

# American Federation of Labor and Congress of Industrial Organizations



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March 5, 2004

Mr. Don Todd  
Deputy Assistant Secretary for  
Labor Management Services  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Deputy Assistant Secretary Todd:

I am writing to follow up on my letter of February 11<sup>th</sup> to Secretary Chao regarding the regulated community's desire to work with the Department in the process of "fully testing" the Form LM-2 reporting software. Despite the fact that we have had no response from the Secretary to my letter, the AFL-CIO and its affiliated unions have moved promptly to test the beta software that the Department posted on its website.

Our tests show problems with this version of the software that are so fundamental that they render the software virtually unusable by the regulated community. Since we want the Department to be aware of these problems at the earliest possible date, we are writing to alert you to them. We would be happy to discuss any of the issues mentioned in this letter at greater length.

I also want to reemphasize a point that I made in my letter to the Secretary: full testing of the software must encompass three distinct phases of the electronic process. First, the test must determine whether unions can successfully import their financial data into the LM-2 form without encountering software bugs or other problems. Second, testing must determine whether the import process results in an accurate representation of the imported data in the form. Lastly, the test must verify whether unions can successfully transmit the completed form to the Department and receive back appropriate messages regarding whether the filing process has been completed or not.



We began our test by having one national union attempt to import its financial information into Schedule 1 (Accounts Receivable) using CSV file format. This file contained 3,100 records, which is a representative file size for that union. In fact, many affiliates, including some of their local unions, will routinely have much larger accounting files at the end of the year for LM-2 purposes. After two hours the transaction had used up 100% of the computer system's memory without having finished the import. After 15 hours the transaction was still not complete. The union encountered the same problems when it tried to load the file using XML file format.

We asked our software consultants, Beaconfire Consulting, Inc., to verify the union's test. Before trying to load the data into the LM-2 form, Beaconfire determined that the union's file was in correct CSV and XML format. Beaconfire conducted its tests on three computer systems with different amounts of RAM memory and different processing chips to rule out the computer as the source of the problem -- a Pentium 2 with 128MB of RAM (less than the recommended DOL specifications); a Pentium 3 with 250MB of RAM (on par to the recommended DOL specifications); and a dual Pentium 3 with 500MB of RAM (exceeds the recommended DOL specifications).

The software was equally unable to load the data into the forms using these three computer systems. They all experienced the same slow loading time and eventually became unable to process data at all. In other words, the DOL software stopped responding. Beaconfire had the same results using data from a different union.

Beaconfire monitored each computer's performance as it attempted to process the data and found that the DOL software consumed so much memory (in several tests more than 100%

of what was available) that it did not leave sufficient memory for the Windows 2000 operating system to perform its functions. Even with all other programs closed on these computers except the operating system and the DOL software, the DOL software failed to perform.

One union involved in the testing finally attempted to load an artificially small file with 500 records into the schedule. This transaction succeeded, but only after two hours.

These results are unacceptable. A typical national union will easily have files that contain 100,000 records. Yet, our tests show that far smaller files will not load in any reasonable time period – or at all. And, even if we assume that a hypothetically small local LM-2 filer has an average file size of 150 records for each of the six new functional category schedules, it would still take that entity four and one half hours just to load this portion of the file electronically.

Additionally, our tests found that the beta software cannot import even small amounts of data into multiple schedules in succession. We asked Beaconfire to load data into Schedules 11 and 12 and 15-19. Beaconfire attempted to load 57 records into Schedule 11, 218 records into Schedule 12, and 200 records into each of Schedules 15-19. Using these abnormally small files for each schedule Beaconfire was only able to load data into one schedule. When it attempted to import data into a second schedule, one of two things happened: either the software could not import data into the second schedule at all because it had run out of memory, or it was able to do so but lost all of the imported data from the first schedule. Again, at a fundamental level, the software is incapable of doing what it needs to do, and what the Department has promised it will do, namely, allow for electronic importation of data into the LM-2 form.

The importation process – to the extent it operates at all – cannot be stopped from within the beta software. This failure occurs despite the fact that a “cancel” button is displayed on the screen. Using a feature of the Windows operating system, the beta software must be shut down completely just in order to terminate an importing sequence. When we stopped the beta software through Windows, the computer lost any work that had been successfully completed since the last time the document was saved.

2. **The beta software does not distinguish between transactions that need to be itemized from those that need to be aggregated.**

The Instructions for Form LM-2 Labor Organization Annual Report, published by the Department with the final rule, state (at 25) that:

The[] schedules will be populated for the filer by the electronic filing software as long as the labor organization uses a properly configured electronic recordkeeping system that is compatible with the software provided by the Department. The system will allocate receipts and disbursements to the proper categories and determine whether a receipt or disbursement will be individually identified or aggregated within the appropriate schedule.

