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**DO NOT SEND YOUR COMPLETED FORM LM-10 TO THE ABOVE ADDRESS.**

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# Instructions for Form LM-10 Employer Report

## GENERAL INSTRUCTIONS

### I. Why File

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), requires public disclosure of specific financial transactions, agreements, or arrangements made between an employer **and** one or more of the following: a labor organization, union official, employee, or labor relations consultant. Additionally, an employer must disclose expenditures for certain objects relating to activities of employees or a union. Pursuant to Section 203 of the LMRDA, every employer who has engaged in any such transaction, agreement, arrangement, or expenditures during the fiscal year must file a detailed report with the Secretary of Labor. The Secretary, under the authority of the LMRDA, has prescribed the filing of the Employer Report, Form LM-10, for employers to satisfy this reporting requirement.

These reporting requirements of the LMRDA and of the regulations and forms issued under the Act only relate to the disclosure of specified financial transactions, agreements, or arrangements. The reporting requirements do not address whether specific payments, expenditures, transactions, agreements, or arrangements are lawful or unlawful. The fact that a particular payment, expenditure, transaction, agreement, or arrangement is or is not required to be reported does not indicate whether or not it is subject to any legal prohibition.

### II. Who Must File

Any employer, as defined by the LMRDA, who has engaged in certain financial transactions, agreements, or arrangements, of the type described in Section 203(a) of the Act, with any labor organization, union official, employee or labor relations consultant, **or** who has made expenditures for certain objects relating to activities of employees or a union, must file a Form LM-10. An employer required to file must complete only one Form LM-10 report each fiscal year that covers all instances of reportable activity even if activity occurs at multiple locations.

**Note:** Selected definitions from the LMRDA follow these instructions.

### III. What Must Be Reported

The types of financial transactions, agreements, arrangements, or expenditures that must be reported are set forth in Form LM-10. The LMRDA states that every employer involved in any such transaction, agreement, or arrangement during the fiscal year must file a detailed report with the Secretary of Labor indicating the following: (1) the date and amount of each transaction, agreement, or arrangement; (2) the name, address, and position of the person with whom the agreement, arrangement, or transaction was made; and (3) a full explanation of the circumstances of all payments made, including the terms of any agreement or understanding pursuant to which they were made.

Form LM-10 is divided into four parts: Part A, Part B, Part C, and Part D.

Part A, pursuant to LMRDA section 203(a)(1), details direct or indirect payments, including loans, to unions or union officials.

Part B, pursuant to LMRDA section 203(a)(2), details direct or indirect payments (including reimbursed expenses) to any of the employer's employees, or to any group or committee of the employer's employees, for the purpose of causing them to persuade other employees to exercise or not exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing without previously or at the same time disclosing such payment to all such other employees.

Part C, pursuant to LMRDA sections 203(a)(4) and (5), details agreements and arrangements, and any payments made pursuant to such agreements or arrangements, between employers, labor relations consultants or other independent contractors or organizations under which the consultant or other person engages in actions, conduct, or communications with an object, directly or indirectly, to persuade employees to exercise or not to exercise, or to persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own

choosing. Also reportable in Part C are agreements and arrangements under which the consultant or independent contractor or organization supplies information regarding employees or a labor organization in connection with a labor dispute involving the employer.

Part D, pursuant to LMRDA section 203(a)(3), details expenditures where an object thereof, directly or indirectly, was to interfere with, restrain, or coerce employees in the right to organize and bargain collectively through representatives of their own choosing; and any expenditure where an object thereof, directly or indirectly, was to obtain information concerning the activities of employees or of a labor organization in connection with a labor dispute involving the employer.

**Special Reports.** In addition to this report, the Secretary may require employers subject to the LMRDA to submit special reports on relevant information, including but not necessarily confined to reports involving specifically identified personnel on particular matters referred to in the instructions for Part A.

While Section 203 of the LMRDA does not amend or modify the rights protected by Section 8(c) of the National Labor Relations Act, as amended (NLRA), the LMRDA contains no provision exempting the activities protected by that section from the reporting requirements. Therefore, employers must report activities of the type set forth in Item 8, since the LMRDA requires such reports, regardless of whether the activities are protected by Section 8(c) of the NLRA. Note, however, that the information employers are required to report in response to question 8.c does not include expenditures relating exclusively to matters protected by Section 8(c) of the NLRA, because the definition in Section 203(g) of the LMRDA of the term "interfere with, restrain, or coerce," which is used in question 8.c, does not cover such matters.

