, promises, agreements, or arrangements included in the report.'' The instructions would also make explicit that a ''full explanation'' requires that filers must identify the subject group of employees (*e.g.,* the particular unit or division in which those employees work).

Filers who checked ''Yes'' for any item in Items 8.b.–8.f. would be required to complete Item 12.b. regarding their status as a Federal contractor or subcontractor. Regarding such status, the Department proposes to adopt the following definitions from the regulations implementing Executive Order 13496, Notification of Employee Rights Under Federal Labor Laws: (a) ''contract,'' (b) ''contracting agency,'' (c) ''contractor,'' (d) ''government contract,'' (e) ''modification of a contract,'' (f) ''prime contractor,'' (g) ''subcontract,'' and (h) ''subcontractor.'' 29 CFR 471.1. Therefore, filers would be required to answer Item 12.b. in accordance with those eight definitions.[3] *Id.*

The Department expects that Federal contractors and subcontractors are already familiar with these definitions because they are, with minimal changes, the same definitions that already govern Federal contractors and subcontractors under Executive Order 11246, Equal Employment Opportunity, and its implementing regulations. *See* 41 CFR 60–1.3 (definitions regarding obligations of Federal contractors and subcontractors). Federal contractors and subcontractors are also currently required to comply with Executive Order 13496. Executive Order 13496 applies to Federal contractors and subcontractors subject to the National Labor Relations Act (NLRA). The Department expects that most filers are subject to the NLRA, as the National Labor Relations Board (NLRB) has conducted over 1,000 representation elections per year over the past decade, while the National Mediation Board (NMB) has handled significantly fewer, with less than 50 representation election cases per year over the same period.[4] Pursuant to Executive Order 13496, employers covered by the NLRA are already required to know whether they are Federal contractors or subcontractors under the definitions proposed here and, if they are, to post the notice required by Executive Order 13496 ''in conspicuous places'' including ''areas in which the contractor posts notices to employees about the employees' terms and conditions of employment'' and ''where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract.'' 29 CFR 471.2(d).

The Department notes that employers covered by the Railway Labor Act (RLA) are not covered by Executive Order 13496, however, both NLRA and RLA employers are subject to the reporting requirements of the LMRDA. Thus, RLA employers may need more time to identify which employees who are the

[1] ''As of April 4, 2022, the federal government stopped using the DUNS Number to uniquely identify entities. Now, entities doing business with the federal government use the Unique Entity ID created in *SAM.gov*. They no longer go to a third-party website to obtain their identifier. This transition allows the government to streamline the entity identification and validation process, making it easier and less burdensome for entities to do business with the federal government.'' *Unique Entity Identifier Update,* U.S. General Services Administration, available at *https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/iae-systems-information-kit/unique-entity-identifier-update* (last visited May 4, 2022).

[2] *See https://www.dol.gov/agencies/olms/reports/electronic-filing.*

[3] The Form LM–10 instructions would list the definitions adopted from the implementing regulations of Executive Order 13496 (Notification of Employee Rights Under Federal Labor Laws) at 29 CFR 471.1 for *Contract, Contracting agency, Contractor, Government contract, Modification of a contract, Prime Contractor, Subcontract, and Subcontractor. See 29 CFR 471.1.*

[4] See: *https://www.nlrb.gov/reports/nlrb-case-activity-reports/representation-cases/election/election-statistics* and *https://nmb.gov/NMB_Application/wp-content/uploads/2021/12/FY-2021-NMB-Performance-and-Accountability-Report-PAR.pdf.*

subject of the LM–10 report have duties relating to the performance of the Federal contract or subcontract. As explained above, the Department expects that only a small number of filers will be Federal contractors or subcontractors subject to the RLA. Therefore, the Department expects that all filers who are Federal contractors and subcontractors will already know their status as such under Executive Order 11246 and its implementing regulations, *see* 41 CFR 60–1.3, and that most filers will be able to easily identify the information required for Item 12.b.

For those required to complete Item 12.b., it would consist of two parts. First, filers would be required to complete the ''Yes,'' ''No,'' or ''N/A'' checkbox in response to the following question: ''If your Part B applies to Items 8.b.–8.f., did the expenditures, payments, arrangements or agreements concern employees performing work pursuant to a Federal contract or subcontract?'' Second, if the filer answers ''Yes,'' they would be required to enter, on the two lines provided, their Unique Entity Identifier and the Federal contracting agency(ies) involved. If a subcontractor does not have a Unique Entity Identifier, then the subcontractor should so state in Item 12.b If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency. When filers answer ''Yes,'' in the checkbox portion of Item 12.b., failure to complete the entry on the two lines provided, or an unclear explanation in that entry, would render the report deficient.

IV. Purpose and Justification for Proposed Changes

Both the public and the employees whose rights are at issue have an interest in understanding the full scope of activities undertaken by employers to surveil employees, to commit unfair labor practices, or to persuade employees not to exercise their rights to organize or bargain collectively. *See* S. Rep. 187 at 10–11, LMRDA Leg. Hist. at 406–07.

The Form LM–10 reporting requirement is based on Congress's dissatisfaction with the ''large sums of money [that] are spent in organized campaigns on behalf of some employers'' on persuader activities that ''may or may not be technically permissible'' and Congress's determination that the appropriate response to such persuader campaigns is to disclose them in the public interest and for the preservation of ''the rights of employees.'' *See* S. Rep. 187 at 10–12, LMRDA Leg. Hist. at 406–07.

As set forth in Section I, Statutory Authority, above, LMRDA Section 208 authorizes the Secretary to ''issue . . . regulations prescribing the form and publication of reports required to be filed under this title.'' 29 U.S.C. 438. The statutory provision authorizing the issuance of the Form LM–10 describes the data and information to be reported in the Secretary's form. 29 U.S.C. 433.

The statutory intent to require employers to provide a ''full explanation'' of payments was reflected in the Form LM–10 the Secretary established. Employers are told: ''Explain fully the circumstances of all payments, including the terms of any oral agreement or understanding pursuant to which they were made.''

The proposal here clarifies that one of the circumstances that must be explained is whether the payments concerned employees performing work pursuant to a Federal contract or subcontract and, if so, the filer would provide its Unique Entity Identifier, if it has one, and the relevant Federal contracting agency(ies). If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency. Disclosing contractor status is consistent with Congress's intent in enacting the LMRDA: ''[I]t continues to be the responsibility of the Federal Government to protect employees' rights to organize, choose their own representatives, bargain collectively, and otherwise engage in concerted activities for their mutual aid or protection.'' 29 U.S.C. 401(a).

The Department proposes this change in response to the increased prevalence of, and public interest in, persuader activities in recent years. The media, academics, and non-governmental organizations (NGOs) have taken note of persuader activity in a number of industries, including multiple high-profile instances of companies investing substantial resources in persuader activity. Over the decades, employer efforts to defeat unions have become more prevalent, with more employers turning to union avoidance consultants.[5] Further, members of Congress have noted recently that Federal contractors have engaged in such agreements and activities.[6] As the Agency responsible for promoting transparency around management attempts to influence employees' collective bargaining rights, OLMS closely monitors developments in the ways management interacts with union organizing efforts. The noted prevalence of persuader activity accordingly increases the interest of Government in obtaining information on persuader efforts which Congress found to be ''disruptive of harmonious labor relations'' even if lawful. S. Rep. 187 at 12, LMRDA Leg. Hist. at 406. This Government interest is especially acute when the Federal Government itself is paying for goods and services from those who would disrupt the harmonious labor relations that the Federal government is bound to protect. *See* 29 U.S.C. 401(a).

