



OLMS Fact Sheet

Employer-Consultant Agreements

Forms LM-10, LM-20, and LM-21

Employers and labor relations consultants must file reports with the U.S. Department of Labor's Office of Labor-Management Standards (OLMS) whenever they enter into an agreement or arrangement whereby the consultant undertakes activities with either of the following objectives:

- To persuade employees about exercising their rights to organize and bargain collectively or
- To supply an employer with certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer.

These reports are required under Section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA). This fact sheet includes general information about the requirements for reporting such agreements on Form LM-10 Employer Report, Form LM-20 Agreement and Activities Report, and Form LM-21 Receipts and Disbursements Report, applicable to arrangements, agreements, and payments made on or after July 1, 2016. Specific reporting information and detailed instructions are included with the forms on the OLMS Web site at www.olms.dol.gov.

Employer Report: Form LM-10

Section 203(a) of the LMRDA requires employers to file a report, Form LM-10, with OLMS if they make certain expenditures or engage in certain activities, including entering into agreements or arrangements with any third party consultant, to persuade employees concerning their collective bargaining or organizing rights or to obtain certain information. The report must be signed by the president and the treasurer or corresponding principal officers of the reporting employer, or by the sole proprietor, as appropriate.

When must the LM-10 report be filed?

A Form LM-10 report must be filed electronically within 90 days after the end of the employer's fiscal year. Employers are required to file only one Form LM-10 report each fiscal year covering all instances of reportable activity even if, for example, activity occurs at multiple locations or the employer enters into more than one consultant agreement. Employers are not required to file Form LM-10 reports covering attendance at union avoidance seminars, though consultants who present at these seminars must file LM-20 reports.

Note: Employers are required to report other items not related to persuader activities or expenditures on Form LM-10. Pursuant to LMRDA Section 203(a), employers must also file the Form LM-10 to report certain payments to unions and individuals affiliated with unions, including any officer, em-

ployee, shop steward, or agent of a labor organization. There are exceptions to the filing requirements, and these are noted in the Form LM-10 instructions.

Consultant Reports: Forms LM-20 and 21

Form LM-20: Agreement and Activity Report

Section 203(b) of the LMRDA requires any person, including a labor relations consultant, to file a report, Form LM-20, to disclose agreements or arrangements with any employer pursuant to which the person undertakes activities with the intent to persuade employees concerning their collective bargaining or organizing rights or to obtain certain information. Such individuals or organizations must file a separate Form LM-20 for each agreement or arrangement they make with an employer, and attach a copy of any written agreement. The report must be signed by the president and the treasurer or corresponding principal officers of the consultant firm or, if the filer is self-employed, by the individual consultant.

When must the Form LM-20 report be filed?

Anyone required to file a Form LM-20 must do so within 30 days after entering into a reportable agreement, except for reports covering union avoidance seminars, which are due 30 days after the conclusion of the seminar.

What constitutes a reportable "persuader agreement"?

An agreement or arrangement is reportable if a consultant undertakes “persuader activities,” which are any actions, conduct, or communications that are undertaken with an object, explicitly or implicitly, directly or indirectly, to affect an employee’s decisions regarding his or her representation or collective bargaining rights. The typical reportable agreement or arrangement is one by which a consultant agrees to manage a campaign or program to avoid or counter a union organizing or collective bargaining effort, either jointly with the employer or separately, or conducts a union avoidance seminar.

Reporting of an agreement or arrangement is triggered when:

- (1) A consultant engages in direct contact or communication with any employee with an object to persuade such employee; or
- (2) A consultant who has no direct contact with employees undertakes the following activities *with an object to persuade employees*:
 - (a) plans, directs, or coordinates activities undertaken by supervisors or other employer representatives, including meetings and interactions with employees;
 - (b) provides material or communications in oral, written, or electronic form, for dissemination or distribution to employees;
 - (c) conducts a union avoidance seminar for supervisors or other employer representatives; or
 - (d) develops or implements personnel policies, practices, or actions for the employer.

To be reportable, as noted above, such activities must be undertaken with an object to persuade employees, as evidenced by the agreement, any accompanying communications, the timing, or other circumstances relevant to the undertaking.

What are examples of exempt agreements?

No report is required covering the services of a labor relations consultant by reason of the consultant’s giving or agreeing to give advice to an employer. “Advice” means an oral or written

recommendation regarding a decision or a course of conduct. For example, a consultant who, exclusively, counsels employer representatives on what they may lawfully say to employees, ensures a client’s compliance with the law, offers guidance on employer personnel policies and best practices, or provides guidance on National Labor Relations Board (NLRB) or National Mediation Board (NMB) practice or precedent is providing “advice.”

As a general principle, no reporting is required for an agreement or arrangement to exclusively provide legal services. For example, no report is required if a lawyer or other consultant revises persuasive materials, communications, or policies created by the employer in order to ensure their legality rather than enhancing their persuasive effect. In such cases, the consultant has no object to persuade employees. Additionally, reports are not required for agreements that exclusively involve a consultant representing the employer before a court, administrative agency, or tribunal of arbitration, or engaging in collective bargaining on the employer’s behalf with respect to wages, hours, or other terms or conditions of employment or the negotiation of any agreement or any questions arising under the agreement.

Form LM-21: Receipts and Disbursements Report

Any person required to file a Form LM-20 also must file a Form LM-21 Receipts and Disbursements Report for any year in which payments were made or received as a result of arrangements of the kind requiring the Form LM-20 report.

When must the Form LM-21 report be filed?

Consultants (individuals or organizations) required to file a Form LM-21 must do so within 90 days after the end of the consultant’s fiscal year. The report must be signed by the president and the treasurer, or corresponding principal officers, of the consultant firm or, if the filer is self-employed, by the individual consultant.

The Form LM-21 report must include financial information, not only about payments and arrangements related to activities reportable on the Form LM-20, but also about other receipts and disbursements related to labor relations advice or services for employers. There are exceptions to filing, and these are noted in the Form LM-21 instructions.

Recordkeeping Requirements

Section 206 of the LMRDA requires that Form LM-10, LM-20, and LM-21 filers must maintain, for a period of five years, records sufficient to verify, explain or clarify items required to be reported on

Forms LM-10, LM-20, and LM-21. Title VI, Section 601, gives OLMS the authority to inspect these records.

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For the address and telephone number of our field offices, please consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, or view our online organizational listing at <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

OLMS

Office of Labor-Management Standards

U.S. Department of Labor

April 2010 (Revised March 2016)

Visit us at www.olms.dol.gov

E-mail us at olms-public@dol.gov

Call the DOL Toll-Free Help Line at **1.866.487.2365**