**Note:** The text of NLRA Section 8(c) is set forth following these instructions.

#### IV. Who Must Sign the Report

Both the president and the treasurer, or corresponding officers, of the reporting employer must sign the completed Form LM-10. A report from a sole proprietor need only bear one signature.

#### V. When to File

Each employer, as defined by the LMRDA, who has engaged in any of the transactions or arrangements set forth in the form must submit a Form LM-10 report *within 90 days* after the end of the employer's fiscal year.

#### VI. How to File

Form LM-10 must be completed online, electronically signed, and submitted along with any required attachments to the Department using the OLMS

Electronic Forms System (EFS). The electronic Form LM-10 can be accessed and completed at the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov).

If you have difficulty navigating EFS, or have questions about its functions or features, call the OLMS Help Desk at (866) 401-1109. You may also email questions to [OLMS-Public@dol.gov](mailto:OLMS-Public@dol.gov).

You will be able to file a report in paper format only if you assert a temporary hardship exemption or apply for and are granted a continuing hardship exemption.

#### TEMPORARY HARDSHIP EXEMPTION:

If you experience unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing, you may file Form LM-10 in paper format by the required due date at this address:

U.S. Department of Labor  
Office of Labor-Management Standards  
200 Constitution Avenue, NW  
Room N-5616  
Washington, DC 20210

An electronic format copy of the filed paper format document shall be submitted to the Department within ten business days after the required due date. Indicate in Item 1.b (Hardship Exempted Report) that you are filing under the hardship exemption procedures. Unanticipated technical difficulties that may result in additional delays should be brought to the attention of the OLMS Division of Interpretations and Standards, which can be reached at the address below, by email at [OLMS-Public@dol.gov](mailto:OLMS-Public@dol.gov), by phone at (202) 693-0123, or by fax at (202) 693-1340.

**Note:** If either the paper filing or the electronic filing is not received in the timeframe specified above, the report will be considered delinquent.

#### CONTINUING HARDSHIP EXEMPTION:

(a) You may apply in writing for a continuing hardship exemption if Form LM-10 cannot be filed electronically without undue burden or expense. Such written application shall be received at least 30 days prior to the required due date of the report(s). The written application shall contain the information set forth in paragraph (b). The application must be mailed to the following address:

U.S. Department of Labor  
Office of Labor-Management Standards  
200 Constitution Avenue, NW  
Room N-5609  
Washington, DC 20210

Questions regarding the application should be directed to the OLMS Division of Interpretations and Standards, which can be reached at the above address, by email at

[OLMS-Public@dol.gov](mailto:OLMS-Public@dol.gov), by phone at (202) 693-0123, or by fax at (202) 693-1340.

(b) The request for the continuing hardship exemption shall include, but not be limited to, the following: (1) the requested time period of, and justification for, the exemption (you must specify a time period not to exceed one year); (2) the burden and expense that you would incur if required to make an electronic submission; and (3) the reasons for not submitting the report(s) electronically.

(c) The continuing hardship exemption shall not be deemed granted until the Department notifies the applicant in writing. If the Department denies the application for an exemption, the filer shall file the report(s) in electronic format by the required due date. If the Department determines that the grant of the exemption is appropriate and consistent with the public interest and so notifies the applicant, the filer shall follow the procedures set forth in paragraph (d).

(d) If the request is granted, you shall submit the report(s) in paper format by the required due date. You may be required to submit Form LM-10 in electronic format upon the expiration of the period for which the exemption is granted. Indicate in Item 1.b. (Hardship Exemption) that you are filing under the hardship exemption procedures.

**Note:** If either the paper filing or the electronic filing is not received in the timeframe specified above, the report will be considered delinquent.

## VII. Public Disclosure

Pursuant to the LMRDA, the U.S. Department of Labor is required to make all submitted reports available for public inspection. In the Online Public Disclosure Room at [www.unionreports.gov](http://www.unionreports.gov), you may view and print copies of Form LM-10 reports, beginning with the year 2000.

You may also examine the Form LM-10 reports at, and purchase copies from, the OLMS Public Disclosure Room at:

U.S. Department of Labor  
Office of Labor-Management Standards  
200 Constitution Avenue, NW  
Room N-1519  
Washington, DC 20210  
Telephone: (202) 693-0125

## VIII. Officer Responsibilities and Penalties

The president and treasurer, or corresponding principal officers of the reporting employer required to sign the Form LM-10, are personally responsible for its filing and accuracy. Under the LMRDA, these individuals are subject to criminal penalties for willful failure to file a required report and/or for false reporting. False reporting includes making any false statement or

misrepresentation of a material fact while knowing it to be false, or knowingly failing to disclose a material fact in a required report or in the information required to be contained in it or in any information required to be submitted with it.