In other words, greater transparency is even more important when persuader activities are undertaken by employers that receive Federal funds through contracting relationships. *See* Executive Order (E.O.) 13494 (reiterating ''the policy of the United States to remain impartial concerning any labor-management dispute involving Government contractors.''). Such Federal contractors are not permitted to receive reimbursement for the costs of engaging in those activities under the contract. E.O. 13494, 74 FR 6101; 48 CFR 31.205–21.[7] But these Federal

[5] Celine McNicholas, et al., *Unlawful: U.S. Employers Charged with Violating Federal Labor Law in 41.5% of all Union Elections,* Economic Policy Institute, (Dec. 11, 2019) available at *https://www.epi.org/publication/unlawful-employer-opposition-to-union-election-campaigns/* (''The data show that U.S. employers are willing to use a wide range of legal and illegal tactics to frustrate the rights of workers to form unions and collectively bargain. . . . [E]mployers spend roughly $340 million annually on 'union avoidance' consultants to help stave off union elections. . . . Over the past few decades, employers' attempts to thwart organizing have become more prevalent, with more employers turning to the scorched-earth tactics of 'union avoidance' consultants.''); Heidi Shierholz et al., *Latest Data Release on Unionization,* Economic Policy Institute, (Jan. 20, 2022) available at *https://www.epi.org/publication/latest-data-release-on-unionization-is-a-wake-up-call-to-lawmakers/* (describing how ''it is now standard, when workers seek to organize, for employers to hire union avoidance consultants''); John Logan, *The New Union Avoidance Internationalism,* 13 Work Org., Lab. & Globalisation 2 (2019) available at *https://www.scienceopen.com/hosted-document?doi=10.13169/workorgalaboglob.13.2.0057.*

[6] *Should Taxpayer Dollars Go to Companies that Violate Labor Laws?,* Comm. on the Budget, 117th Congress (May 5, 2022), available at *https://www.budget.senate.gov/hearings/should-taxpayer-dollars-go-to-companies-that-violate-labor-laws* (discussing the propriety of government contracting with Federal contractors that engage in legal and illegal tactics, including ''union busters,'' to dissuade workers from exercising their organizing and collective bargaining rights).

[7] Section 2 of E.O. 13494 provides that the policy of the Executive branch in procuring goods and services is to to ensure the economical and efficient administration of Government contracts, contracting departments and agencies, when they enter into, receive proposals for, or make disbursements pursuant to a contract as to which certain costs are treated as unallowable, shall treat as unallowable the costs of any activities undertaken to persuade employees—whether

Continued

contractors still engage in those activities; they simply do not seek or obtain reimbursement from the government for the costs of the activities.

The proposed revision to Form LM–10 would increase transparency regarding which Federal contractors and subcontractors are engaging in persuader activities. Confirming a filer's status as a Federal contractor, as well as its Unique Entity Identifier, as part of a full explanation of persuader activities will provide a method for the public, procurement agencies and employees to quickly identify which persuaders are Federal contractors.

This increased transparency benefits the employees subject to the employer's persuader activity by giving them relevant information about the source of communications that seek to influence their rights—as intended by Congress in enacting the LMRDA. Generally, the transparency created by the persuader reporting requirements is designed to better inform workers in making determinations regarding the exercise of their rights to organize and bargain collectively. For example, with the knowledge that the source of the information received is an anti-union campaign managed by an outsider, workers will be better able to assess the merits of the arguments directed at them and make an informed choice about how to exercise their rights. Here, employees have a particular interest in knowing whether their employers are Federal contractors because, as taxpayers themselves, those employees should know whether they are indirectly financing persuasion campaigns regarding their own rights to organize and bargain collectively. Persuader campaigns are not themselves reimbursable under the Federal contract or subcontract. Nevertheless Federal contractors receive Federal dollars—often in significant amounts—for goods and services. Such funds support directly or indirectly contractors' businesses and additional activities, which may include the decision to hire the outsider to persuade the employees.

Additionally, by learning of the previously unknown Federal contractor status their employer enjoys, those employees would have the information that would allow them to meaningfully exercise their right to choose whether to contact their representatives in Congress to inquire about the amount of Federal appropriations underlying the contracts with their employers, or the contractors' activities undertaken directly or indirectly pursuant to such contracts, or allow the employees to work more effectively with advocacy groups or the media to disseminate their views as employees to a wider audience. This is consistent with Congress' expectations when enacting the LMRDA—that in the public interest, and consistent with First Amendment rights to speak out on these issues, citizens would have the benefit of public reports regarding employer conduct that falls in a ''gray area.'' S. Rep. 187 at 11, LMRDA Leg. Hist. at 407 (persuader activities ''should be exposed to public view, for if the public has an interest in preserving the rights of employees then it has a concomitant obligation to insure the free exercise'' of those rights).

The requirement that an employer provide its Unique Entity Identifier, if it has one, will prevent confusion. Two or more employers may have a similar name. Individual employers often use multiple names, including trade, business, assumed or fictitious names, such as a DBA (''doing business as'') designation. All Federal contractors have their own individual identifier to seek and secure Federal contracts.[8] By requiring employers to provide this identifier, members of the public and employees will be able to confirm the true identity of the employer. As stated, if a subcontractor does not have a Unique Entity Identifier, then it should so state in Item 12.b. If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency.

Given the potential for disruption, the public, like employees, has an interest in knowing whether the government is indirectly funding persuader activity by engaging in business with these companies, even if these activities are not unlawful. The required disclosure of such information is consistent with and fully authorized by sections 203 and 208 of the LMRDA and their broad grant of authority to prescribe the form of the required reports. 29 U.S.C. 433, 438.

Knowledge of such information would also enable members of the public to understand which Federal agencies are contracting with employers who are engaging in persuader activity. The public and employees would benefit from knowing whether a specific Federal agency is choosing to do business with an employer that is attempting to influence the exercise of workers' rights to choose whether to organize and bargain collectively. This public exposure would allow for an open public discussion and debate about the prevalence of persuader activity and the extent to which specific Federal agencies might be indirectly supporting such activities by doing business with employers that engage in persuader activities.

V. Regulatory Procedures

A. Executive Order 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Review)

Under Executive Order (E.O.) 12866, the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. 58 FR 51735. Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* OMB has determined that this proposed form revision is a significant regulatory action under section 3(f)(4) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory

employees of the recipient of the Federal disbursements or of any other entity—to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing. And that such unallowable costs shall be excluded from any billing, claim, proposal, or disbursement applicable to any such Federal Government contract. 74 FR 6101. The E.O. further directs the Federal Acquisition Regulatory Council (FAR Council) to adopt rules to implement the order, and each contracting department or agency to cooperate with the FAR Council and provide whatever information or help it may need to perform its functions under the E.O. *Id.* at 6101–02. Subsequently, the General Services Administration, Department of Defense, and the National Aeronautics and Space Administration issued a final rule amending the FAR to implement E.O. 13494. 76 FR 68040 (Nov. 2, 2011). The new provision, at 48 CFR 31.205–21, distinguishes the costs related to ''persuader activities'' made unallowable under the E.O. from the costs ''incurred in maintaining satisfactory relations between the contractor and its employees'' that remain allowable.

[8] See: *https://www.acquisition.gov/far/part-4#FAR_Subpart_4_11.*

objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

A. Costs of the Updated Form LM–10 for Affected Employers

The Form LM–10 is filed by private business entities that engage in certain financial transactions or arrangements, and these employer entities only have reporting obligations during fiscal years in which the entity makes such transactions or enters in such arrangements. As such, the Form LM–10 is not an annually mandatory form, so not all employers must file the Form LM–10 in a given year. Further, as has been discussed, the modification to the Form LM–10 discussed in this NPRM does not add a new form or remove any forms, nor does it expand or contract the circumstances under which it is necessary for an employer to file an LM–10. This modification only slightly changes the structure of Item 12 by adding two items for certain filers. However, the Department will account for the potentially minimal costs of the slight changes to the structure of Item 12.

Based upon estimates for the existing Form LM–10 and other LM forms, the Department estimates that the new Item 12.b. will take a minimum of approximately 5 minutes to complete, thus adding approximately 5 minutes of reporting burden to the existing Form LM–10 (which the current existing instructions estimate to take approximately 35 minutes to complete, including the current Item 12). This 5 minutes is an average that takes into account that not all filers will be Federal contractors or subcontractors and not all Federal contractors or subcontractors that file will be required to complete the two lines in Item 12.b. While the Department does not expect that employers required to complete Item 12.b. will have difficulty in determining which employees work on which Federal contract, the Department also acknowledges uncertainty in this area. Thus, the Department also seeks comment on whether it should raise the burden increase estimate from 5 minutes to 15 minutes or some other number.

The Department does not estimate any additional recordkeeping burden for the following reasons. Some filers will spend zero minutes on Item 12.b. because, after only checking ''Yes'' to Item 8.a., the form will automatically check ''N/A'' and grey out the rest of Item 12.b. as no answer will be required. Many filers will need less than the 5–15 minutes to address Item 12.b. because they will only need to check ''No,'' that they are not a Federal contractor or subcontractor.

