



OLMS Fact Sheet

Notice of Proposed Revision: Federal Contractor Identification Box for Form LM-10 Filers

Since the enactment of the Labor-Management Reporting and Disclosure Act (LMRDA) in 1959, employers have had to fill out a Form LM-10 with the Department's Office of Labor-Management Standards (OLMS) if they hire a consultant to persuade their workers about labor relations activities or to "surveil" employees or unions involved in a labor dispute. (The statutory term is "to obtain information concerning the activities of" workers or unions.)

OLMS will publish a notification of a proposed revision on September 13, 2022, to amend the Form LM-10. This proposed revision does not change who has to file LM-10 forms or when or how often they have to file them, but it does require employers to check a box disclosing if they're federal contractors or subcontractors -- and if so, provide their federal Unique Entity Identifier if applicable.

OLMS seeks to enhance transparency and promote harmonious labor relations. Workers should have access to information concerning the indirect source of the funding used to persuade or surveil them in connection with organizing, collective bargaining and other concerted activities at the workplace. In addition, the public and policymakers should know whether public funds may indirectly lead to disruptions to harmonious labor relations and workers' rights, even if the underlying activities are not unlawful.

Executive Order 13494 prohibits the government from reimbursing contractors for the cost of persuader and surveillance activity. This disclosure will make it easier for federal agencies to identify the work that should not be reimbursed.

What does this proposed revision do?

- Since 1959, employers have had to fill out an "LM-10" form if they hire a consultant to persuade their workers about labor relations activities or to surveil employees or unions involved in a labor dispute.
- This proposed revision doesn't change who has to file LM-10 forms or when or how often they must be filed, but it does require employers to check a box disclosing if they're federal contractors -- and if so, provide their federal Unique Entity Identifier, if applicable, and the federal agencies involved with the contract or subcontract.

Why does the Department require LM-10 forms?

- The LM-10 forms are not a new requirement.
- Congress passed the LMRDA in 1959, which among other requirements, creates reporting and disclosure requirements for labor unions, employers and labor relations consultants.
- More specifically, employers must file reports covering, among other areas, agreements with consultants (and other payments and expenditures) made with an object to persuade employees concerning their organizing and collective bargaining rights or to surveil the activities of employees and unions involved in a labor dispute with such employers.

- OLMS makes these forms available on its website, as it does with all other forms: www.dol.gov/olms. See also: <https://www.dol.gov/agencies/olms/compliance-assistance/employer-consultant-reporting>.

What is on LM-10 forms now?

- The filers must provide their general contact information; the identity of the consultant hired; and “a full explanation of the circumstances” of all reportable payments and agreements, including the terms and conditions of the reportable agreement and activities undertaken pursuant to such agreement.
- These details include the identity of the unit of employees subject to the persuasion or surveillance activities.

Why is the Department seeking to require this new reporting?

- OLMS seeks to enhance transparency and promote harmonious labor relations. Workers should have access to information concerning the indirect source of the funding used to persuade or surveil them in connection with organizing, collective bargaining or other concerted activities at their workplace. In addition, the public and policymakers should know whether public funds may indirectly lead to disruptions to harmonious labor relations and workers’ rights, even if the underlying activities are not unlawful.
- In addition, federal agencies can use these disclosures to ensure that they are not reimbursing government contractors for these unallowable costs.

What is a Unique Entity Identifier?

- The Unique Entity ID is the official identifier for doing business with the U.S. Government as of April 4, 2022.
- Entities registering in SAM.gov are assigned a Unique Entity ID as a part of the registration process.
- All Federal prime contractors and some subcontractors receive a Unique Entity Identifier, not just those that have to fill out LM-10 forms.

What’s the legal basis for this proposed requirement?

- Through the LMRDA, Congress identified persuader and surveillance activities as an area that needs transparency, and it provides the Secretary with rulemaking authority to prescribe a form that would provide “a full explanation of the circumstances” surrounding persuader and surveillance-related payments and agreements. The Department proposes that part of the “circumstances” that employers must explain for purposes of transparency concerns federal contractor status.

What’s the policy basis for this proposed requirement?

- OLMS is seeking to enhance transparency and promote harmonious labor relations, which benefits employers, employees, and labor unions.
- Workers should have access to information concerning the indirect source of the funding used to persuade or surveil them in connection with organizing, collective bargaining and other concerted activities at their workplace. In addition, the public and policymakers should know whether public funds may indirectly lead to disruptions to harmonious labor relations and workers’ rights, even if the underlying activities are not unlawful.

- Federal contractors are not permitted to receive reimbursement for the costs of engaging in those activities under the contract. See E.O. 13494 (Economy in Government Contracting).

How will filers know which of their employees works under a federal contract?

- Under the E.O. 13496 implementing regulations, employers would already know which of their employees work under federal contracts, as they must provide them notices of their rights under the National Labor Relations Act (NLRA).
- While employers covered by the Railway Labor Act (RLA), instead of the NLRA, would not be covered by E.O. 13496, and thus, arguably, may need more time to comply with the proposed rule, this group is a small percentage of filers.
- Further, OLMS will make adjustments to the burden estimates in the final revision, as necessary, in the unlikely event that employers claim during the comment period that they are unaware that they hold a federal contract or which of their employees perform this work.

When will the Department complete this proposed revision?

- The Department will assess comments received during the comment period and determine how to proceed in making any revisions to the Form LM-10.

OLMS

Office of Labor-Management Standards

U.S. Department of Labor

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