The reporting employer and the officers required to sign Form LM-10 are also subject to civil prosecution for violations of the filing requirements. Section 210 of the LMRDA provides that “whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate.”

## IX. Recordkeeping

The individuals required to file Form LM-10 are responsible for maintaining records which must provide in sufficient detail the information and data necessary to verify the accuracy and completeness of the report. You must retain the records for at least 5 years after the date you filed the report. You must retain any record necessary to verify, explain, or clarify the report, including, but not limited to, vouchers, worksheets, receipts, and applicable resolutions.

## X. Completing Form LM-10

*Read the instructions carefully before completing Form LM-10.*

**Information Entry.** Complete Form LM-10 by entering information directly into the fields on the form. If additional space is needed for items that require an explanation or further information, EFS automatically adds space for additional entries.

**Validation.** You should click on the “Validate” button on each page to check for errors. This action will generate a “Validation Summary Page” listing any errors that will need to be corrected before you will be able to sign the form. Clicking on the signature lines will also perform the validation function.

**Entering Dollars.** In all items dealing with monetary values, report amounts in dollars only; do not enter cents. Round cents to the nearest dollar. Enter a single “0” in the boxes for reporting dollars if you have nothing to report.

**Additional Parts.** If you entered into multiple reportable transactions, agreements, or arrangements, then click the “Add Another” button to generate an additional part.

## Information Items (Items 1–7)

### 1. FILE NUMBER, HARDSHIP EXEMPTION, AND AMENDED REPORT:

**1.a. File Number.** EFS will pre-fill this item with the reporting employer’s file number. If you are a new filer, EFS will assign your organization a number upon registration.

**1.b. Hardship Exemption.** Indicate here if you are filing a hardcopy Form LM-10 pursuant to a hardship exemption.

**1.c. Amended Report.** Indicate here if you are filing an amended Form LM-10.

**2. FISCAL YEAR**—Enter the beginning and ending dates of the fiscal year covered in this report in mm/dd/yyyy format. The report must not cover more than a 12-month period. For example, if the reporting employer’s 12-month fiscal year begins on January 1 and ends on December 31, do not enter a date beyond the 12-month period, such as January 1 to January 1; this is an invalid date entry.

**3. NAME AND MAILING ADDRESS**—Enter the full legal name of the reporting employer, a trade or commercial name, if applicable (such as a d/b/a or “doing business as” name), the name and title of the person to whom mail should be directed, and the complete address where mail should be sent, including any building and room number. Enter a valid email address for the employer. Also enter the Employer Identification Number (EIN) of the employer. If the employer does not have an EIN, enter “none.”

**4. NAME AND ADDRESS OF PRINCIPAL OFFICER**—Enter the name and business address of the president or corresponding principal officer if the address is different from Item 3. Enter a valid email address for the principal officer.

**5. ANY OTHER ADDRESS WHERE RECORDS ARE KEPT**—If you maintain any of the records necessary to verify this report at an address different from the addresses listed in Items 3 or 4, enter the appropriate name and address in Item 5.

**6. WHERE RECORDS ARE AVAILABLE**—Select the appropriate box(es) to indicate where the records necessary to verify this report are available for examination.

**7. TYPE OF ORGANIZATION**—Select the appropriate box that describes the reporting employer: Corporation, Partnership, or Individual. If none of these choices apply, select “Other” and specify the type of reporting employer filing this report in the space provided.

## Part A – PAYMENTS TO UNIONS OR UNION OFFICIALS

Complete Part A if you made or promised or agreed to make, directly or indirectly, any payment or loan of money or other thing of value (including reimbursed expenses) to any labor organization or to any officer,

agent, shop steward, or other representative or employee of any labor organization.

In answering Part A, **exclude** the following: (1) Payments of the kind referred to in Section 302(c) of the Labor Management Relations Act, 1947, as amended (LMRA); **and** (2) Payments or loans made in the regular course of business as a national or state bank, credit union, insurance company, savings and loan association, or other credit institution. (The text of Section 302(c) of the LMRA is set forth below.)