The large majority of Federal contractors and subcontractors will need no more than 5–15 minutes to complete Item 12.b. Checking ''Yes'' regarding their status as a Federal contractor or subcontractor will only take a few minutes because all Federal contractors and subcontractors are already required to be familiar with the definitions proposed here regarding that status, which are based on Executive Orders 11246 and 13496 and their implementing regulations. *See* 41 CFR 60–1.3 (definitions regarding obligations of Federal contractors and subcontractors); 29 CFR part 471 and note 3, *supra* (including eight definitions OLMS proposes to adopt).

Similarly, most Federal contractors and subcontractors should be able to easily enter their Unique Entity Identifier. *See* note 1, *supra.* If a filer does not have a Unique Entity Identifier, the filer should so state in Item 12.b. Along with their Unique Entity Identifier, Federal contractors and subcontractors would enter the name of the Federal contracting agency(ies) on the two lines in Item 12.b. If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency.

While some RLA-covered employers may need more than 5–15 minutes because they may not be immediately familiar with which employees who are the subject of the Form LM–10 report have duties relating to the performance of the Federal contract or subcontract (and thus which agencies to enter into Item 12.b.), the Department does not expect RLA-covered filers to be as numerous as NLRA-covered filers, although the Department is aware that there are RLA-covered Federal contractors and subcontractors. The Department presumes that the large majority of employers that constitute Federal contractors or subcontractors would need no more than 5–15 minutes for Item 12.b., because they will be covered by the NLRA and therefore they will already be required to retain information relevant to Item 12.b., including which units of employees perform work under such contracts, pursuant to Executive Order 13496 (Notification of Employee Rights Under Federal Labor Law).

While a few filers may have a slightly higher time burden, and some will have a time burden that is lower than 5–15 minutes, the Department has accounted for this in determining the average time burden of 5–15 minutes. The Department asks for comment on this point.

The Department estimates that the 5–15-minute estimate, just as the existing 35-minute total estimate, represents an average of affected filers. Indeed, not all Form LM–10 filers will need to complete the new Item 12.b.[9] More specifically, filers need not fill out Item 12.b if they have only checked ''Yes'' to Item 8.a. Rather, only if a filer answers ''Yes'' to any of Items 8.b.–8.f. would they need to answer Item 12.b. Additionally, filers who check ''No'' on item 12.b. will not have to enter any further information in Item 12.b., further decreasing the average time burden. Further, because the Form LM–10 represents a situationally occurring reporting requirement rather than an annual reporting requirement, it would be imprudent to try to estimate differing burden levels associated with first-year exposure and subsequent exposures to the new questions.

To determine the cost increase per Form LM–10 filer associated with the new Item 12, the Department utilized an approach consistent with the information collection request (ICR) filed with the Office of Management and Budget pursuant to the Paperwork Reduction Act (PRA). In the existing ICR, the Department assumed that employers will hire a lawyer to complete the form, and it derived the average hourly salary for lawyers ($71.17) from the Occupational Employment and Wages Survey, May 2021 survey (released in March 2022), Table 1, from the Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES) Program. See: *https://www.bls.gov/oes/current/oes231011.htm.* Further, the Department determined the total compensation (salary plus fringe benefits) by increasing the hourly wage rate by approximately 45.0%, which is the percentage total of the average hourly benefits compensation figure ($12.52 in December 2021) over the average hourly wage figure ($27.83 in December 2021). See Employer Costs for Employee

[9] In fiscal year (FY) 21, based upon an electronic review of reports submitted, OLMS received approximately 200 Form LM–10 reports covering persuader-related transactions and agreements, among the 403 total Form LM–10 reports received during that year. See: *https://www.dol.gov/agencies/olms/data.*

Compensation Summary, September 2021 (released in December 2021), from the BLS at *http://www.bls.gov/news.release/ecec.nr0.htm.* Thus, the Department increased the totally hourly compensation for lawyers to $103.20 ($71.17 × 1.450).

As such, the average individual employer filing the LM–10 as modified under this proposal can expect to incur an increased cost per year of, approximately, between $8.60 ($103.20 × 5/60 = $8.60) and $25.80 ($103.20 × 15/60 + $25.80).

Although not all Form LM–10 filers will need to complete Item 12.b., the Department nevertheless estimates that each of the approximately 647 annual Form LM–10 filers (based upon a 5-year average of submitted reports) will incur the additional 5–15 minutes of annual reporting burden. See: *https://www.dol.gov/agencies/olms/data.* As such, the overall cost of this proposed modification for all entities filing a Form LM–10 per year is between $5,564.20 ($8.60 × 647 reporting entities = $5,564.20) and $16,692.60 ($25.80 × 647 reporting entities = $16,692.60). The Department asks comment on this approach and where within this range the estimate should fall.

B. Summary of Costs

In sum, this proposed amendment to the Form LM–10 has an approximated 10-year cost of between $55,642.00 and $166,926.00 spread across 647 separate yearly Form LM–10 filers. OLMS does not believe that the cost of this proposed amendment to the Form LM–10 will cause a significant burden on reporting entities.

C. Benefits

The proposed amendment to the Form LM–10 will benefit employers in the filing of complete and accurate forms. By updating the form and instructions to clearly and accurately describe the information employers must disclose, the proposed form revision will facilitate filers' understanding and compliance, thereby reducing incidents of noncompliance and associated costs incurred when noncompliant.

The proposed amendment will also benefit filers' employees and the public. As has been discussed in Section IV above, the Department believes that its proposed amendment to the Form LM–10 will also bridge important information gaps that have appeared in Form LM–10 reporting. Primarily, the reporting requirements associated with the Form LM–10 already call for the reporting of an employer's contact and identifying information, as well as a ''a detailed account of services rendered or promised . . .,'' which the Department interprets as including the particular division or unit of employees subject to the persuader-related activity in question. The Department is acting because a purpose of the LMRDA, which the Department administers, is to satisfy ''in the public interest, . . . the responsibility of the Federal Government to protect employees' rights to organize, choose their own representatives, bargain collectively, and otherwise engage in concerted activities for their mutual aid or protection.'' 29 U.S.C. 401(a). Congress found that to accomplish this objective, ''it is essential that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations, particularly as they affect labor-management relations.'' *Id.* Congress simultaneously found that public reporting by employers was one way to accomplish this, given that the substance of employer persuader activities was often ''unethical.'' S. Rep. 187 at 11, LMRDA Leg. Hist. at 407.

The proposed revision to Form LM–10 would increase transparency regarding which Federal contractors and subcontractors are engaging in persuader activities. Confirming a filer's status as a Federal contractor, as well as its Unique Entity Identifier, as part of a full explanation of persuader activities will provide a method for the public, enforcement agencies and employees to quickly identify which Federal contractors are reporting persuader activities in a given year.

This increased transparency benefits the employees subject to the employer's persuader activity by giving them relevant information about the source of communications that seek to influence their rights—as intended by Congress in enacting the LMRDA. For example, employees have a particular interest in knowing whether their employers are Federal contractors because, as taxpayers themselves, those employees may not wish to be indirectly financing persuasion campaigns regarding their own rights to organize and bargain collectively. Although the persuader campaigns are not themselves reimbursable under the Federal contract or subcontract, the government is paying Federal dollars for goods and services, sometimes in large amounts, which supports such contractors' businesses. Additionally, by learning of the previously unknown Federal contractor status their employer enjoys, those employees would have the information that would allow them to meaningfully exercise their right to choose whether to contact their representatives in Congress about Federal appropriations underlying the contracts with their employers or work with advocacy groups or the media to disseminate their views as employees to a wider audience. This is consistent with Congress' expectations when enacting the LMRDA—that in the public interest, and consistent with First Amendment rights to speak out on these issues, citizens would have the benefit of public reports regarding employer conduct that falls in a ''gray area.'' S. Rep. NO. 86–187 at 11 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, at 407 (persuader activities ''should be exposed to public view, for if the public has an interest in preserving the rights of employees then it has a concommitant obligation to insure the free exercise'' of those rights).

The requirement that an employer provide its Unique Entity Identifier, if it has one, will prevent confusion. Two or more employers may have a similar name. Individual employers often use multiple names, including trade, business, assumed or fictitious names, such as a DBA (''doing business as'') designation. All Federal contractors have their own individual identifiers to seek and secure Federal contracts.[10] By requiring employers to provide this identifier, members of the public and employees will be able to confirm the true identity of the employer.