Both a major national union and Beaconfire have determined that the beta software does not "determine whether a receipt or disbursement will be individually identified or aggregated within the appropriate schedule." This major feature of the software is simply missing. Instead, when, for example, a set of disbursement records is imported, all records are itemized, whether or not they are under \$5,000 in value. Without this feature, unions will be forced to do significant, unanticipated additional programming to itemize and aggregate different records as required under the final rule. Such an additional requirement is at odds with the Department's published instructions and with the Department's claim that the electronic reporting software will help LM-2 filers reduce the burden of reporting massive amounts of detailed data.

3. **The data validation function does not work.**

In several tests by both a national union and Beaconfire Consulting, verification failed to report a wide range of errors in the data. Errors that the software did not catch included blank rows of data; allocation and distribution totals that added to more than, or less than, 100%; negative amounts; empty fields; and rows with no information except commas. In addition, there were numerous error reports for information that was, in fact, correct, and inconsistent verification results when ending balances were incorrect.

4. **There are other bugs and flaws in the software's importation process**

a. The import process requires that all amounts be rounded to the nearest dollar, and treats amounts with decimals as errors. Because this is not the way organizations keep track of their data (in fact, one union's data contained decimals in approximately 90% of its transactions), rounding creates discrepancies between the union's financial records and the information reported to the Department in the LM-2. In addition, rounding forces unions to undergo an unnecessary and cumbersome step before they can load their information into the LM-2 form.

b. In Schedule 1, individuals (or entities) who have the same name are treated as one individual for purposes of reporting transactions. Thus, accounts receivable from two people with the same name are treated as if they are transactions involving only one individual. This provides inaccurate and potentially misleading information to the Department about the nature and size of particular payables. Schedule 1 also does not permit the user to enter a liquidated receivable as a write-off, because the software is programmed to look for a corresponding receivable balance for the transaction.

c. In Schedule 12, which only requires reporting for employees who were paid more than \$10,000, the software processed all records, including those with amounts of less than \$10,000 paid to employees (and amounts of \$0).

d. In addition, our testing found that field lengths are too short for the length of actual data. This is a problem that union representatives discussed during meetings with DOL about the new requirements. It was our understanding that DOL was aware of the problem and had promised to correct it. So far, this does not seem to have happened, and unions must find ways to abbreviate their data at the source before importing it into the form.

5. Manual entry of data has significant flaws.

For very small LM-2 filers, the Department has suggested that manual, or "cut and paste" entry may be an alternative to using the electronic importation method. Our tests show that manual entry presents problems as well.

For example, the tool requires an explanation every time a change is made in a beginning balance, even if the change is made simply to correct an erroneous entry. Scrolling past the calculated fields triggers the calculation process, which makes scrolling through the form time-consuming and clumsy. The delete key does not always work, and rows are not always totaled. Schedules 11 and 12 do not flag disbursement entries that total more than \$10,000 or that do not add up to 100%. Similarly, Schedules 11, 12, 14-19 do not check that itemized disbursements total at least \$5,000. The tab key does not function correctly when completing the name and address fields. When the user enters a name and hits tab, the program does not go to the address field, which is the next logical step, but goes instead to the first disbursement row.

6. Creating attachments for data is also an unacceptable alternative.


The Department has also suggested that an alternative to electronic importation is to create attachments to the various LM-2 schedules in pdf format containing the union's financial records. As discussed above, one of the most important features of electronic importation, as described in the Instructions, is that the software is supposed to select those transactions that reach the threshold of \$5,000 from those that do not, thereby correctly listing as itemized transactions in a particular schedule only those at or above the threshold. This feature is currently unavailable when the union creates pdf attachments. Since it is also unavailable when the union directly imports its records into the files, the software simply lacks this essential function, despite the Department's claim to the contrary in the Instructions.

In addition, the software does not allow unions to edit attachments. In the event of an error, the union must return to the original file, delete the record, enter a corrected record, and create another attachment in its entirety. At the same time, however, the process does not allow the user to replace a single schedule, as would make sense in the event of a correction made to a particular attachment. Instead, the user is forced to begin with a blank LM-2 form and import all of the schedules again. Furthermore, individual schedules can only be deleted line by line, making it virtually impossible to delete a large schedule.

We are continuing to test the beta software and will alert the Department to any additional problems we encounter. We would also be happy to have further discussions about the problems already encountered. However, we believe that the current product available on the website is in such rudimentary and flawed form that it cannot count as true beta software for purposes of union testing. Only when DOL produces software that performs its most basic intended function, namely, software that can actually load a file with a reasonable amount of records into the electronic LM-2 form, should DOL ask the regulated community to treat the software as a test product. Of course, it bears repeating that under the Court's final Order in *Chao v. AFL-CIO*, the new rule can only take effect 90 days after DOL produces "fully tested software" (emphasis ours).

Thank you for your attention to this matter. We remain committed to our offer, set forth in my letter of February 11 to Secretary Chao, to work cooperatively with the Department to develop a test that will yield the best software for all affected.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Trumka". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Richard L. Trumka