

# Making the Office of Labor-Management Standards Great Again



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## Executive Summary

As with so many things, former President Barack Obama presided over the decline of the Office of Labor-Management Standards (OLMS), an important agency at the Department of Labor (DOL) that oversees unions. Now, under President Donald Trump, the Labor Department has made serious progress in rolling back the Obama Administration's damaging regulations, but much work remains to be done to make OLMS great again. A summary of the needed changes are below.

- OLMS funding needs to be increased substantially above the Administration's request. The agency's budget is currently under \$38 million; the Administration is requesting \$46.6 million in funding for FY 2019.<sup>1</sup> However, just to return to the FY 2007 budget level, funding would need to be increased to over \$59 million after taking inflation into account. An increase in funding for OLMS can easily be offset by reducing funding for DOL's bloated Wage and Hour Division and trimming the amount of DOL grant money.
- OLMS staffing needs to be increased above the Administration's request. During the Reagan Era, OLMS had over 400 employees; during the George W. Bush Era, the agency grew to over 300 full-time equivalents (FTE's); during the Obama Era, OLMS staffing fell, and the agency now has less than 200 FTE's. The Administration has only requested 236 FTE's for FY 2019.<sup>2</sup> A number of OLMS employees were transferred to the Labor Department's Wage and Hour Division during the Obama years; those employees, who were already trained, should be returned to OLMS.
- OLMS needs political leadership to improve the agency's access to the Department's senior executives.
- Any needed district offices that were closed during the Obama years should be reopened.
- OLMS district directors, who were demoted to GS-15's under President Obama, should be returned to the Senior Executive Service (SES).
- OLMS should reinstate the rule, which was rescinded by the Obama Administration, enhancing LM-2 forms to include more information about union revenues, compensation of union officials, and asset purchases and sales.
- OLMS should reinstate the rule, which was rescinded by the Obama Administration, requiring unions to file T-1 forms to provide greater transparency for union-managed trusts, such as strike funds, training funds, building funds, pension plans, welfare plans, and credit unions.
- OLMS should reinstate the rule, which was rescinded by the Obama Administration, restricting the usage of the LM-3 form, which is a simplified form for smaller unions.
- OLMS should enforce the requirement that union officials disclose conflicts of interest on the LM-30 form that was revised in 2007, not the less-detailed form that is decades-old. Furthermore, union shop stewards should be required to file LM-30's if they have conflicts of interest.

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<sup>1</sup> Department of Labor, *FY 2019 Department of Labor Budget in Brief Budget in Brief*, 28, <https://www.dol.gov/sites/default/files/budget/2019/FY2019BIB.pdf>.

<sup>2</sup> Ibid.

## **Introduction**

Under President Donald Trump, the Labor Department has done some good work by rolling back detrimental Obama era regulations. Yet, there is still a long way to go to reverse the damage that former President Barack Obama caused at the Department. This is especially true at the Office of Labor-Management Standards (OLMS), which has oversight of unions. It is imperative to increase this agency's funding and staffing so that it can dramatically increase the number of union audits it conducts each year. Equally important is the reinstatement of former Labor Secretary Elaine Chao's union transparency rules, which have already been vetted by the courts. The federal government enforces laws that require corporations to file detailed reports for investors, so why should unions not be required to file similarly-detailed reports for their members? Furthermore, because unions are so heavily involved in politics, there is also a case to be made that voters have a right to know how unions are using their considerable financial clout to advance their agenda.

## **Funding**

OLMS's small budget of less than \$38 million does not match its huge mission, which includes fighting union corruption and helping to ensure that union elections are free and fair. It is understandable why a union-backed Democratic administration would want to starve a law enforcement agency that polices unions; but it makes no sense for a Republican Congress not to appropriate sufficient funds for the agency to carry out its important mission. Ten years ago, the OLMS budget was nearly ten million dollars higher than it is today. Once inflation is factored in, the situation is obviously worse. Just to bring the budget back to parity with the FY 2007 budget level, funding would need to be increased to over \$59 million, which is significantly more than the \$46.6 million that the Administration requested for FY 2019, while calling for the \$12 billion department budget to be cut to \$9.4 billion.<sup>3</sup> In FY 2018, the agency received \$37.9 million.