Increased transparency also allows procurement agencies to ensure that the employer is not charging the Government for, and receiving reimbursement for, these costs. This, in turn, informs the public of how Federal monies are spent and the safeguards in place to prevent taxpayer dollars from funding disruptions to harmonious labor relations, even if these activities are not unlawful. *See* S. Rep. 187 at 10–12, LMRDA Leg. Hist. at 406. Given the potential for disruption, the public, like employees, has an interest in knowing whether the government is indirectly funding persuader activity by engaging in business with these companies. The required disclosure of such information is consistent with and fully authorized by sections 203 and 208 of the LMRDA and their broad grant of authority to prescribe the form of the required reports. 29 U.S.C. 433, 438.

Knowledge of such information would also enable members of the public to understand which Federal agencies are contracting with employers

[10] See: *https://www.acquisition.gov/far/part-4#FAR_Subpart_4_11.*

who are engaging in persuader activity. The public and employees would benefit from knowing whether a specific Federal agency is choosing to do business with an employer that is attempting to influence the exercise of workers' rights to choose whether to organize and bargain collectively. This public exposure would allow for an open public discussion and debate about the prevalence of persuader activity and the extent to which specific Federal agencies might be indirectly supporting such activities by doing business with employers that engage in persuader activities.

Both the public and employees would benefit from knowing whether the government is choosing to do business with an employer that is frustrating, or influencing the exercise of, workers' rights to choose whether to organize and bargain collectively. It would help the public and employees to have access to full and transparent reports of such persuader expenses and activities.

D. Alternatives

There are three significant possible alternatives to the one checkbox and two lines that the Department is considering in drafting this proposed Form LM–10 modification: (1) no modification of Item 12, (2) only utilizing the checkbox modification, and (3) only utilizing the two lines. The first alternative, no modification to Item 12 at all, leaves the same reporting gaps described above and the Department believes that the public and employees are clearly served by the increased reporting. Moreover, the cost of the proposed modification is so small, especially as compared to the benefit of bridging the previously discussed information gaps, that the Department did not propose leaving the Form LM–10 as it was before the modification. The second alternative, only creating a new checkbox, would provide the public with some knowledge of which Federal contractors hired a persuader but without an easy method to identify the contractor through its Unique Entity Identifier and without a full explanation of the Federal contracting agency(ies) involved. Finally, the third alternative of adding the two lines—for entry of the Unique Entity Identifier and the Federal contracting agency(ies) involved—but not adding the checkbox would remove the clear benefit to the public and employees of ease of access involving the checkbox—as was discussed in Subsection C above, part of the benefit of the proposed modification is the ease of access to information about contractor status for the public. Without the proposed checkbox, there would be no easy way for the viewing public to search and identify relevant Form LM–10 filings. As such, the Department proposes that the full modification of Item 12 as outlined in this proposed form revision is necessary to fulfil the purpose of the Form LM–10.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.,* requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities. The Department has determined that this proposed form revision will not have a significant economic impact on a substantial number of small entities. The Department has estimated an increased cost per reporting entity of only $8.60 per employer. A five-year average of the number of employer filers for the LM–10 is 647. The Small Business Administration (SBA) standard average yearly receipts for a small business total $7.5 million.[11] Assuming all 647 entities are small entities of less than $7.5 million in revenue, the total cost of $8.60 for all 647 entities would be $5,564.20 for the resulting changes from the proposed modification of Item 12 of the Form LM–10. Further using that figure of $7.5 million, the estimated increased cost per reporting entity—a minimum of $8.60 and a maximum of $25.80, as mentioned above—represents only between 1.15 ten thousandth and 3.4 ten thousandth of a percent of the $7.5 million in yearly receipts for the average small business. Even if each were a particularly small entity of only $100,000 in revenue size and each experienced the maximum cost of $25.80, that would constitute .0258% of entity revenue, which falls far below 3%, the significant impact threshold used in other OLMS rulemakings.[12] Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Secretary has certified this conclusion to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

This statement is prepared in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501.

[11] *https://www.sba.gov/offices/headquarters/ogc_and_bd/resources/4562.*

[12] Form T–1 Rule, 85 FR 13438 (March 6, 2020). ''For this analysis, based on previous standards utilized in other regulatory analyses, the threshold for significance is 3% of annual receipts.'' *Id.*

Summary and Overview of the Proposed Form Revision

The following is a summary of the need for and objectives of the proposed form revision. A more complete discussion of various aspects of the proposal is found in the preamble.

The Department proposes to add to the Form LM–10 report a checkbox requiring certain reporting entities to indicate whether they are Federal contractors or subcontractors, as well as related information.

The LMRDA was enacted to protect the rights and interests of employees, labor organizations and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and labor organization officers, employees, and representatives. Specifically, employers are required to file to disclose the following in Form LM–10 filings, pursuant to LMRDA section 203 and subject to certain exemptions: payments and loans made to any union or union official; payments to any of their employees for the purpose of causing them to persuade other employees with respect to their bargaining and representation rights, unless the other employees are told about these payments before or at the same time they are made; payments for the purpose of interfering with employees in the exercise of their bargaining and representation rights, or obtaining information on employee or union activities in connection with labor disputes involving their company, except information obtained solely for use in a judicial, administrative or arbitral proceeding; and arrangements (and payments made under these arrangements) with a labor relations consultant or other person for the purpose of persuading employees with respect to their bargaining and representation rights, or obtaining information on employee or union activities in connection with labor disputes involving their company, except information obtained solely for use in a judicial, administrative, or arbitral proceeding.

The Department, pursuant to the LMRDA, seeks to fill in clear and present information gaps occurring in Form LM–10 reporting, regarding filers' Federal contractor status. As has been stated above, the Department is acting because it has a clear interest in understanding the full scope of activities undertaken by employers that enter into agreements to persuade employees not to exercise these rights, including whether they benefit from Federal contracts. In addition,

separately reporting the contractor information will allow filers to quickly fill out the form with a higher level of specificity, which will allow for increased transparency, allowing the public and employees to understand whether employers engaging in the activities that require Form LM–10 reporting are party to a contract with the Federal Government.

Methodology of the Burden Estimate

For purposes of the PRA, the cost burden of the modification to the Form LM–10 proposed in this document has been calculated above and is as follows. Based upon the existing LM form estimates, the Department proposes that the modification to Item 12 will take no longer than 5 minutes to complete on average for approximately 647 filers in any given year, thus adding approximately 5 minutes of reporting burden to the existing Form LM–10 (which the current existing instructions estimate to take approximately 35 minutes to complete, including the current Item 12). The Form LM–10 is not an annually mandatory form for employers; rather, it is only necessary in fiscal years during which the employer engages in certain transactions or agreements. Further, the modification to Item 12 does not impact all Form LM–10 filers, just those that engage in persuader-related transactions—and only a subset of those filers would need to complete all of Item 12.b. In addition, only one Form LM–10 report must be filed per filing entity per necessary fiscal year. Thus, the proposed form revision does not impact the total number of Form LM–10 reports that the Department expects to receive, nor does it affect the recordkeeping burden, as the Department estimates that most employers that file and are Federal contractors or subcontractors must already retain records relevant to that status pursuant to Executive Order 13496 (Notification of Employee Rights Under Federal Labor Law). See 29 CFR part 471, in particular § 471.2(d), which states that employers must post the notice where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract. Instead, the proposed form revision would result only in an increase in reporting burden of 5 minutes per Form LM–10 and an overall increase of 3,235 burden minutes, or 53.9 burden hours, for Form LM–10 filers. However, as explained in the E.O. 12866 regulatory impact section, the Department seeks comment on whether the contractor status determination would require further review time, such as an additional 10 minutes to check with those on the employer's staff who conducted the E.O. 13496 review. If the form took an additional 15 minutes to complete the new Item 12, rather than the 5-minute estimate, then Form LM–10 filers would see an overall increase of 9,705 burden minutes, or 161.75 hours.

The proposed form revision will have no impact on the other 11 information collections approved under ICR #1245–0003. The summary of the burden below accounts for the burden for all ICs (reports) in ICR 1245–0003.

Conclusion

As this proposed form revision requires a revision to an existing information collection, the Department is submitting, contemporaneous with the publication of this document, an ICR to amend the burden estimates under OMB Control Number 1245–0003 and revise the PRA clearance to address the clearance term. A copy of this ICR, with applicable supporting documentation, including among other items a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at: *https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1245-0003* (this link will be updated following publication of this proposal) or from the Department by contacting OLMS at 202–693–0123 (this is not a toll-free number)/email: *OLMSPublic@dol.gov*.

