

§ 404.3

child has been involved in such transactions, holds or has held any such interests, or has received such payments, is required to file with the Office of Labor-Management Standards, within 90 days after the end of his fiscal year, a signed report containing the detailed information required therein by section 202(a) of the Act, and found by the Assistant Secretary under section 208 thereof to be necessary in such report.

[28 FR 14384, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

§ 404.3 Form of annual report.

On and after the effective date of this section, every labor organization officer and employee required to file an annual report under § 404.2 shall file such report on United States Department of Labor Form LM-30 entitled "Labor Organization Officer and Employee Report," together with a true copy thereof, in the detail required by the instructions accompanying such form and constituting a part thereof.

§ 404.4 Special report.

In addition to the report on Form LM-30, the Office of Labor-Management Standards may require from union officers and employees subject to the Act the submission of special reports of pertinent information including, but not necessarily confined to, reports with respect to matters referred to in items (ii) and (iv) of the Instructions relating to part A of the form and items (ii) and (iii) of the Instructions relating to part C of the form.

§ 404.5 Attorney-client communications exempted.

Nothing contained in this part shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of section 202(a) of the Act and of this part any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

§ 404.6 Personal responsibility of signatories of reports.

Every labor organization officer or employee required to file a report

29 CFR Ch. IV (7-1-07 Edition)

under section 202(a) of the Act and under this part shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

§ 404.7 Maintenance and retention of records.

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

§ 404.8 Publication of reports required by this part.

Inspection and examination of any report or other document filed as required by this part, and the furnishing by the Office of Labor-Management Standards of copies thereof to any person requesting them, shall be governed by part 70 of this title.

[35 FR 2990, Feb. 13, 1970]

§ 404.9 OMB control number.

The collecting of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1215-0188.

[59 FR 15116, Mar. 31, 1994, as amended at 63 FR 33779, June 19, 1998]

PART 405—EMPLOYER REPORTS

Sec.

- 405.1 Definitions.
- 405.2 Annual report.
- 405.3 Form of annual report.
- 405.4 Terminal report.
- 405.5 Special reports.
- 405.6 Exceptions from the filing requirements of § 405.2.
- 405.7 Relation of section 8(c) of the National Labor Relations Act, as amended, to the reporting requirements of § 405.2.

Ofc. of Labor-Management Standards, Labor

§ 405.4

405.8 Personal responsibility of signatories of reports.

405.9 Maintenance and retention of records.

405.10 Publication of reports required by this part.

405.11 OMB control number.

AUTHORITY: Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14384, Dec. 27, 1963, unless otherwise noted.

§ 405.1 Definitions.

As used in this part the term:

(a) *Fiscal year* means the calendar year or other period of 12 consecutive calendar months, on the basis of which financial accounts are kept by an employer. Where an employer designates a new fiscal year period prior to the expiration of a previously established fiscal year period, the resultant period of less than 12 consecutive calendar months, and thereafter the newly established fiscal year, shall in that order constitute the fiscal year for purposes of the reports required to be filed by section 203(a) of the Act and of the regulations in this part.

(b) *Corresponding principal officers* shall include any person or persons performing or authorized to perform principal executive functions corresponding to those of president and treasurer, of any employer engaged in whole or in part in the performance of the activities described in section 203(a) of the Act.

[28 FR 14384, Dec. 27, 1963, as amended at 42 FR 59070, Nov. 15, 1977]

§ 405.2 Annual report.

Every employer who in any fiscal year has made any payment, loan, promise, agreement, arrangement or expenditure of the kind described and required by section 203(a) of the Act to be reported, shall, as prescribed by the regulations in this part, file with the Office of Labor-Management Standards, within 90 days after the end of each of its fiscal years, a report signed by its president and treasurer, or corresponding principal officers, together with a true copy thereof, containing the detailed information required therein by section 203(a) of the Act and found by the Assistant Secretary under

section 208 thereof to be necessary in such report.

[28 FR 14384, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

§ 405.3 Form of annual report.

On and after the effective date of this section, every employer required to file an annual report by section 203(a) of the Act and § 405.2 shall file such report on the United States Department of Labor Form LM-10 entitled, "Employer Report"¹ in the detail required by the instructions¹ accompanying such form and constituting a part thereof.

[28 FR 14384, Dec. 27, 1963, as amended at 38 FR 10715, May 1, 1973; 42 FR 59070, Nov. 15, 1977]

§ 405.4 Terminal report.

(a) Every employer required to file a report under the provisions of this part, who during its fiscal year loses its identity as a reporting employer through merger, consolidation, dissolution, or otherwise, shall, within 30 days of the effective date thereof, file a terminal employer report, and one copy, with the Office of Labor-Management Standards on Form LM-10 signed by the president and treasurer or corresponding principal officers of such employer immediately prior to the time of the employer's loss of reporting identity, together with a statement of the effective date of such termination or loss of reporting identity, and if the latter, the name and mailing address of the employer entity into which it has been merged, consolidated or otherwise absorbed.