### None of the following situations are required to be reported:

(a) payments made in the regular course of business to a class of persons determined without regard to whether they are, or are identified with, labor organizations and whose relationship to labor organizations is not ordinarily known to or readily ascertainable by the payer, for example, interest on bonds and dividends on stock issued by the reporting employer;

(b) loans made to employees under circumstances and terms unrelated to the employees' status in a labor organization;

(c) payments made to any regular employee as wages or other compensation for service as a regular employee of the employer, or by reason of his service as an employee of such employer, for periods during regular working hours in which such employee engages in activities other than productive work, if the payments for such periods of time are:

(1) required by law or a bona fide collective bargaining agreement, or

(2) made pursuant to a custom or practice under such a collective agreement, or

(3) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization;

(d) initiation fees and assessments paid to labor organizations and deducted from the wages of employees pursuant to individual assignments meeting the terms specified in paragraph (4) of Section 302(c) of the LMRA;

(e) sporadic or occasional gifts, gratuities, or favors of insubstantial value, given under circumstances and terms unrelated to the recipients' status in a labor organization; for example, traditional Christmas gifts.

**8.** Enter the name and title of the recipient/contact, enter the name of the labor organization, and specify whether the recipient was an individual or a labor organization by selecting the appropriate box. Enter the address, telephone number, and email address of the recipient or contact person in the space provided. If the address of the labor organization differs from that of

the individual recipient of the payment or the contact person for the labor organization, click the "Add Another" button to generate an additional page and enter the address of the organization or person on this page.

**9.** Enter information for each payment.

**9.a.** Enter the date the payment was made (or promise or agreement was entered into) in mm/dd/yyyy format.

**9.b.** Enter the amount of the payment.

**9.c.** Specify if this was a payment or a loan, and if it was made by cash or property. If the form of payment was cash, enter the U.S. dollar amount of each payment made during the fiscal year. If the form of payment was property, provide the market value (in U.S. dollars) of the property at the time of transfer. If the form of payment was another thing of value, describe the payment.

**9.d.** Explain fully the circumstances of the payment, including the terms of any oral agreement or understanding under which it was made. Provide a full explanation identifying the purpose and circumstances of the payments made or agreed or promised to be made. The explanation must fully outline the conditions and terms of any agreement or promise. In addition to the above, you must indicate whether the payments or promises reported specifically benefited the person or persons or labor organizations named in Item 8. If you made or promised or agreed to make payments through a person or persons not shown above, you must provide the full name and address of such person or persons. Your explanation must clearly indicate why you must report the payment. Any incomplete responses or unclear explanations will render this report deficient.

## **Part B – PERSUADER PAYMENTS TO EMPLOYEES OR EMPLOYEE COMMITTEES**

Complete Part B if you made, directly or indirectly, any payment (including reimbursed expenses) to any of your employees, or to any group or committee of your employees, for the purpose of causing them to persuade other employees to exercise or not to 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.

In answering Part B, **exclude** payments made to any regular officer, supervisor, or employee as compensation for services as a regular officer, supervisor, or employee.

**10.** Enter the name of the recipient and specify whether the recipient was an employee or employee group or committee by selecting the appropriate box. If you selected "Employee Group/Committee," provide a contact name and title. Enter the address, telephone

number, and email address of the recipient in the space provided. If the address of the group or committee differs from that of the individual recipient of the payment or the contact person for the group or committee, click the "Add Another" button to generate an additional page and enter the additional address on this page.

**11.** Enter information for each payment.

**11.a.** Enter the date of each payment in mm/dd/yyyy format.

**11.b.** Enter the amount of each payment.

**11.c.** Specify if this was a payment or a loan, and if it was made by cash or property. If this form of payment was cash, enter the U.S. dollar amount of each payment made during the fiscal year. If the form of payment was property, provide the market value (in U.S. dollars) of the property at the time of transfer.

**11.d.** Explain fully the circumstances of the payment, including the terms of any oral agreement or understanding under which it was made. Provide a full explanation identifying the purpose and circumstances of the payment made or agreed or promised to be made. The explanation must fully outline the conditions and terms of any agreement or promise. In addition to the above, you must indicate whether the payments or promises reported specifically benefited the person or persons named in Item 10. If you made payments through a person or persons not shown above, you must provide the full name and address of such person or persons. Your explanation must clearly indicate why you must report the payment. Any incomplete responses or unclear explanations will render this report deficient.

## **Part C – PERSUADER AGREEMENTS OR ARRANGEMENTS WITH LABOR RELATIONS CONSULTANTS**

Check the appropriate box(es) and complete Part C if you made any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person or organization undertook activities where an object thereof, directly or indirectly, was to:

- Persuade employees to exercise or not to exercise, or as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing.
- Furnish you with information concerning activities of employees or of a labor organization in connection with a labor dispute in which you were involved.

The term "agreement or arrangement" should be construed broadly and does not need to be in writing. A person "undertakes" activities not only when he/she performs the activity but also when he/she agrees to perform the activity or to have it performed.