Agency: Department of Labor, Office of Labor-Management Standards.

Type of Review: Revision of a currently approved collection.

OMB Number: 1245–0003.

Title of Collection: Labor Organization and Auxiliary Reports.

Forms: LM–1—Labor Organization Information Report, LM–2, LM–3, LM–4—Labor Organization Annual Report, LM–10, Employer Report, LM–15—Trusteeship Report, LM–15A—Report on Selection of Delegates and Officers, LM–16—Terminal Trusteeship Report, LM–20—Agreement and Activities Report, LM–21—Receipts and Disbursements Report, LM–30—Labor Organization Officer and Employee Report, S–1—Surety Company Annual Report.

Affected Public: Private Sector—Business or other for-profits and not-for-profit institutions.

Estimated Number of Annual Respondents: 32,791.

Estimated Number of Responses: 35,067.

Frequency of Response: Varies.

Estimated Total Annual Burden Hours: 4,644,785.

Estimated Total Annual Other Burden Cost: $0.

The Department invites comments on all aspects of the PRA analysis. The Department is particularly interested in comments that:

- 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;
- 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, and the agency's estimates evaluate associated with the annual burden cost incurred by respondents and the government cost associated with this collection of information;
- 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, *e.g.,* permitting electronic submissions of responses.

Comments submitted in response to this document will be considered, summarized and/or included in the ICR the Department will submit to OMB for approval; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (*e.g.,* confidential business information or personally identifiable information such as a social security number).

D. Unfunded Mandates Reform

This proposed form revision will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or in increased expenditures by the private sector of $100 million or more.

E. Small Business Regulatory Enforcement Act of 1996

This proposed form revision is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposal will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-

based companies in domestic and export markets.

List of Subjects in 29 CFR Part 405

Employers, Reporting and recordkeeping requirements.

Signed in Washington, DC, this 31 day of August, 2022.

Jeffrey R. Freund,

Director, OLMS.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A—Form LM–10

BILLING CODE 4510–86–P

U.S. Department of Labor
Office of Labor-Management Standards
Washington, DC 20210

Form approved
Office of Management and Budget
No. 1245-003
Expires XX-XX-XXXX

FORM LM-10
EMPLOYER REPORT

This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440.

For Official Use Only

E

READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT

Part A

1. File Number E-

2. Fiscal Year Covered — From: Month/Day/Year (mm/dd/yyyy) — Through: Month/Day/Year (mm/dd/yyyy)

3. Name and address of Reporting Employer (inc. trade name, if any).
Employer
Trade Name
Attention To
Title
Mailing Address
P.O. Box, Bldg., Room No., if any
Street
City
State
Zip Code + 4

4. Name and address of President or corresponding principal officer, if different from address in Item 3.
P.O. Box, Building and Room Number, if any
Street
City
State
ZIP Code +4

5. Any other address where records necessary to verify this report will beavailable for examination.
Name
Title
Organization
P.O. Box, Building and Room Number, if any
Street
City
State
ZIP Code + 4

6. Indicate by checking the appropriate box or boxes where records necessary to verify this report will be available for examination.
Address in Item 3
Address in Item 4
Address in Item 5

7. Type of organization.
Corporation Partnership Individual Other (specify)

Signatures

Each of the undersigned, duly authorized officers of the above employer declares, under penalty of perjury and other applicable penalties of law, that all of the information submitted in this report (including the information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. *(See Section VIII on penalties in the instructions.)*

13. Signed
Title President
President (if other title, see instructions)
On / / Date
Telephone Number

14. Signed
Title Treasurer
Treasurer (if other title, see instructions)
On / / Date
Telephone Number

Part A, Continued

Name of Reporting Employer:	File Number E-

8. Type of Reportable Activity Engaged In By Employer

Read the following questions and the accompanying instructions carefully, taking into consideration the exclusions listed in the instructions for these items, and check either "Yes" or "No" for each item. For each item that is answered "Yes", you must attach a Part B which appears on Page 3. Complete a separate Part B for each "Yes" answer to any of Items 8.a. through 8.f. Also, if the answer is "Yes" for more than one person or organization, complete a separate Part B for each person or organization. If you answer "Yes", enter the number of Part Bs that are submitted for that item in the line indicated.

DURING THE FISCAL YEAR COVERED BY THIS REPORT:

	YES	NO	If "Yes", number of Part Bs attached
8.a. **Did** you make or promise or agree to make, directly or indirectly, any payment or loan of money or other thing of value (including reimbursed expenses) to any labor organization or to any officer, agent, shop steward, or other representative or employee of any labor organization?	☐	☐	
8.b. **Did** you make, directly or indirectly, any payment (including reimbursed expenses) to any of your employees, or to any group or committee of your employees, for the purpose of causing them to persuade other employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing without previously or at the same time disclosing such payment to all such other employees?	☐	☐	
8.c. **Did** you make any expenditure where an object thereof, directly or indirectly, was to interfere with, restrain, or coerce employees in the right to organize and bargain collectively through representatives of their own choosing?	☐	☐	
8.d. **Did** you make any expenditure where an object thereof, directly or indirectly, was to obtain information concerning the activities of employees or of a labor organization in connectionwith a labor dispute in which you were involved?	☐	☐	
8.e. **Did** you make any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertook activities where an object thereof, directly or indirectly, was to persuade employees to exercise or notto exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or did you make any payment (including reimbursed expenses) pursuant to such an agreement or arrangement?	☐	☐	
8.f. **Did** you make any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertook activities where an object thereof, directly or indirectly, was to furnish you with information concerningactivities of employees or of a labor organization in connection with a labor dispute in which you were involved; or did you make any payment pursuant to such agreement or arrangement?	☐	☐	

TOTAL NUMBER OF PART Bs FOR THIS REPORT IS

Part B

Name of Reporting Employer:	File Number E-

Check Item Number (from Page 2) to which this Part B applies	ITEM 8.a	ITEM 8.b	ITEM 8.c	ITEM 8.d	ITEM 8.e	ITEM 8.f

9.a. Agreement Payment Both

9.c. Position in labor organization or with employer (if an independent labor consultant, so state).

9.b. Name and address of person with whom or through whom a separate agreement was made or to whom payments were made.

Name

P.O. Box, Building and Room Number, if any

Street

City

State ZIP Code + 4

9.d. Name and address of firm or labor organization with whom employed or affiliated.

Organization

P.O. Box, Building and Room Number, if any

Street

City

State ZIP Code + 4

10.a. Date of the promise, agreement, or arrangement pursuant to which payments or expenditures were agreed to or made.

10.b. The promise, agreement, or arrangement was:

Oral Written* Both

(*Written agreements entered into during the fiscal year must be attached.)

11.a. Date of each payment or expenditure (mm/dd/yyyy).	11.b. Amount of each payment or expenditure	11.c. Kind of each payment or expenditure (Specify whether payment or loan, and whether in cash or property)

12.a. Explain fully the circumstances of all payments, including the terms of any oral agreement or understanding pursuant to which they were made.

12.b. If your Part B applies to Items 8.b. – 8.f., did the payments or agreements concern employees performing work pursuant to a Federal contract or subcontract?

Yes No N/A If yes, enter your Unique Entity Identifier, if you have one. Enter the Federal contracting agency(ies) that are a party to the Federal contract.

Paperwork Reduction Act Statement

Public reporting burden for this collection of information is estimated to average 40-50 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Reporting of this information is mandatory and is required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), for the purpose of public disclosure. As this is public information, there are no assurances of confidentiality. If you have any comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, please send them to the U.S. Department of Labor, Office of Labor-Management Standards, Division of Interpretations and Standards, Room N-5609, 200 Constitution Avenue, NW, Washington, DC 20210.

DO NOT SEND YOUR COMPLETED FORM LM-10 TO THE ABOVE ADDRESS.

INSTRUCTIONS FOR FORM LM-10 EMPLOYER REPORT

GENERAL INSTRUCTIONS

I. WHY FILE

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), requires public disclosure of specific financial transactions or arrangements made between an employer **and** one or more of the following: a labor organization, union official, employee, or labor relations consultant. Pursuant to Section 203(a) of the LMRDA, every employer who has engaged in any such transaction or arrangement during the fiscal year must file a detailed report with the Secretary of Labor. The Secretary, under the authority of the LMRDA, has prescribed the filing of the Employer Report, Form LM-10, for employers to satisfy this reporting requirement.