(b) For purposes of the report required by paragraph (a) of this section, the period covered thereby shall be the portion of the employer's fiscal year ending on the effective date of the employer's termination or loss of reporting identity.

¹ Filed as part of the original document.

§ 405.5

29 CFR Ch. IV (7-1-07 Edition)

§ 405.5 Special reports.

In addition to the report on Form LM-10, the Office of Labor-Management Standards may require from employers subject to the Act the submission of special reports on pertinent information, including but not necessarily confined to reports with respect to specifically identified personnel on the matters referred to in the second paragraph under the instructions for Question 8A of Form LM-10.

[42 FR 59070, Nov. 15, 1977]

§ 405.6 Exceptions from the filing requirements of § 405.2.

Nothing contained in this part shall be construed to require:

(a) An employer to file a report unless said employer has made an expenditure, payment, loan, agreement, or arrangement of the kind described in section 203(a) of the Act;

(b) Any employer to file a report covering the services of any person by reason of his (1) giving or agreeing to give advice to such employer or (2) representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or (3) 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;

(c) Any employer 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;

(d) An attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this part any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

§ 405.7 Relation of section 8(c) of the National Labor Relations Act, as amended, to the reporting requirements of § 405.2.

While nothing contained in section 203 of the Act 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, activities protected by such section of the said Act are not for that reason exempted from the reporting requirements of section 203(a) of the Labor-Management Reporting and Disclosure Act of 1959 and § 405.2, and, if otherwise subject to such reporting requirements, are required to be reported if they have been engaged in during the course of the reporting fiscal year. However, the information required to be reported in Question 8C of Form LM-10 does not include matters protected by section 8(c) of the National Labor Relations Act, as amended, because the definition in section 203(g) of the term “interfere with, restrain, or coerce”, which is used in Question 8C does not cover such matters.

[42 FR 59070, Nov. 15, 1977]

§ 405.8 Personal responsibility of signatories of reports.

Each individual required to sign a report under section 203(a) of the Act and under this part shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

§ 405.9 Maintenance and retention of records.

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

§ 405.10 Publication of reports required by this part.

Inspection and examination of any report or other document filed as required by this part, and the furnishing by the Office of Labor-Management Standards of copies thereof to any person requesting them, shall be governed by part 70 of this title.

[35 FR 2990, Feb. 13, 1970]

§ 405.11 OMB control number.

The collecting of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1215-0188.

[59 FR 15116, Mar. 31, 1994, as amended at 63 FR 33779, June 19, 1998]

PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS

Sec.

- 406.1 Definitions.
- 406.2 Agreement and activities report.
- 406.3 Receipts and disbursements report.
- 406.4 Terminal report.
- 406.5 Persons excepted from filing reports.
- 406.6 Relation of section 8(c) of the National Labor Relations Act to this part.
- 406.7 Personal responsibility of signatories of reports.
- 406.8 Maintenance and retention of records.
- 406.9 Publication of reports required by this part.
- 406.10 OMB control number.

AUTHORITY: Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14385, Dec. 27, 1963, unless otherwise noted.

§ 406.1 Definitions.

As used in this part, the term:

(a) *Corresponding principal officers* means any person or persons performing or authorized to perform, principal executive functions corresponding to those of president and treasurer of any entity engaged in whole or in part in the performance of the activities described in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959.

(b) *Fiscal year* means the calendar year or other period of 12 consecutive

calendar months, on the basis of which financial accounts are kept by a person. Where a person designates a new fiscal year prior to the expiration of a previously established fiscal year period, the resultant period of less than 12 consecutive calendar months, and thereafter the newly established fiscal year, shall in that order constitute the fiscal years.

(c) *Undertake* means not only the performing of activities, but also the agreeing to perform them or to have them performed.

(d) *A direct or indirect party to an agreement or arrangement* includes persons who have secured the services of another or of others in connection with an agreement or arrangement of the type referred to in § 406.2 as well as persons who have undertaken activities at the behest of another or of others with knowledge or reason to believe that they are undertaken as a result of an agreement or arrangement between an employer and any other person, except bona fide regular officers, supervisors or employees of their employer to the extent to which they undertook to perform services as such bona fide regular officers, supervisors or employees of their employer.

[28 FR 14385, Dec. 27, 1963, as amended at 42 FR 59070, Nov. 15, 1977; 63 FR 33779, June 19, 1998]

§ 406.2 Agreement and activities report.

(a) Every person who as a direct or indirect party to any agreement or arrangement with an employer undertakes, pursuant to such agreement or arrangement, any activities where an object thereof is, directly or indirectly, (1) 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; 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, as prescribed by the regulations in this part, file a