Although it might seem odd for a right-leaning organization to assert that a government agency's funding should be increased, there are several reasons for this. First of all, law enforcement is a core function of government. Secondly, under President Obama, OLMS was deprioritized, and the agency's budget was cut. Now is the time to reverse those cuts and boost funding to offset the years of lax enforcement. Thirdly, the needed increase in funding is only a small fraction of the billions of dollars appropriated for the Labor Department and could easily be offset by reducing the amount of funding for the Wage and Hour Division and grants made by the Department.

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<sup>3</sup> *FY 2019 Department of Labor Budget in Brief Budget in Brief*, 28, <https://www.dol.gov/sites/default/files/budget/2019/FY2019BIB.pdf>.

### Appropriated Funds, 2000-2017

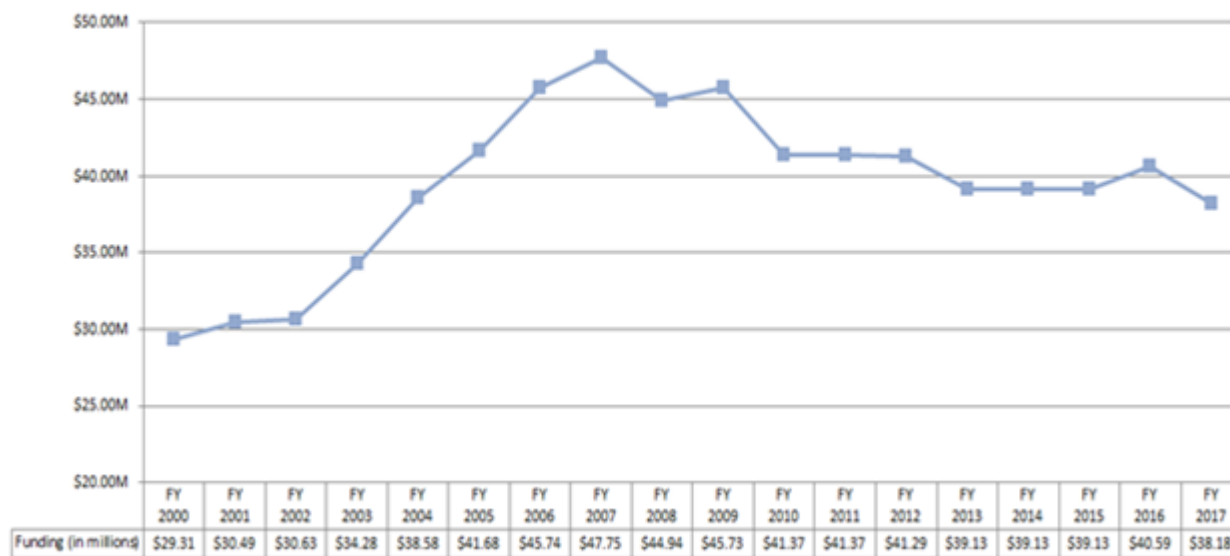


Figure 1. Without taking inflation into account, OLMS funding for FY 2017 was lower than it was a decade before.  
Source: U.S. Department of Labor

### Staffing

To properly enforce labor law, OLMS needs a significantly larger staff. During the Reagan era, OLMS had 425 employees.<sup>4</sup> A decade ago, the agency had over 300 full-time equivalents (FTE's); now it has less than 200. For FY 2019, the Trump Administration has requested 236 FTE's, which is less than the 243 FTE's the agency had in FY 2011. Yet this relatively small group of federal workers is entrusted with protecting the interests of over 14.8 million union members in the United States and overseeing billions of dollars in union assets. In fact, it was estimated several years ago that unions collect over \$14 billion<sup>5</sup> a year in dues alone. So it is easy to see why such a small agency would likely be inadequate to root out union corruption and protect members' dues money.