These reporting requirements of the LMRDA and of the regulations and forms issued under the Act only relate to the disclosure of specified payments. The reporting requirements do not address whether specific payments, transactions, or arrangements are lawful or unlawful. The fact that a particular payment, transaction, or arrangement is or is not required to be reported does not indicate whether it is or is not subject to any legal prohibition.

II. WHO MUST FILE

Any employer, as defined by the LMRDA, who has engaged in certain financial transactions or arrangements, of the type described in Section 203(a) of the Act, with any labor organization, union official, employee or labor relations consultant, **or** who has made expenditures for certain objects relating to activities of employees or a union, must file a Form LM-10. An employer required to file must complete only one Form LM-10 each fiscal year that covers all instances of reportable activity even if activity occurs at multiple locations.

NOTE: *Selected definitions from the LMRDA follow these instructions.*

III. WHAT MUST BE REPORTED

The types of financial transactions, arrangements, or expenditures which must be reported are set forth in Form LM-10. The LMRDA states that every employer involved in any such transaction or arrangement during the fiscal year must file a detailed report with the Secretary of Labor indicating the following: (1) the date of each arrangement and the date and amount of each transaction; (2) the name, address, and position of the person with whom the agreement or transaction was made; and (3) a full explanation of the circumstances of all payments made, including the terms of any agreement or understanding pursuant to which they were made.

Form LM-10 is divided into two parts, Part A and Part B. Item 8 of Part A contains six questions pertaining to reportable employer activities. Before completing any portion of the report, review these questions thoroughly and answer them, taking into account the exclusions listed in the instructions for Item 8. If the answer to each of these questions is **NO**, do not file this report. However, if the answer to any of these questions is **YES**, taking into account the applicable exclusions, complete Part A and complete a separate Part B for each **YES** answer. Also, if any of the **YES** answers applies to more than oneperson or organization, complete a separate Part B for each person or organization.

Special Reports. In addition to this report, the Secretary may require employers subject to the LMRDA to submit special reports on relevant information, including but not necessarily confined to reports involving specifically

identified personnel on particular matters referred to in the second paragraph of the instructions for Item 8.a.

While Section 203 of the LMRDA does not amend, or modify, the rights protected by Section 8(c) of the National Labor Relations Act, as amended (NLRA), the LMRDA contains no provision exempting the activities protected by that section from the reporting requirements. Therefore, you must report activities of the type set forth in Item 8, since the LMRDA requires such reports, regardless of whether the activities are protected by Section 8(c) of the NLRA. Note, however, that the information you are required to report in response to Item 8.c does not include expenditures relating exclusively to matters protected by Section 8(c) of the NLRA, because the definition in Section 203(g) ofthe LMRDA of the term "interfere with, restrain, or coerce," which is used in Item 8.c, does not cover suchmatters.

NOTE: The text of NLRA Section 8(c) is set forth following these instructions.

IV. WHO MUST SIGN THE REPORT

The complete Form LM-10 must be signed by both the president and the treasurer, or the corresponding principal officers, of the reporting employer must sign the completed Form LM-10. A report from a sole proprietor need only bear one signature.

V. WHEN TO FILE

Each employer, as defined in the LMRDA, who has engaged in any of the transactions or arrangements described in the form and instructions must electronically file Form LM-10 *within 90 days* after the end of the employer's fiscal year.

VI. HOW TO FILE

The Form LM-10 must be completed and submitted electronically, via the Office of Labor-Management Standards (OLMS) Electronic Forms System (EFS), available on the OLMS website at www.dol.gov/olms. If you must file an amended report, follow the prompts within EFS. Filers will be able to submit a report in paper format only if they assert a temporary hardship exemption.

NOTE: Upon registering with OLMS, the signatories and preparers must enter email addresses they use to conduct business, in order to file the form via the OLMS Electronic Forms System. While the email addresses will not appear on the report, OLMS may use the email address of the signatories and any preparers to contact the employer concerning LMRDA compliance.

If you have difficulty navigating the software, or have questions about its functions and features, call the OLMS Help Desk at: (866) 401-1109. For questions concerning the reporting requirements, please send an e-mail to OLMS-Public@dol.gov or call (202) 693-0123.

TEMPORARY HARDSHIP EXEMPTION:

If an employer experiences unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing, the organization may assert a temporary hardship exemption to prepareand submit Form LM-10 in paper format by the requireddue date. An electronic format copy of the filed paper format document shall be submitted to the Department within ten business days after the required due date.

Unanticipated technical difficulties that may result in additional delays should be brought to the attention of OLMS by email at OLMS-Public@dol.gov, or by phone at (202) 693-0123.

NOTE: If either the paper filing or the electronic filing is not received in the timeframe specified above, the report will be considered delinquent.

VII. PUBLIC DISCLOSURE

Pursuant to the LMRDA, the U.S. Department of Labor is required to make all submitted reports available for public inspection. Reports may be viewed and downloaded from the website at www.unionreports.gov. For assistance, please email OLMS-Public@dol.gov or call (202) 693-0123.

VIII. OFFICER RESPONSIBILITIES AND PENALTIES

The president and treasurer or corresponding principal officers of the reporting employer required to sign Form LM-10, are personally responsible for its filing and accuracy. Under the LMRDA, these individuals are subject to criminal penalties for willful failure to file a required report and/or for false reporting. False reporting includes making any false statement or misrepresentation of a material fact while knowing it to be false, or for knowingly failing to disclose a material fact in a required report or in the information required to be contained in it or in any information required to be submitted with it.

The reporting employer and officers required to sign Form LM-10 are also subject to civil prosecution for violations of the filing requirements. Section 210 of the LMRDA provides that, "whenever it shall appear that any person has violated or is about to violate any of theprovisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate."

IX. RECORDKEEPING

The individuals required to file Form LM-10 are responsible for maintaining records which will provide insufficient detail the information and data necessary to verify the accuracy and completeness of the report. You must retain the records for at least 5 years after the date you filed the report. You must retain any record necessary to verify, explain, or clarify the reportincluding, but not limited to, vouchers, worksheets, and applicable resolutions.

X. COMPLETING FORM LM-10

Read the instructions carefully before completing Form LM-10.

Entering Dollars. In all Items dealing with monetary values, report amounts in dollars only; do not enter cents. Round cents to the nearest dollar. Enter a single "0" in the boxes for reporting dollars if the employer has nothing to report.

PART A (ITEMS 1 – 8)

1. FILE NUMBER—The software will enter the five-digit file number assigned by OLMS for the reporting individual or organization here and at the top of each page of Form LM-10. If the number is incorrect or you do not have the number on file and cannot obtain it from past reports, the number can be obtained at www.unionreports.gov, emailing OLMS at OLMS-Public@dol.gov, or calling OLMS at (202) 693-0123.

NOTE: If you have previously filed a Form LM-10 and seek to search for past report to obtain your employer file number, please visit the OLMS Online Public Disclosure Room and select "View Other Reports". You have the option to select your employer's name or organization from the drop-down menu. This menu contains all the individuals and organizations from whom OLMS has received employer reports.

2. FISCAL YEAR—Enter the beginning and ending dates of the fiscal year covered in this report. The report must not cover more than a 12-month period. For example, if the reporting employer's 12-month fiscal year begins on January 1 and ends on December 31, do not enter a date beyond the 12-month period, such as January 1 to January 1; this is an invalid date entry.

3. NAME AND MAILING ADDRESS—Enter the full legal name of the reporting employer, a trade or commercial name, if applicable (such as a d/b/a or "doing business as" name), the name and title of the person to whom mail should be directed, and the complete address where mail should be sent and received, including any building and room number.

4. NAME AND ADDRESS OF PRINCIPAL OFFICER—Enter the name and business address of the presidentor corresponding principal officer if it is different from the address in Item 3.

5. ANY OTHER ADDRESS WHERE RECORDS ARE AVAILABLE—If you maintain any of the records necessary to verify this report at an address different from the addresses listed in Items 3 or 4, enter the appropriate name and address in Item 5.

6. RECORDS ARE AVAILABLE—Select the appropriate box(es) where the records necessary to verify this report are available for examination.

7. TYPE OF ORGANIZATION—Select the appropriate box which describes the reporting employer. If none of the choices apply, specify thetype of reporting employer filing this report.

