

OLMS Fact Sheet



Avoiding Common Errors on the Form LM-20 Report

Section 203(b) of the Labor-Management Reporting and Disclosure Act (LMRDA) requires any person, including a labor relations consultant, to file a report, [Form LM-20](#), to disclose agreements or arrangements with any employer to undertake persuader or information-supplying activities. These individuals or organizations must file a separate Form LM-20 report for each persuader or information-supplying agreement. The report must be signed by the president and the treasurer of the consultant firm or, if the filer is self-employed, by the individual consultant.

In administering the reporting requirements for the Form LM-20 Agreement and Activities Report, the Department of Labor's [Office of Labor-Management Standards](#) (OLMS) has noticed common errors made by many labor relations consultants. The purpose of this Fact Sheet is to better assist a consultant with filing required reports and doing so with accuracy.

What is *Reportable Consultant Activity*?

- 1) The consultant has direct contact with employees to persuade them concerning their rights to organize and bargain collectively, or
- 2) The consultant directs line supervisors to persuade employees about these rights after having been authorized by the employer to do so, or
- 3) The consultant supplies certain information to an employer concerning the activities of employees or a labor organization in connection with a labor dispute.

What is *Not Reportable Consultant Activity*?

Among other exemptions, an employer-consultant agreement is not reportable (under an "advice" exemption) when the consultant has no direct contact with employees and limits its activity to providing the employer with advice or materials for the employer's use in persuading employees, which the employer has the right to accept or reject. See [OLMS Interpretative Manual](#) Section 265.005 (Scope of the "Advice" Exemption) and the [Employer-Consultant Agreements](#) fact sheet.

Also, an employer-consultant agreement is not reportable if the consultant supplies the employer information solely for administrative, arbitral, or court proceedings.

What are the Filing Requirements?

1. Consultants *must* file reports **within 30 days after entering into an agreement** (whether written or verbal) with an employer for the consultant to engage in reportable persuader activity.

Common Error: The consultant files the report after the conclusion of the National Labor Relations Board union representation election, which is more than 30 days after it entered into the agreement with the employer.

2. When the consultant hires a subcontractor (or a “subconsultant”), the **subconsultant** is required to file its **own** Form LM-20 report within **30 days** after it enters into an agreement with the primary consultant. The **primary consultant** must also list all subconsultants on the Form LM-20 report. *See* paragraph 7 below. The primary consultant must amend its Form LM-20 report to include subconsultants it hires after filing its original Form LM-20 report. *See* paragraph 9 below.

Common Error: The consultant does not identify, or identify completely, the subconsultant on its Form LM-20 report.

Common Error: The subconsultant fails to file.

Common Error: The subconsultant files more than 30 days after it enters into the agreement with the primary consultant.

3. When the subconsultant prepares its report, it must identify the **employer** (not the primary consultant) in Item 6 (Full Name and Address of the Employer). However, for Item 7 (Date of Agreement or Arrangement), the subconsultant must enter the date of the **subconsultant’s agreement with the primary consultant**. In Item 8 (Name of Persons Through Whom Made), the subconsultant must identify the **primary consultant** (not the employer).

Common Error: The subconsultant fails to distinguish between the employer whose employees are the subject of the persuader activities and the consultant who hired the subconsultant.

4. The Form LM-20 covers more than just arrangements to persuade employees. *See* check box 9(a). It covers consultants and subconsultants who supply information to an employer concerning the activities of employees or a labor organization in connection with a labor dispute. *See* check box 9(b). *See* the [Form LM-10 fact sheet](#) for further information, including examples of reportable surveillance or other information-supplying activities. The filer must check one or both boxes in Items 9(a) and 9(b).

Common Error: The consultant enters into an arrangement with an employer to supply the employer with information related to a labor dispute and fails to file a Form LM-20 report.

Common Error: The subconsultant enters into an arrangement with a consultant to supply either the consultant or the employer with information related to a labor dispute, and either fails to file a Form LM-20 or files one but does not check the appropriate box on the form.

5. The consultant must identify in Item 10 (Terms and Conditions) whether the persuader agreement it made with the employer was **written**, and, if so, it **must** attach that written agreement to the report. Subconsultants must attach any written agreement with the primary consultant.

Common Error: The consultant enters into an agreement that has been put into writing, in total or in part, but does not attach the document to its Form LM-20 report.

