
Employer-Consultant Reporting Stakeholders Meeting



May 24, 2010

Office of Labor-Management Standards

U.S. Department of Labor

Meeting Objective



- The purpose of this meeting is to receive comments on planned rulemaking regarding the scope of employer and consultant reporting required pursuant to section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA) on agreements to persuade employees concerning their rights to organize and bargain collectively.
 - The Department announced in its Fall 2009 Regulatory Agenda its intention to propose rulemaking to narrow the scope of the LMRDA section 203(c) “advice exception.”
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Meeting Agenda



- This is a listening session for the Department.
 - Following a brief introduction to the issues, the floor will be open to those wishing to provide related comments.
 - Your comments will become part of the record for the planned rulemaking.
 - The Department is making an audio recording of this meeting that will be available to the public on the OLMS website.
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Comment Procedures



- Comments will be invited after a brief introduction to the meeting topic.
 - Microphones are available at the front of the auditorium.
 - Each commenter is asked to state his/her name and the organization represented.
 - To allow time for all comments, please be concise and yield the microphone when asked.
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LMRDA Section 203

Employer-Consultant Reporting

LMRDA Section 203 requires employers and labor relations consultants to file reports disclosing agreements or arrangements to:

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

Reports Required



- Employer reports are required under LMRDA sections 203(a)(4) and (5) and must be filed on Employer Report Form LM-10.
- Consultant reports are required under section 203(b) of the LMRDA. The agreement must be reported on Agreement and Activities Report Form LM-20.
- The Form LM-10 report is due within 90 days after the end of the employer's fiscal year.
- The consultant's Form LM-20 report must be filed within 30 days after entering into the agreement or arrangement.



Reporting Exceptions: LMRDA Section 203(c)

Section 203(c) provides that reporting is not required for agreements where the consultant engages **exclusively** in the following activities:

- Giving the employer advice
- Representing the employer before any court, administrative agency, or tribunal of arbitration, or
- Engaging in collective bargaining on behalf of the employer or negotiating an agreement or any question arising under the agreement.

Section 203(c) Advice Exception



- The “advice” exception is the primary focus of the planned rulemaking.
 - As currently applied by the Department, persuader reporting is not required when the consultant has no direct contact with employees and limits activity to providing to the employer advice or materials for use in persuading employees, which the employer has the right to accept or reject.
 - The Department considers that this current application of the “advice” exception may be overbroad.
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Reporting Exceptions: LMRDA Sections 203(e)

Section 203(e) provides that:

- No “regular officer, supervisor, or employee of an employer” is required to file a report covering services rendered to such employer.
- No employer is required to report concerning expenditures to any “regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.”

Section 203(e) Exception



The Department seeks comments on the application of the Section 203(e) reporting exception to reporting under:

- LMRDA section 203(a)(2), which requires, under certain conditions, employers to report payments to their own employees to persuade other employees concerning their bargaining rights, and
 - LMRDA section 203(a)(3), which requires employers to report expenditures to “interfere with, restrain, or coerce employees,” or to obtain information on the activities of employees and labor organizations in connection with a labor dispute.
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Mandatory Electronic Filing



The Department seeks comment on whether electronic filing should be mandated for Form LM-10 and LM-20 reports.

Comment Items



- Scope of the “advice exception”
- Application of the “regular officer, supervisor and employee” exception to employer reporting under LMRDA sections 203(a)(2) and (3)
- Mandatory electronic filing of Forms LM-10 and LM-20
- Form LM-10 and Form LM-20 layout
- Level of reporting detail required on Forms LM-10 and LM-20
- Information on how the use of consultants by employers has affected labor-management relations
- Information on how persuader activity has changed since enactment of the LMRDA in 1959



Thank You

OLMS



You may contact OLMS at:
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