

OLMS Fact Sheet



Form LM-10 Employer Reporting Transparency Concerning Persuader, Surveillance, and Unfair Labor Practice Expenditures

Employers must file a Form LM-10 Employer Report with the U.S. Department of Labor's Office of Labor-Management Standards (OLMS) to disclose certain payments, expenditures, agreements, and arrangements, pursuant to Section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA). This Fact Sheet provides general information and specific examples concerning the reporting on Form LM-10 of the following situations: (1) employer payments to the employer's own staff to persuade other employees, (2) expenditures to surveil employees and labor unions, and (3) expenditures to commit an unfair labor practice (ULP). Specific reporting information and detailed instructions, including reporting exceptions, are included on the OLMS website at www.dol.gov/olms.

NOTE: This fact sheet does **not** cover other activities by employers that may require a Form LM-10, including employer agreements and arrangements with a third party consultant to persuade employees concerning their collective bargaining or organizing rights or to obtain certain information, as detailed in a separate fact sheet on [employer-consultant reporting](#). It also does not cover the reporting requirements of employers to disclose certain specified financial dealings with a union or officer, agent, shop steward, employee, or other representative of a union, as detailed in [Form LM-10 FAQs](#). There are exceptions to filing, and these are noted in Item 8 of the [Form LM-10 instructions](#).

What employer expenditures are covered by this fact sheet?

- I. Persuader Payments to Employer's Own Staff: Under LMRDA Section 203(a)(2), an employer must report any payment (including reimbursed expenses) to any of its 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 to not exercise, or as to the 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. Exemption: No employer is required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

These expenditures may include, but are not limited to, the total of all payments, transactions, or arrangements in the following areas:

1. The total of all expenditures to any of the employer's employees to persuade other employees whether or not to organize, or to otherwise instruct employees how to exercise their right to organize or bargain collectively.

2. If an employer brings in replacement employees for striking employees and the replacement employees are instructed to persuade employees to abandon a union or a strike, or otherwise instruct employees how to exercise their right to organize and bargain collectively, then the employer must report expenditures attributable to such persuader activity. The total expenditures would be determined by calculating the number of hours that the replacement employee engaged in the persuasion activities, which would include any time planning or preparing for and engaging in such persuasion activities.

Examples of Non-Reportable Expenditures Under Section 203(a)(2) (Persuader Payments to Employer's Own Staff):

- An employer will not be required to report regular salary/compensation made to a full-time director of industrial relations who engages in persuader activity while serving in that capacity.
- An employer will not be required to report payments if the employer contemporaneously or previously disclosed the persuader payments to its employees.

Examples of Reportable Expenditures Under Section 203(a)(2) (Persuader Payments to Employer's Own Staff):

- The employer pays any of its employees to persuade other employees to join or not to join a union or to affect the negotiation of a collective bargaining agreement, whether such persuasion is to occur during or after regular work hours.
- The employer provides free use of the employer's facility or property (e.g., special parking privileges, use of photocopier, etc.) in order to help certain of its employees prepare or disseminate materials designed to persuade their fellow employees in the exercise of their organizing and collective bargaining rights.
- The employer called in one of his longtime and trusted employees who works as a drill press operator and asked him to persuade his fellow employees. The employer must report payments to the drill press operator for preparing for and engaging in the persuasion of fellow employees.
- The employer makes payments to employee "front organizations" or "organizing committees" set up for the purpose of persuading employees regarding their collective bargaining rights.

Reminder: None of these examples would be reportable if the other employees were told about these payments before or at the same time they were made.

- II. Surveillance of Employees or Labor Union: Under section 203(a)(3), employers must report expenditures made to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute, including during an organizing effort, involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.
Exemption: No employer shall be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

These expenditures generally include, but are not limited to, the following areas:

1. Surveillance equipment or other technology used to surveil and the time spent on installing, operating, and monitoring it, as well as analyzing the information the equipment produces.
2. Direct spying on employees or a labor organization.
3. Efforts to obtain “inside information.”

Examples of Non-Reportable Expenditures under Section 203(a)(3) (Surveillance of Employees or Labor Union):

- Information Solely for Legal Proceedings – Employers do not need to report information obtained and used solely in conjunction with administrative, arbitral, or judicial proceedings (which would include for example, a representation hearing before the National Labor Relations Board). If the information is obtained or used also for purposes peripheral to such proceedings, it must be reported.
- Employer expenditures to obtain information concerning the activities of employees or of a labor organization in connection with a labor dispute in which the employer is *not* involved, unless the employer obtains the information to transmit it to another employer that is involved in a dispute with the employees.