<sup>4</sup> Carl Horowitz, "DOL Planning Overdue Audits of Intl. Unions," National Legal and Policy Center, July 5, 2004, <http://nlpc.org/2004/07/05/dol-planning-overdue-audits-intl-unions/>.

<sup>5</sup> "Labor unions receive \$14 Billion in dues per year from CBAs," National Institute for Labor Relations Research, March 31, 2012, <http://www.nilrr.org/2012/03/31/unions-rake-in-over-14-9-billion-in-dues-per-year-from-cbas/>.

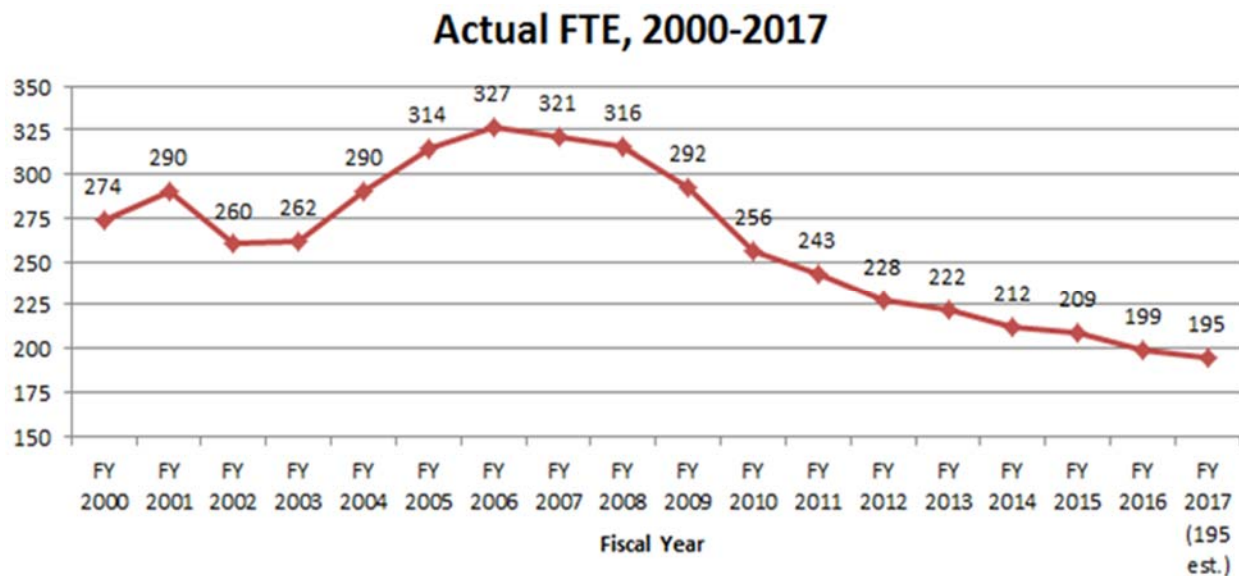


Figure 2. OLMS staffing declined during the Obama presidency. Source: U.S. Department of Labor

The good news is that some of the needed OLMS employees already work at the Department of Labor and have been trained for OLMS work. Under President Obama, OLMS employees were shifted over to the Wage and Hour Division in a dramatic expansion of that division. Those employees should be shifted back. By returning those employees to OLMS, the agency could be staffed up more quickly, and money that would otherwise be spent on training could be saved.