When completing Part C, **exclude** agreements or arrangements covering services related exclusively to the following:

- (1) giving or agreeing to give you advice; **or**
- (2) agreeing to represent you before any court, administrative agency, or tribunal of arbitration; **or**
- (3) engaging in collective bargaining on your behalf with respect to wages, hours, or other terms or conditions of employment, or negotiating a collective bargaining agreement or any question arising thereunder.

**Note:** If **any** reportable activities are undertaken, or are agreed to be undertaken, pursuant to the agreement or arrangement, the exemptions do not apply and information must be reported for the entire agreement or arrangement.

### Reportable Persuader Agreements or Arrangements

An agreement or arrangement is reportable if a consultant undertakes activities with an object, directly or indirectly, to persuade employees to exercise or not to exercise, or to persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing (hereinafter “persuade employees”). Such “persuader activities” 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. Under a typical reportable agreement or arrangement, a consultant manages 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 to the employer, in oral, written, or electronic form, for dissemination or distribution to employees;

(c) develops or implements personnel policies, practices, or actions for the employer.

Specific examples of activities that either alone or in combination would trigger the reporting requirements include but are not limited to:

- planning or conducting individual employee meetings;
- planning or conducting group employee meetings;
- training supervisors or employer representatives to conduct such meetings;
- coordinating or directing the activities of supervisors or employer representatives;
- establishing or facilitating employee committees;
- drafting, revising, or providing speeches, written material, website, audiovisual or multimedia content for presentation, dissemination, or distribution to employees, directly or indirectly (including the sale of “off-the-shelf”<sup>1</sup> materials where the consultant assists the employer in the selection of such materials, except as noted below where such selection is made by trade associations for member-employers);
- developing employer personnel policies designed to persuade, such as when a consultant, in response to employee complaints about the need for a union to protect against arbitrary firings, develops a policy under which employees may arbitrate grievances;
- identifying employees for disciplinary action, reward, or other targeting based on their involvement with a union representation campaign or perceived support for the union;
- coordinating the timing and sequencing of union avoidance tactics and strategies.

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.

### Reportable Information-Supplying Agreements or Arrangements

Reportable information-supplying agreements or arrangements include those in which a consultant engages in activities with an object to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute<sup>2</sup> involving such employer. Such activities

<sup>1</sup> “Off-the-shelf materials” refer to pre-existing *material* not created for the particular employer who is party to the agreement.

<sup>2</sup> The LMRDA defines a “labor dispute” as including “any controversy concerning the terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or

include information obtained from: supervisors or employer representatives; employees, employee representatives, or union meetings; research or investigation concerning employees or labor organizations; and surveillance of employees or union representatives (electronically or in person). A reportable agreement or arrangement includes an employer's purchase or other acquisition of such information, for example, from a consultant's website. Such purchase or acquisition would be reportable by both the consultant and the employer.

### Exempt Agreements or Arrangements

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, reviews personnel policies or actions for legality or to ensure a productive and efficient workplace for the client, 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 an agreement that involves a consultant merely representing the employer before any 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.

The consultant's development or implementation of personnel policies or actions that improve employee pay, benefits, or working conditions do not trigger reporting merely because the policies or actions improve the pay, benefits, or working conditions of employees, even where they could subtly affect or influence the attitudes or views of the employees. Rather, to be reportable, the consultant must undertake the activities with an object to persuade employees, as evidenced by the agreement,

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seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee." See LMRDA section 3(g). Thus, a "labor dispute" includes any controversy over matters relating to the representation and collective bargaining rights of employees.

any accompanying communications, the timing, or other circumstances relevant to the undertaking.

No report from an employer is required for an agreement or arrangement to conduct a union avoidance seminar. A Form LM-20 report listing employer-attendees will be filed by the consultant.

Where a trade association sponsors a union avoidance seminar, it is required to file a report only if its staff makes a presentation at the seminar. In instances where solely an outside consultant makes the presentation, only the consultant is required to file a report. Employer-attendees are not required to report their attendance at union avoidance seminars.

A report is not required concerning an agreement or arrangement whereby the consultant conducts a survey of employees (other than a push survey designed to influence participants and thus with an object to persuade) or a vulnerability assessment for an employer concerning the proneness of union organizing. No reporting is required where a consultant merely makes a sales pitch to an employer to undertake persuader activities for the employer.

Moreover, no reporting is required for an agreement or arrangement under which an employer exclusively purchases or otherwise acquires off-the-shelf union avoidance materials from a consultant without any input by the consultant concerning the selection or dissemination of the materials.