Examples of Reportable Surveillance Expenditures:

- Instead of hiring a labor relations consultant or other middleman, an employer pays a bonus to one of its regular officers, supervisors, or employees to secretly collect and report information. Here the “spy” may simply sit outside the place where the union organizers are meeting with other employees of the same business and record the names of the employees who are going in and coming out. She then turns this information over to the employer. This type of activity is reportable.
- An employer pays an employee who is a member of a union’s collective bargaining committee to provide “inside” information concerning the bargaining demands of a labor organization involved in a labor dispute or contract negotiations with the employer.
- An employer purchases computer software, surveillance cameras, or audio recording devices that gather information concerning the organizational activities of employees involved in a labor dispute with the employer. All expenses associated with this equipment are reportable, i.e. the amounts spent on installing, operating, and monitoring the equipment, as well as analyzing the information produced by this equipment.

III. Unfair Labor Practice (ULP) Expenditures: Under section 203(a)(3), employers must report any expenditure 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 (i.e., commit an “unfair labor practice” (ULP) under the National Labor Relations Act).

These expenditures generally include, but are not limited to, the following areas:

1. Any additional compensation, beyond regular wages and benefits, provided to supervisors, management officials, and other employees who engaged in such interference, restraint, or coercion with employees' rights. The time engaged in such activities would include any hours training, planning, or preparing for such interference, restraint, or coercion, as well as the time performing the activities.
2. All expenditures for equipment, materials, or any other tool or method that facilitated such interference, restraint, or coercion with employees' rights. These expenditures would include the cost of any purchase or lease, as well as training or maintenance costs. Examples include the cost of printing booklets or other materials that furthered the interference, restraint, or coercion with employees' rights through dissemination of threats, as well as the cost of a purchase or lease of surveillance equipment used to obtain information concerning employees.

Examples of Non-Reportable Expenditures:

- An employer has a regular monthly newsletter it distributes to its employees. The newsletter reports neutrally on the facts surrounding a strike in one of its warehouses. The costs of the newsletters are not reportable, *provided* it contains no direct or indirect threat of reprisal or force, or promise of benefit.
- A packaging facility spends \$10,000 on posters and pamphlets urging employees to reject an organizing drive. The expenditures for the posters and pamphlets is not reportable, *provided* they contain no direct or indirect threat of reprisal or force or promise of benefit.

Examples of Reportable ULP Expenditures:

- An employer makes expenditures for the printing and dissemination of pamphlets, advertisements, or other printed materials, which threaten to move or close the plant if organized.
- An employer gives gifts or provides services to employees on the condition that they will or will not join a union, regardless whether the condition is explicit or implicit.
- An employer makes payments to a supervisory employee who, as consideration for such payments, verbally threatens employees with a reduction in vacation days or a later vesting of retirement benefits unless the employees reject organizing.
- An employer makes payments in assistance of a "Grievance Committee" (or similar entity) established in connection with an organizational drive run by a union to organize the employees.
- An employer makes expenditures for an ad in a newspaper if the substance of that ad amounts to "interference with, restraint, or coercion" in connection with the employees' rights to bargain collectively through representatives of their own choosing, such as a threat to dismiss employees if they organize.

How must employers file the Form LM-10? The Form LM-10 must be completed and submitted electronically through the [OLMS Electronic Forms System](#) (EFS), available on the OLMS website at www.dol.gov/olms. Paper filings and any other form of electronic filings will not be accepted. The report must be signed by the president and treasurer, or corresponding principal officers, of the reporting employer, or by the sole proprietor, as appropriate. See the [Form LM-10 Instructions](#) for additional guidance.

When must the LM-10 report be filed? If an employer engages in reportable activity, then it must file a Form LM-10 report within 90 days after the end of the employer’s fiscal year in which the activity occurred. Employers are required to file only one Form LM-10 each fiscal year that covers all instances of reportable activity, payments, or expenditures even if, for example, the employer makes multiple expenditures.

Recordkeeping Requirements

Section 206 of the LMRDA requires that Form LM-10 filers must maintain for a period of five years records to verify, explain or clarify items required to be reported on Form LM-10. LMRDA Title VI, Section 601, gives OLMS the authority to inspect the records.

If you have any questions, please e-mail us at OLMS-Public@dol.gov or contact your nearest OLMS field office below. See: <https://www.dol.gov/agencies/olms/contact/regions>.

You may also consult the Employer and Consultant Reporting page on the OLMS website: <https://www.dol.gov/agencies/olms/compliance-assistance/employer-consultant-reporting>.

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