### Audits and Enforcement

As soon as possible, OLMS should increase its audit and investigation goals. After years of neglect, there is quite a bit of work to be done to make up for all of the work that was not done under the Obama Administration. With less funding, less staffing, and lowered goals,<sup>6</sup> the number of audits, investigations, indictments, and convictions declined during the Obama years. The number of compliance audits conducted by OLMS plummeted from 798 in FY 2008 to 245 in FY 2016, which is a decrease of over 69 percent. (DOL has set a goal of conducting 360 audits in FY 2019.<sup>7</sup>) If staffing levels were returned to Reagan Era levels, perhaps OLMS would be able to match the 1,583 audits<sup>8</sup> that Sen. Phil Gramm (R-Texas) noted the agency conducted in 1984, which is more audits than the Obama administration conducted over the course of five years from FY 2012 to FY 2016.

During the Obama years, the nation’s international unions were largely given carte blanche to do as they pleased because the Administration shut down the International Compliance Audit Program that audited those unions. Even the Clinton Administration, which was also friendly to unions, went to the trouble of auditing international unions.

<sup>6</sup> *The Future of Union Transparency and Accountability: Testimony before the Subcommittee on Health, Employment, Labor and Pensions Committee on Education and the Workforce*, 112<sup>th</sup> Cong. (2011) (statement of Nathan Mehrens, Americans for Limited Government Foundation Counsel), [https://edworkforce.house.gov/uploadedfiles/03.31.11\\_mehrens.pdf](https://edworkforce.house.gov/uploadedfiles/03.31.11_mehrens.pdf).

<sup>7</sup> *FY 2019 Department of Labor Budget in Brief Budget in Brief*, 28, <https://www.dol.gov/sites/default/files/budget/2019/FY2019BIB.pdf>.

<sup>8</sup> 148 Cong. Rec. S6494 (daily ed. July 9, 2002) (statement of Sen. Gramm), <https://congress.gov/congressional-record/2002/07/09/senate-section/article/S6491-1>.

In addition, OLMS criminal investigations declined dramatically from 393 in FY 2008 to 234 in FY 2016, which is a decrease of more than 40 percent. (DOL has a set a goal of conducting 300 investigations in FY 2019.<sup>9</sup>) Indictments fell from 132 in FY 2008 to 93 in FY 2016, which is a decrease of over 29 percent. Convictions declined from 103 in FY 2008 to 87 in FY 2016, which is a decrease of more than 15 percent. Clearly, the Obama Administration’s willful neglect of OLMS had an effect.