8. TYPE OF REPORTABLE ACTIVITY ENGAGED IN BY EMPLOYER—Read each question carefully, then read the exclusions listed below for each question. Select the appropriate **YES** or **NO** box next to each question; do not leave both boxes blank. If the answer to any of these questions is YES, indicate the number of Part Bs necessary for completing that question. With each question, complete a separate Part B for every person or organization with whom a reportable agreement was made as indicated by a **YES** answer. For example, if you answer Item 8.e **YES**, and you had agreements with two different labor relations consultants during the fiscal year, then you would complete two Part Bs for that question.

8.a. In answering Item 8.a, exclude the following:

(1) Payments of the kind referred to in Section 302(c) of the Labor Management Relations Act, 1947, as amended (LMRA); **and** (2) Payments or loans made in the regular course of business as a national or state bank, credit union, insurance company, savings and loan association, or other credit institution. (The text of Section 302(c) of the LMRA is set forth below.)

None of the following require a **YES** answer:

(a) payments made in the regular course of business to a class of persons determined without regard to whether they are, or are identified with, labor organizations and whose relationship to labor organizations is not ordinarily known to or readily ascertainable by the payer, for example, interest on bonds and dividends on stock issued by the reporting employer; (b) loans made to employees under circumstances and terms unrelated to the employees' status in a labor organization; (c) payments made to any regular employee as wages or other compensation for service as a regular employee of the employer, or by reason ofhis service as an employee

of such employer, for periods during regular working hours in which such employee engages in activities other than productive work, if the payments for such periods of time are:

(1) required by law or a bona fide collective bargaining agreement, or (2) made pursuant to a custom or practice under such a collective agreement, or (3) made pursuant to a policy, custom, or practice with respect to employment in the establishment whichthe employer has adopted without regard to any holding by such employee of a position with a labor organization; (d) initiation fees and assessments paid to labor organizations and deducted from the wages of employees pursuant to individual assignments meeting the terms specified in paragraph (4) of Section302(c) of the LMRA; (e) sporadic or occasional gifts, gratuities, or favors of insubstantial value, given under circumstances and terms unrelated to the recipients' status in a labor organization; for example, traditional Christmas gifts.

8.b. In answering Item *8.b,* ***exclude*** expenditures made to any regular officer, supervisor, or employee as compensation for services as a regular officer, supervisor, or employee.

8.c. In answering Item *8.c,* ***exclude*** expenditures relating exclusively to matters protected by Section 8(c) of the National Labor Relations Act, as amended (NLRA).

NOTE: The definition set forth in Section 203(g) of the LMRDA for the term "interfere with, restrain, or coerce" excludes matters protected by Section 8(c) of the NLRA. Therefore, expenditures related exclusively to such matters protected by Section 8(c) are not required to be reported in this question. (The text of Section 8(c) of the NLRA is set forth below.)

8.d. In answering Item *8.d,* ***exclude*** the following:

(1) Information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; **and** (2) Expenditures made to any regular officer, supervisor, or employee as compensation for service as a regular officer, supervisor, or employee.

8.e. In answering Item *8.e,* ***exclude*** agreements or arrangements covering services related exclusively to the following: (1) giving you advice; **or** (2) agreeing to represent you before anycourt proceeding, administrative agency, or tribunal of arbitration; **or** (3) engaging in collective bargaining on your behalf with respect to wages, hours, or other terms or conditions of employment or negotiating an agreement or any question arising thereunder.

If an agreement or arrangement covering the listed services also covers other activities referred to in the initial question, the exclusion does not apply and the information required for the entire agreement must be reported.

8.f. In answering Item *8.f,* ***exclude*** agreements or arrangements for obtaining information solely for use in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.

PART B (ITEMS 9 – 12)

You must complete a separate Part B for each **YES** answer in Item 8 and for each separate reportable transaction as described in Section III of these instructions. At the top of Part B, check the appropriate Item number box to which this Part B applies.

9. AGREEMENT OR PAYMENT

9.a. Check the appropriate box describing whether this Part B covers an agreement, apayment, or both.

9.b Enter the name and complete mailing address of the individual with whom you made a reportable agreement or to whom payments were made. Enter the name and address of thefirm or organization in Item 9.d.

9.c. Give the position (or title) of each personlisted in Item 9.b. as follows:

- If the answer to Item 8.a. in Part A is **YES**, indicate the position in the labor organization of each person listed in Item 9.b.
- If the answer to Item 8.b. in Part A is **YES,** identify the position in the reporting firm of each person listed inItem 9b.
- If the answer to Item 8.c. **or** Item 8.d. in Part A is **YES**, indicate the position in the firm or labor organization of each person listed in Item 9.b.
- If the answer to Item 8.e. **or** Item 8.f. in Part A is **YES**, indicate the position of each person in a firm or the occupation of each person listed in Item 9.b.

9.d. Enter the full name and address of the firm, group, or labor organization to whom payments were made, with whom the agreement or arrangement was made, or with whom the person listed in Item 9.b. was employed or affiliated.

10. DATE AND NATURE OF PROMISE, AGREEMENT, OR ARRANGEMENT

10.a. If you agreed or promised to make paymentsor if you actually made payments during the fiscal year pursuant to a promise, agreement, or arrangement, indicate the date on which either the promise was made or the agreement or arrangement was entered into. If the payments listed in Item 11 are unrelated to an agreement or arrangement, enter **NONE** in this section.

10.b Indicate whether the promise, agreement, or

arrangement was oral, written, or both. Attach or upload a copy of any written agreement entered into during the fiscal year covered in this report.

11. PAYMENT OR EXPENDITURE

11.a. Enter the date of each payment referred to in Item 9.

11.b. If the form of payment was cash, enter the U.S. dollar amount of each payment made during the fiscal year. If the form of payment was property, provide the market value in U.S. dollars of the property at thetime of the transfer.

11.c. Indicate whether the payment was either a remuneration, gift, or loan. Specify the method of payment (for example, cash, check, or securities, or other property).

12. CIRCUMSTANCES OF ALL PAYMENTS

12.a. Provide a full explanation identifying the purpose and circumstances of the payments, promises, agreements, or arrangements included in the report. Your explanation must contain a detailed account of services rendered or promised in exchange for promises **or** payments you have already made or agreed to make. Your explanation must fully outline the conditions and terms of all listed agreements, including fully identifying the subject group of employees (i.e., the particular unit or division in which those employees work).

In addition to the above, you must indicate whether the payments or promises reported specifically benefited the person or persons listed in Item 9.b, or the firm, group, or labor organization named in Item 9.d. If you made payments, promises, or agreements through a person or persons not shown above, you must provide the full name and address of such person or persons. Your explanation must clearly indicate why you must report the payment, promise, or agreement. Any incomplete responses or unclear explanations will render this report deficient.

12. b. If you are completing Part B because you checked **YES** to any item in Items 8.b. through 8.f., did the payments or agreements concern employees performing work pursuant to a Federal contract or subcontract? Select the appropriate **YES** or **NO** box below the question; if you checked **YES** to just Item 8.a., then the **N/A** box will automatically be checked. Do not leave all three boxes blank. If the answer to the question is **YES**, you must indicate your Unique Entity Identifier. If you do not have a Unique Entity Identifier, state on the form that you do not have one. Enter the Federal contracting agency or agencies that are a party to the Federal contract(s). If providing the name of a contracting agency would reveal classified information, the filer should omit the name of the agency. For a definition of Federal "contract," "contracting agency," "contractor," "government contract," "modification of a contract," "prime contractor," "subcontract," and "subcontractor," please see the Executive Order 13496 (Notification of Employee Rights Under Federal Labor Laws) implementing regulations at 29 CFR § 471.1 (excerpts below). Any incomplete responses or unclear explanations will render this report deficient.

SIGNATURES

13-14. SIGNATURES—The completed Form LM-10 which is filed with OLMS must be electronically signed by both the president and treasurer, or corresponding principal officers, of the reporting employer. A report from a sole proprietor need only bear **one** signature which you should enter in Item 13. Otherwise, this report must bear **two (2)** signatures.

If the report is signed by an officer other than the president and/or treasurer, so indicate in Items 13 and/or 14 by so indicate by entering the correct title in the title field next to the signature. Then you must Save and revalidate the form. Once the form has passed validation, then you must click to sign the report.