Additionally, concerning potential reporting of information-supplying agreements or arrangements, no reporting is required for an agreement or arrangement that covers services relating exclusively to supplying the employer with information for use only in conjunction with an administrative, arbitral, or judicial proceeding.

No reporting is required concerning an agreement between a franchisor and franchisee.

### Agreements Involving Trade Associations

Trade associations are not required to file a report by reason of: their membership agreements, selecting off-the-shelf materials for member-employers, or distributing newsletters for member-employers. Such associations, however, are required to file reports for agreements covering the following activities:

Union avoidance seminars in which the trade association's employees serve as presenters; and

The trade association engages in reportable persuader activities for a particular employer or employers other than at a union avoidance seminar merely sponsored by the association.

### NLRA Does Not Affect Reporting Obligations

While Section 203 of the LMRDA does not amend or modify the rights protected by Section 8(c) of the National Labor Relations Act, as amended (NLRA), the LMRDA contains no provision exempting the activities protected by that section from the reporting requirements. Therefore, activities of the type set forth in Section 203(a) of the LMRDA must be reported regardless of whether they are protected by Section 8(c) of the NLRA.

**Note:** The text of NLRA Section 8(c) is set forth following these instructions.

**12.** Enter the name of the person with whom (or through) a separate agreement or arrangement was made. Enter the name of the organization, and that person's position in the organization. Enter the address, telephone number, and email address of the person in the space provided. Also enter the Employer Identification Number (EIN) of the person, if applicable. If the address of the consultant or other organization differs from that of the individual with whom the separate agreement or arrangement was made, click the "Add Another" button to generate an additional page and enter the additional address on this page.

**13.** Enter details about the agreement or arrangement:

**13.a.** Enter the date of the agreement or arrangement in mm/dd/yyyy format.

**13.b.** Explain fully the terms and conditions of the agreement or arrangement. Any incomplete responses or unclear explanations will render this report deficient. The explanation must include the fee arrangement, as well as a description of the nature of the services agreed to be performed. For example, you must explain if you hired the labor relations consultant to manage a counter-organizing or union-avoidance campaign or to provide assistance to you in such a campaign through the persuader activities identified in Item 14. If you hired an attorney who provided legal advice and representation in addition to persuader services, you are only required to describe such portion of the agreement as the provision of "legal services," without any further description.

If any agreement or arrangement is in whole or in part contained in a written contract, memorandum, letter, or other written instrument, or has been wholly or partially reduced to writing, you must refer to that document and attach a copy of it to this report by clicking on the "Add Attachments" link at the top of the form.

**14.** Enter details about the specific activities performed or to be performed:

**14.a.** Nature of Activities. Select from the list in 14.a. each entry that describes the nature of a particular activity or activities performed or to be performed. The list is divided into two parts: persuader activities and information supplying activities, as identified in the

initial boxes to Part C. For persuader activity, select each activity performed or to be performed, if the object thereof was, directly or indirectly, to persuade employees concerning their rights to organize or bargain collectively through representatives of their own choosing, or their right to engage in any protected concerted activity in the workplace. Select all that apply for each part that you identified in the initial boxes. If none of the items listed accurately describes the nature of a particular activity or activities, select "Other" and describe the nature of the activity or activities in the "Additional Information" space of Item 14.a. You may also provide further explanation for any activity selected in the "Additional Information" space of Item 14.a.

**14.b.** Describe the period during which the activity has been or will be performed. For example, if the performance will begin in June 2013 and will terminate in August 2013, so indicate by stating "06/01/2013 through 08/31/2013."

**14.c.** Indicate the extent to which the activity has been performed. For example, you should indicate whether the activity is pending, ongoing, near completion, or completed.

**14.d.** Enter the name of the person who performed the activities and indicate if the person is employed by the consultant or serves as an independent contractor or as part of a separate organization. Independent contractors or separate organizations in such cases are sub-consultants, who are required to file a separate Form LM-20 report. Enter the name of the organization, and that person's position in the organization. Enter the address, telephone number, and email address of the person in the space provided. For independent contractors and a separate organization, add the employer identification number (EIN), if available. If the address of the organization differs from the business address of the person who performed the activities, or if more than one person performed the activities, click the "Add Another" button to generate an additional page and enter the address of the organization or the additional persons on this page.

**14.e.** Identify the subject groups of employees who are to be persuaded or concerning whose activities information is to be supplied to the employer, including a description of the department, job classification(s), work location, and/or shift(s) of the employees targeted, as well as the location of their work.