6. Item 10 (Terms and Conditions) requires a detailed explanation that includes specific information, such as the pay rate, contingency arrangements, and objectives. Item 11.a (Specific Activities to be Performed) requires a detailed explanation that describes the nature of the activity to be performed, which would include a list of all specific activities to be performed and their object. For example, if the object of the activity is to persuade the employees of Employer X to vote “no” on a representation election, it should so state. If that is the true purpose of the arrangement, it is insufficient simply to state that the object is to “educate” employees about their choice, rather than “persuade” them.

a. **Item 10 Example of Proper Reporting:**

Verbal agreement to represent ABC Paper Company at their facilities in NC and IL in campaigns to prevent Union X from organizing their employees for purposes of collective bargaining. All consultations billed at \$250/hour including travel and expenses. Agreement has never been reduced to writing, is for no specific time, and may be terminated by either party at any time.

b. **Item 11.a Example of Proper Reporting:**

Giving speeches, preparing written materials for distribution, and holding/conducting meetings with management and employees to answer questions on rights afforded by the National Labor Relations Act (NLRA).

Common Error: The consultant fails to properly complete Item 10 and Item 11.a on the Form LM-20. For example, when describing the terms and conditions of the arrangement it has with the employer, the consultant enters a single, non-descriptive sentence such as: “agreement to educate employees about section 7 rights.”

7. Primary consultants **must** identify in Item 11(d) (Name(s) and Address(es) of person(s) through whom the activity was performed) whether the person engaging in the persuader work is employed directly by the primary consultant or by a subconsultant. If employed by the primary consultant, the filer must indicate that by identifying itself under “organization.” If employed by a subconsultant, the organization is the subconsultant’s business.

Common Error: The consultant fails to name the person who has (or will) engage in persuading activity.

Common Error: The consultant fails to name the person’s organization and misidentifies employees as subconsultants, or vice versa.

8. Filers **must** provide the full name of all persons identified, including that of the persons engaging in the reportable activities, as identified in Item 11(d) (Name(s) and Address(es) through whom the activity was performed). Initials and abbreviations or coded versions of names are *not* acceptable.

Common Error: The consultant reports a fictitious or partial name instead of disclosing the name of the person who engaged in the reportable activities.

9. If an employer and a consultant modify an existing agreement or the consultant expands its persuader or information-supplying activities beyond the original agreement, the consultant must amend its Form LM-20 report. An amended report covering changes to the information reported in a previously submitted Form LM-20 report (excluding matters related to Item 11(c) – Extent of Performance) **must** be filed within 30 days of the change. To file an amended report, the filer should select the “Submitted Forms” tab within OLMS’ [Electronic Forms System](#) (EFS) to view and retrieve it. Via a checkbox, the submitted report will indicate that the filer submitted an amended report.

Common Error: The consultant fails to file an amended Form LM-20 Report when modifications to an existing agreement require disclosing the changes. Under an existing agreement, the consultant undertakes to persuade a new group of employees, or undertakes activities about a new labor organization, but does not amend its report to update. *See* Items 12(a) (Identify Subject Groups of Employees) and 12(b) (Identify Subject Labor Organizations).

10. **Form LM-21** Any person required to file a Form LM-20 report **must** also file the [Form LM-21 Receipts and Disbursements Report](#). The filer **must** file a Form LM-21 report for *each fiscal year* during which payments were made or received as a result of any agreement or arrangement described in the submitted Form LM-20 report. The filer must file a Form LM-21 report within **90 days after the end of your organization's fiscal year**. Note: The [Form LM-21 Special Enforcement Policy](#) limits the detail that must be reported.

Common Error: The consultant files a Form LM-20 during its fiscal year but does not file a Form LM-21 after the end of its fiscal year.

Information on the reporting requirements and exemptions, including the form instructions, may be obtained from the OLMS website page, [Employer and Consultant Reporting](#).

Access to submitted Form LM-20 reports may be obtained from the [OLMS Online Public Disclosure Room](#).

If you require additional information or if you have any questions about potential reporting obligations under the LMRDA, please email OLMS-Public@dol.gov or call OLMS at (202) 693-0123.

Contact information for our field offices can be found on the [OLMS Office of Field Operations](#) webpage.

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