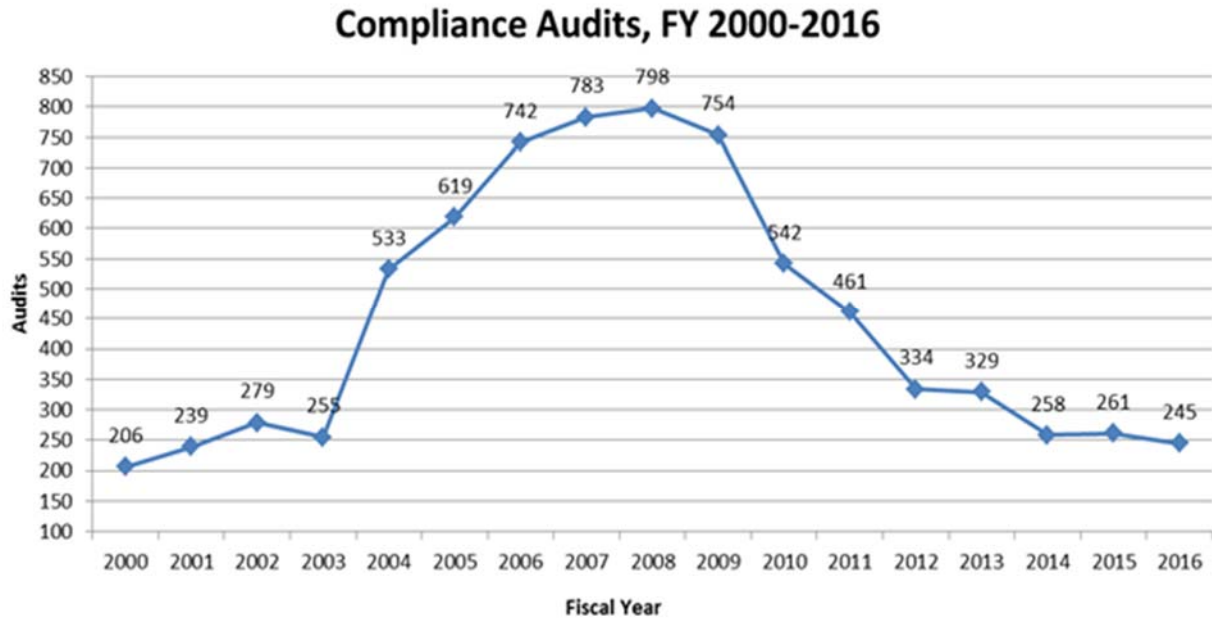


Figure 3. OLMS compliance audits fell dramatically under President Obama. Source: U.S. Department of Labor

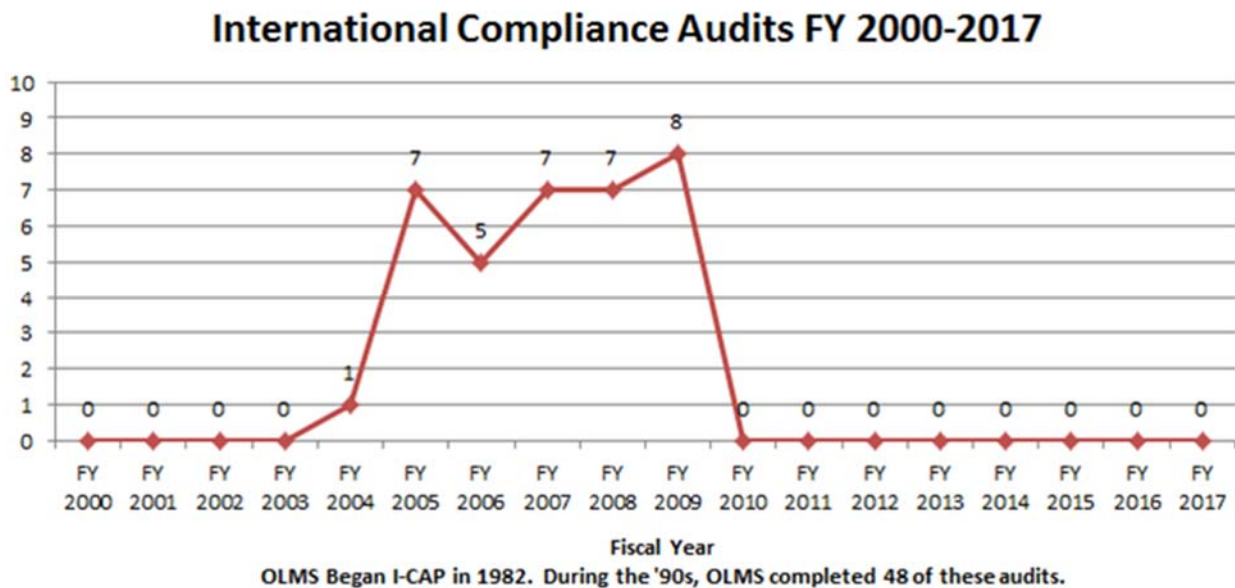


Figure 4. I-CAP audits, which are audits of international unions, were halted under President Obama. Source: U.S. Department of Labor

<sup>9</sup> FY 2019 Department of Labor Budget in Brief Budget in Brief, 28, <https://www.dol.gov/sites/default/files/budget/2019/FY2019BIB.pdf>.