**14.f.** Identify the subject labor organizations that employees are seeking to join, or about whose activities information is to be supplied to the employer.

**15.** Enter information about each payment.

**15.a.** Enter the date of the payment in mm/dd/yyyy format.



**15.b.** Enter the amount of the payment. If the form of payment was cash, enter the U.S. dollar amount of each payment made during the fiscal year. If the form of payment was property, provide the market value in U.S. dollars of the property at the time of transfer.

**15.c.** Specify if this was a payment or a loan and if it was made by cash or property.

**15.d.** Explain fully the circumstances of the payment, including the terms of any oral agreement or understanding under which it was made. Provide a full explanation identifying the purpose and circumstances of the payments made. The explanation must fully outline the conditions and terms of any agreement or promise. In addition to the above, you must indicate whether the payments reported specifically benefited the person or persons named in Item 12. If you made payments through a person or persons not shown above, you must provide the full name and address of such person or persons. Your explanation must clearly indicate why you must report the payment. Any incomplete responses or unclear explanations will render this report deficient.

## **Part D – EXPENDITURES MADE TO INTERFERE WITH, RESTRAIN, OR COERCE EMPLOYEES OR TO OBTAIN INFORMATION CONCERNING EMPLOYEES OR A LABOR ORGANIZATION**

Check the appropriate box in Part D and complete this Part if you made:

- Any expenditure where an object thereof, directly or indirectly, was to interfere with, restrain, or coerce employees in the right to organize and bargain collectively through representatives of their own choosing.

In answering this provision of Part D, **exclude** expenditures relating exclusively to matters protected by Section 8(c) of the National Labor Relations Act, as amended (NLRA).

**Note:** The definition set forth in Section 203(g) of the LMRDA for the term "interfere with, restrain, or coerce" excludes matters protected by Section 8(c) of the NLRA. Therefore, expenditures related exclusively to such matters protected by Section 8(c) are not required to be reported in this question. (The text of Section 8(c) of the NLRA is set forth below.)

- Any expenditure where an object thereof, directly or indirectly, was to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute in which you were involved.

In answering this provision of Part D, **exclude** the following:

- (1) Information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; and
- (2) Expenditures made to any regular officer, supervisor, or employee as compensation for service as a regular officer, supervisor, or employee.

**16.** Enter the name of the recipient of the expenditure and specify whether the recipient was an employee, an independent contractor or other individual, or a business or organization by selecting the appropriate box. If you selected "Business/Organization," provide a contact name and title. Enter the address, telephone number, and email address of the recipient in the space provided. If the address of the business or other organization differs from that of the individual who received the expenditure or that of the contact for the business or organization, click the "Add Another" button to generate an additional page and enter the additional address on this page.

**17.** Enter information for each expenditure.

**17.a.** Enter the date of the expenditure in mm/dd/yyyy format.

**17.b.** Enter the amount of the expenditure.

**17.c.** Specify if this was a payment or a loan and if it was made by cash or property.

**17.d.** Explain fully the circumstances of the expenditure, including the terms of any oral agreement or understanding under which it was made. Provide a full explanation identifying the purpose and circumstances of the expenditures made or agreed or promised to be made. The explanation must fully outline the conditions and terms of any agreement or promise. In addition to the above, you must indicate whether the payments or promises reported specifically benefited the person or persons named in Item 16. If you made expenditures through a person or persons not shown above, you must provide the full name and address of such person or persons. Your explanation must clearly indicate why you must report the expenditure. Any incomplete responses or unclear explanations will render this report deficient.

**18–19. Signatures**—The completed Form LM-10 that is filed with OLMS must be signed by both the president and treasurer, or corresponding principal officers, of the reporting employer. A report from a sole proprietor need only bear **one** signature which should be entered in Item 18. Otherwise, this report must bear **two** signatures. If the report is signed by an officer other than the president and/or treasurer, enter the correct title in the title field next to the signature.

Before signing the form, click the Validate button at the top of page 1 to ensure that the report passes validation and thus can be signed and submitted.

To sign the report, an officer will be required to attest to the data on the report and use his or her EFS username and password as the verification mechanism.

To electronically sign the form, click the signature spaces provided. Enter the date the report was signed and the telephone number at which the signatories conduct official business; you do not have to report a private, unlisted telephone number.

Once signed, the completed report can be electronically submitted to OLMS.