NOTE: Upon registering with OLMS, the signatories and preparers must enter email addresses they use to conduct business, in order to file the form via the OLMS Electronic Forms System. While the email addresses will not appear on the report, OLMS may use the email address of the signatories and any preparers to contact the employer concerning LMRDA compliance.

Enter the telephone number used by the signatories to conduct official business. You do not have to report a private, unlisted telephone number.

SELECTED DEFINITIONS FROM THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA)

SEC. 3. For the purposes of titles I, II, III, IV, V except section 505), and VI of this Act-

(a) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any Stateand any place outside thereof.

(b) "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(c) "Industry affecting commerce" means any activity,business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended. (29 U.S.C. 402 (c)).

(d) "Person" includes one or more individuals, labor

organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trusteesin cases under Title 11 of the United States Code, or receivers.

(e) "Employer" means any employer or any groupor association of employers engaged in an industry affecting commerce

(1) which is, with respect to employees engaged inan industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or

(2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditionsof work, and includes any person acting directlyor indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(f) "Employee" means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or becauseof exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

(g) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless ofwhether the disputants stand in the proximate relation of employer and employee.

(h) Not applicable.

(i) "Labor organization" means a labor organization engaged in an industry affecting commerce andincludes any organization of any kind, any agency, or employee representation committee,group, association, or plan so engaged in whichemployees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body. (29 U.S.C. 402(i))

(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it –

1. Is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or
2. although not certified, is a national or international labor organization or a local labor organization recognized or acting asthe representative of employees or an employer or employers engaged in an industry affecting commerce; or
3. has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2) ; or
4. has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or
5. is a conference, general committee, joint or system board, or joint council, subordinateto a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

(k) Not applicable.

(l) Not applicable.

(m) "Labor relations consultant" means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, orother executive functions of a labor organization,and any member of its executive board or similargoverning body.

(o) Not applicable.

(p) Not applicable.

(q) "Officer, agent, shop steward, or other representative," when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried non-supervisory professional staff, stenographic, and service

personnel.

NATIONAL LABOR RELATIONS ACT, AS AMENDED

Section 8. "(c) The expressing of any views, argument,or opinion or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

RELATED PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA)

Report of Employers

Sec. 203.

(a) Every employer who in any fiscal year made-

(1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefore, to any labor organization or officer, agent, shop steward,or other representative of a labor organization, or employee of any labor organization, except

(a) payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution and

(b) payments of the kind referred to in section 302 (c) of the Labor Management Relations Act, 1947, as amended;

(2) any payment (including reimbursed expenses) to any of his employees, or any group or committee of such employees, for the purpose of causing such employee or group or committee of employees to persuade other employees to exercise or not to exercise, or asthe manner of exercising, the right to organize and bargain collectively through representatives of their own choosing unless such payments were contemporaneously or previously disclosed to such other employees;

(3) any expenditure, during the fiscal year, where an object thereof, directly or indirectly, is to interfere with, restrain, or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing, or is to obtain information concerning the activities of employees, or a labor organization in connection with a labor dispute involving such employer, except for usesolely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

(4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; or

(5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision (4);

shall file with the Secretary a report, in a form prescribed by him, signed by its president and treasurer or corresponding principal officers showingin detail the date and amount of each such payment,loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

(b) Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly-

(1) to persuade employees to exercise or notto exercise, or persuade employees as tothe manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a reportwith the Secretary, signed by its president and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of

its disbursementsof any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

(c) Nothing in this section shall be construed to of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

(d) Nothing contained in this section shall be require any employer or other person to file areport covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal construed to require an employer to file a report under subsection (a) unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) unless he was a party to an agreement or arrangement of the kind described therein.

(e) Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to filea report in connection with services rendered to such employer nor shall any employer be required to file a report covering expendituresmade to any regular officer, supervisor, or employee of an employer as compensation forservice as a regular officer, supervisor, or employee of such employer.

(f) Nothing contained in this section shall be construedas an amendment to, or modification of the rights protected by, section 8 (c) of the National Labor Relations Act, as amended

(g) The term "interfere with, restrain, or coerce" as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 7 of the National Labor Relations Act, as amended, would,under section 8(a) of such Act, constitute an unfair labor practice.

SECTION 302(c) OF THE LABOR MANAGEMENTRELATIONS ACT, 1947, AS AMENDED

"(c) The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, ordispute in the absence of fraud or duress; (3) with respect tothe sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement,which-ever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents) Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their familiesand dependents, for medical or hospital care, pensions onretirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailedbasis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event of the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such dead- lock, such agreement provides that the two groups shall agree on animpartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results ofwhich shall be available for inspection by interested persons at the principal office of the trust fund and at suchother places as may be designated in such written agreement; and (C) such payments as are intended to beused for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; or (6) with respect to money or other thing of value paid by any employer to a trust fund established by such a representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided,

That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industry-wide labor management committee established for one or more of thepurposes set forth in section 5(b) of the Labor ManagementCooperation Act of 1978."

OLMS has adopted the following definitions from Executive Order 13496 Implementing Regulations at 29 CFR § 471.1

Contract means, unless otherwise indicated, any Government contract or subcontract.

Contracting agency means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, that enters into contracts.

Contractor means, unless otherwise indicated, a prime contractor or subcontractor.

Government contract means any agreement or modification thereof between any contracting agency and any person for the purchase, sale, or use of personal property or non-personal services. The term "personal property," as used in this section, includes supplies, and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements). The term "non-personal services" as used in this section includes, but is not limited to, the following services: utilities, construction, transportation, research, insurance, and fund depository. The term Government contract does not include:

(1) Agreements in which the parties stand in the relationship of employer and employee; and

(2) Federal financial assistance, as defined in 29 CFR 31.2.

Modification of a Contract means any alteration in the terms and conditions of that contract, including amendments, renegotiations, and renewals.

Prime Contractor means any person holding a contract with a contracting agency, and, for the purposes of subparts B and C of [29 C.F.R. part 471], includes any person who has held a contract subject to the Executive Order and [29 C.F.R. part 471].

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or non-personal services that, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

Subcontractor means any person holding a subcontract and, for the purposes of subparts B and C of [29 C.F.R. part 471], any person who has held a subcontract subject to the Executive Order and [29 C.F.R. part 471].

If You Need Assistance

The Office of Labor-Management Standards has field offices located in the following cities to assist you if youhave any questions concerning LMRDA and CSRA reporting requirements.

Atlanta-Nashville
Boston-Buffalo
Chicago
Cincinnati-Cleveland
Dallas-New Orleans
Denver-St. Louis
Detroit-Milwaukee
Los Angeles
Philadelphia-Pittsburgh
New York
San Francisco-Seattle
Washington, D.C.

Copies of labor organization annual financial reports,

employer reports, and labor relations consultant reports filed for the year 2000 and after can be viewed and printed at http://www.unionreports.gov. Copies of reports for the year 1999 and earlier can be ordered through the website.

Code of Federal Regulations (CFR) documents are also available on the Internet at: http://www.dol.gov/olms.

Additionally, you can call the OLMS national office at (202) 693-0123 or email OLMS-Public@dol.gov.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0731]

RIN 1625–AA00

Safety Zone; Mission Bay Closure, San Diego, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of Mission Bay. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the California Department of Fish and Wildlife (CDFW) Oil Spill Prevention and Response (OSPR) Sensitive Site Strategy Evaluation Program (SSSEP) boom deployment exercise. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector San Diego. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 13, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0731 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LTJG Shera Kim, Waterways Management, U.S. Coast guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On November 15, 2022, the Coast Guard will be working in conjunction with the California Department of Fish and Wildlife and local Oil Spill Response Organization to conduct boom deployment exercises from 9 a.m. to 12 p.m. Contractors will bring up to 12000-feet of floating oil boom aboard a workboat and deploy Area Contingency Plan (ACP)–6 Geographic Response Strategies (GRS). The Captain of the Port San Diego (COTP) has determined that potential hazards associated with the boom deployment exercise would be a safety concern for anyone within a 100-yard radius of the boom. The COTP is proposing to establish a safety zone from 9 a.m. to noon on November 15, 2022.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 100-yard radius of the boom before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 9 a.m. until noon on November 15, 2022. The safety zone would cover all navigable waters within 100 yards of a boom in Mission Bay located across the entrance channel from the shoreline north of Mariners Cove inlet to a point south of Mission Bay Drive bridge on the Quivira Basin shoreline. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9 a.m. until noon boom deployment exercise. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the