### Criminal Investigations, FY 2000-2016

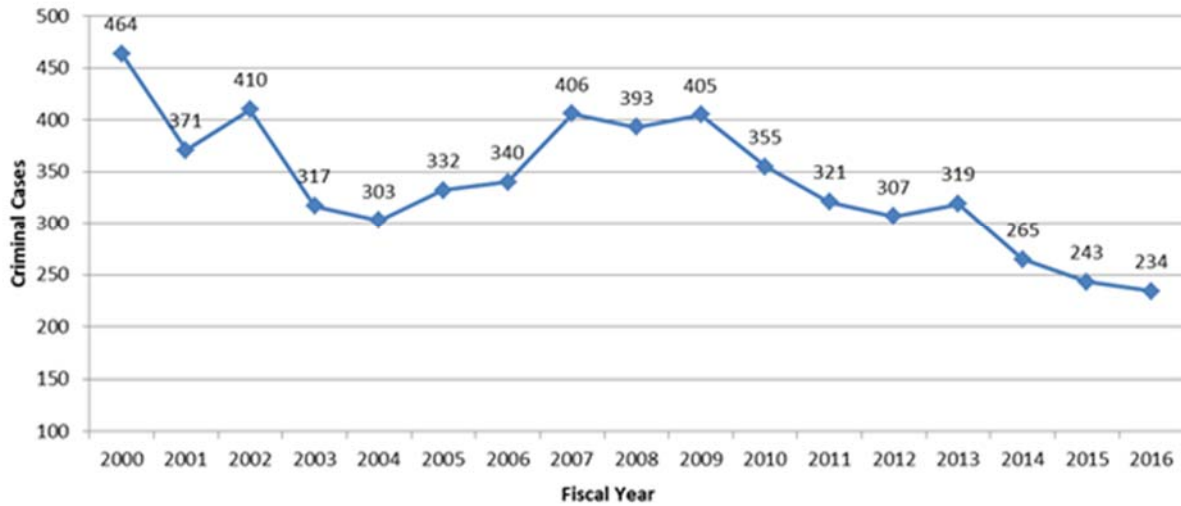


Figure 5. Criminal investigations at OLMS declined during the Obama administration. Source: U.S. Department of Labor

### Indictments and Convictions, FY 2000-2016

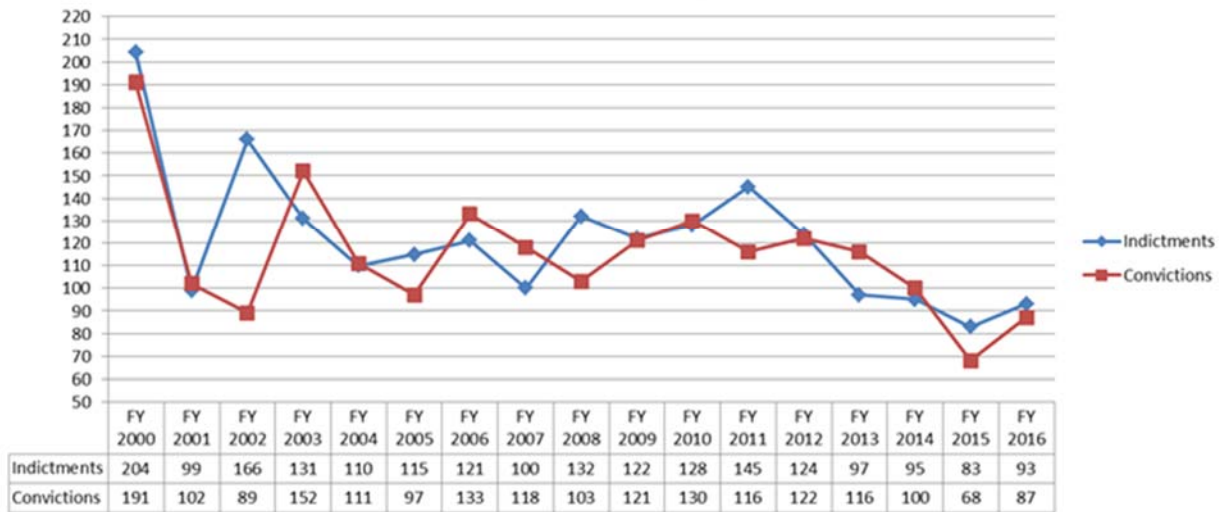


Figure 6. OLMS indictments and convictions trended downward under President Obama. Source: U.S. Department of Labor

### Morale

One of the serious problems at OLMS is low morale. Part of the effort to boost morale should be an increase in both the agency’s budget and staffing levels, but that is only part of the solution. OLMS needs political leadership to demonstrate the importance of the agency and to improve access to the Department’s senior executives. Furthermore, the agency’s goals need to be increased, which will send the message to OLMS employees that their work is valued.