### **SELECTED DEFINITIONS FROM THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA)**

SEC. 3. For the purposes of titles I, II, III, IV, V except section 505), and VI of this Act-

- (a) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.
- (b) "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).
- (c) "Industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.
- (d) "Persons" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, or receivers.
- (e) "Employer" means any employer or any group or association of employers engaged in an industry affecting commerce
  - (1) which is, with respect to employees engaged in an industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or
  - (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does

not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

- (f) "Employee" means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.
- (g) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.
- (h) Not applicable.
- (i) "Labor organization" means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.
- (j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it:
  - (1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or
  - (2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees or an employer or employers engaged in an industry affecting commerce;
  - (3) or has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2) ;
  - (4) or has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or
  - (5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization,

which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

- (k) Not applicable.
- (l) Not applicable.
- (m) "Labor relations consultant" means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.
- (n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.
- (o) Not applicable.
- (p) Not applicable.
- (q) "Officer, agent, shop steward, or other representative," when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried non-supervisory professional staff, stenographic, and service personnel.

## **NATIONAL LABOR RELATIONS ACT, AS AMENDED**

Section 8. "(c) The expressing of any views, argument, or opinion or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

## **RELATED PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA)**

### **Report of Employers**

Sec. 203.

- (a) Every employer who in any fiscal year made-
  - (1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefore, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except
    - (a) payments or loans made by any national or State bank, credit union, insurance

company, savings and loan association or other credit institution and

- (b) payments of the kind referred to in section 302 (c) of the Labor Management Relations Act, 1947, as amended;
- (2) any payment (including reimbursed expenses) to any of his 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 not to exercise, or as 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;
  - (3) any expenditure, during the fiscal year, 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, or is to obtain information concerning the activities of employees, or a labor organization in connection with a labor dispute involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;
  - (4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; or
  - (5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision(4); shall file with the Secretary a report, in a form prescribed by him, signed by its president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

- (b) Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly-
  - (1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or
  - (2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of its disbursements of any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

- (c) Nothing in this section shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

Nothing contained in this section shall be construed to require an employer to file a report under subsection (a) unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) unless

he was a party to an agreement or arrangement of the kind described therein.

- (d) Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer 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.
- (e) Nothing contained in this section shall be construed as an amendment to, or modification of the rights protected by, section 8 (c) of the National Labor Relations Act, as amended.
- (f) The term "interfere with, restrain, or coerce" as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 7 of the National Labor Relations Act, as amended, would, under section 8(a) of such Act, constitute an unfair labor practice.

### **SECTION 302(c) OF THE LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED**

"(c) The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents) Provided, That (A) such payments are held in trust for the purpose of

paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event of the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; or (6) with respect to money or other thing of value paid by any employer to a trust fund established by such a representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal

services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industry-wide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978."

### **If You Need Assistance**

The Office of Labor-Management Standards has field offices in the following cities to assist you if you have any questions concerning LMRDA and CSRA reporting requirements.

Atlanta, GA	Milwaukee, WI
Birmingham, AL	Minneapolis, MN
Boston, MA	Nashville, TN
Buffalo, NY	New Orleans, LA
Chicago, IL	New York, NY
Cincinnati, OH	Philadelphia, PA
Cleveland, OH	Phoenix, AZ
Dallas, TX	Pittsburgh, PA
Denver, CO	St. Louis, MO
Detroit, MI	San Francisco, CA
Honolulu, HI	Seattle, WA
Kansas City, MO	Tampa, FL
Fort Lauderdale, FL	Washington, DC
Los Angeles, CA	

Consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, for the address and phone number of your nearest field office. Contact information for OLMS field offices is also available on the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov).

Information about OLMS, including key personnel and telephone numbers, compliance assistance materials, the text of the LMRDA, and related Federal Register and Code of Federal Regulations (CFR) documents, is available on the OLMS website at [www.olms.dol.gov](http://www.olms.dol.gov).

Copies of labor organization annual financial reports, employer reports, labor relations consultant reports, and union officer and employee reports filed for the year 2000 and after can be viewed and printed at [www.unionreports.gov](http://www.unionreports.gov). Copies of reports for the year 1999 and earlier can be ordered through the website. For questions on Form LM-10 or the instructions, call your nearest OLMS field office or the OLMS Division of

Interpretations and Standards at (202) 693-0123. You can also email questions to [olms-public@dol.gov](mailto:olms-public@dol.gov).

If you would like to receive periodic email updates from the Office of Labor-Management Standards, including information about the LM forms, enforcement information, and compliance assistance programs, you may subscribe to the OLMS Mailing List from the OLMS website: [www.olms.dol.gov](http://www.olms.dol.gov).

**Revised 03/2016**