## **District Offices**

Under President Obama, some district offices were closed, and district directors were moved from the Senior Executive Service (SES) back to GS-15's. Where needed, those closed district offices should be reopened, and the district directors should have their SES status restored.

## **LM-2 Filings**

During the Bush Administration, then-Labor Secretary Chao worked to implement a rule requiring that LM-2 filings contain the full value of compensation packages for union officials and most union employees, including things like free housing and deferred compensation. The Labor Department researched how much money unions spent on unreported benefits, and found the amounts to be "significant."<sup>10</sup> While some of this information can be found on IRS Form 990's, the information is not publicly available until 12 to 18 months after the end of the union's fiscal year; by contrast, LM-2 reports must be filed within 90 days of the end of the union's fiscal year, and LM-2 reports are publicly available much more quickly than Form 990's.

The rule required that LM-2 filings contain an itemized listing of receipts. That requirement helps ensure that union members can find out the source(s) of their union's funds.

The rule required that unions disclose the names of buyers and sellers of union assets of \$5,000 or more. By requiring this disclosure, union officials would be discouraged from intentionally selling union assets below market rates or intentionally buying goods at inflated prices.

The rule required unions to report amounts paid directly to vendors for union expenses. It has long been required that unions report reimbursements paid to union officials for dining, hotels, or golf, but amounts paid directly to vendors (such as restaurants, hotels, golf courses, etc.) on behalf of those union officials were not required to be reported. So union officials seeking to avoid transparency could simply have their unions pay directly for their travel and leisure expenses thereby making it easier to keep union members in the dark about the purpose of expenditures.

The Obama administration rescinded this rule, and it should be reinstated as soon as possible. Until this rule is reinstated, too many union members will be unable to find out important financial details from their union.

## **T-1 Filings**

Secretary Chao worked to require T-1 filings, which were to provide transparency for union-managed trusts, such as strike funds, training funds, building funds, pension plans, welfare plans, and credit unions. The Obama administration rescinded this rule, and it should be reinstated as soon as possible. According to a Bush administration estimate, over 3,100 trusts would have been required to file T-1 reports.<sup>11</sup> It should be noted that some of these trusts are massive with hundreds of millions of dollars in assets.

## **LM-3 Filings**

Secretary Chao worked to limit the filing of LM-3 forms, which contain less information than the LM-2. The simpler LM-3 Forms may be filed by unions with total annual receipts of more than \$10,000 and less than \$250,000, unless the union is in receivership. The Obama Administration rescinded the rule limiting the use of the LM-3, and the rule should be reinstated as soon as possible. While filing simpler forms is no doubt appealing to union officials, it means that more union members will have less information about the management of their own unions.

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<sup>10</sup> Mehrens testimony on *The Future of Union Transparency and Accountability*.

<sup>11</sup> Neubauer, "Bush's union transparency rules retracted under Obama."



## LM-30 Filings

Secretary Chao insisted union officials follow the law and file LM-30 forms, which disclose union officers and employees' conflicts of interest. She also updated the decades-old LM-30 form to require more details. The Obama administration announced that it wouldn't enforce the regulation as long as those required to file the report complied "in some manner."<sup>12</sup> Union officials should be required to file the revised LM-30 form; and the requirement to file the form should be expanded to include shop stewards. Requiring fewer details from fewer filers encourages more corruption among union officials.

## Support from the Association for Union Democracy

The Association for Union Democracy (AUD) is a pro-union organization that advocates for democracy within unions. The organization has been largely supportive of the transparency rules that were rescinded. Arthur Fox, counsel for AUD and a board member of the organization, testified before Congress about the reforms. He stated,

"The cornerstone of any democracy is information, without which the right to vote is pretty meaningless..."

"Accordingly, when enacting the LMRDA, Congress charged the DOL with responsibility for requiring unions to become financially transparent..."

"While some of the changes to the reporting requirements promulgated by OLMS would arguably have been unduly burdensome on unions and of little value to members, many other of the provisions of the reformed reporting requirements would have been of great value to union members, enabling them more accurately to understand how their dues are being spent, as well as to detect conflicts of interest by their elected officers."<sup>13</sup>

## Conclusion

To restore the ability of OLMS to properly carry out its mission, a number of changes are needed. Afraid of what it might find if it looked too closely at union ledgers, the Obama administration deprioritized OLMS; and now the agency needs to be properly funded and staffed. Congress should address the agency's lack of resources as soon as possible. The Trump Administration should also make some changes. One of the first of those changes should be to place several political appointees in charge of OLMS. The new OLMS leadership should raise the agency's performance goals, which were lowered by the Obama Administration,<sup>14</sup> and should reopen needed district offices, which were closed under President Obama. District office directors, who were demoted during the Obama years, should have their Senior Executive Service status restored.

OLMS should also reinstate the transparency reforms that the Obama Administration killed. LM-2 filings should include more information on union revenues, the total compensation of union officials and employees, and sellers and buyers of union assets. T-1 filings should be required for union trusts, such as strike funds and building funds. LM-3 filings, which are simpler forms, should be limited. LM-30 conflict of interest filings should be enforced once again; and shop stewards should be required to file them when they

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<sup>12</sup> Ibid.

<sup>13</sup> *The Future of Union Transparency and Accountability before the Subcommittee on Health, Employment, Labor, and Pensions Committee on Education and the Workforce*, 112th Cong. (2011) (Statement of Arthur Fox, Association for Union Democracy Counsel),

<https://www.gpo.gov/fdsys/pkg/CHRG-112hrg65361/html/CHRG-112hrg65361.htm>.

<sup>14</sup> Ibid.

have a conflict of interest. By requiring more transparency from unions, union members will have a better idea of how their unions are being run. Armed with more financial details, members of poorly-run unions will be better able to oust corrupt or inept union officials.

Thanks to another reform of the LM-2 by Secretary Chao, which remains in place, a newspaper was able to discover an abuse of union funds. The newspaper's investigation led to a Labor Department investigation and criminal charges being filed against Tyrone Freeman, a former president of the Service Employees International Union Locals 6434 and 434-B. Freeman was subsequently convicted of several counts each of mail fraud and embezzlement and/or theft of union assets, among other things.<sup>15</sup> Although Freeman received compensation of about \$200,000 for leading the union of low-wage workers, he misappropriated union funds to lead a lavish lifestyle. For his crimes, the once-rising star was sentenced to nearly three years in prison, ordered to pay restitution of \$150,000, and forbidden from holding union office for 13 years after his release.<sup>16</sup> One wonders how many more corrupt union officials would have been sent to prison by now had transparency regulations not been rescinded by the Obama Administration.

By increasing its funding, staffing, goals, and union audits, along with reimplementing Secretary Chao's union transparency rules, the Trump Labor Department can make OLMS great again, which will help make America great again.

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<sup>15</sup> Sean Redmond, "SEIU's Tyrone Freeman Convicted," U.S. Chamber of Commerce, February 4, 2013, <https://www.uschamber.com/article/seiu-s-tyrone-freeman-convicted>.

<sup>16</sup> Paul Pringle, "Former SEIU local leader gets 33 months in prison," *Los Angeles Times*, October 7, 2013, <http://articles.latimes.com/2013/oct/07/local/la-me-freeman-20131008>.

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