



LEGAL DEPARTMENT MEMORANDUM

TO: All USW Local Union Presidents and Recording Secretaries in the United States for Immediate Distribution to All Local Union Officers and Non-Clerical and Non-Custodial Employees

FROM: Richard Brean, General Counsel

DATE: February 28, 2013

RE: Important LM-30 Deadline of March 31, 2013

The Labor-Management Reporting and Disclosure Act, which is administered by the U.S. Department of Labor (DOL), requires union officers and employees, other than purely clerical or custodial employees, to report in specified circumstances payments or economic benefits received from certain employers and financial interests held in those employers. Union officers and non-clerical or non-custodial employees must also file these reports if the recipient or holder is the officer/employee's spouse or minor child.

These reports must be filed with the DOL on the Form LM-30. In 2011, the DOL issued a simplified LM-30 Form. You should use this 2011 Form. Do not file either the prior 2007 Form or the pre-2007 Form. A copy of the 2011 Form is attached to this memo. Copies of the new LM-30 Form can be downloaded from the DOL website, www.olms.dol.gov. Also attached are the recently issued DOL Instructions for Form LM-30 Labor Organization Officer and Employee Report.

The failure to file an LM-30 report or the filing of an incomplete or inaccurate LM-30 by anyone who should be filing could constitute a federal criminal offense punishable by a fine of not more than \$10,000 or imprisonment of not more than one year. LM-30 reports for events occurring in 2012 must be filed by March 31, 2013. If you are unable to file an LM-30 report by March 31, 2013, you should file the report as soon as possible after that date.

The purpose of this memo is to alert USW Local Union officers and employees concerning the LM-30 reporting requirement. Filing an LM-30 report is the obligation of the individual officer or employee. It is **not** the obligation or the right of the USW to file such reports on behalf of USW Local Union officers and employees. This is an individual responsibility.

In addition to the DOL Instructions, also attached is the DOL's publication "Frequently Asked Questions." You should carefully read both documents. This memorandum is intended to introduce you to basic questions and answers involving the LM-30 report covered in greater depth in the DOL documents.

THE CONTENTS OF THE LM-30 REPORT

The LM-30 report consists of 14 questions. The questions are directed not only to income, benefits, financial interests, or transactions involving yourself, but also those involving your spouse and minor (under age 21) children.

- Items 1-5 involve preliminary questions concerning the identity of the filer and his or her union affiliation
- Items 6 and 7 (Part A) concern income, benefits, financial interests, or transactions relating to employers which your Local Union either represents or actively seeks to represent
- Items 8-12 (Part B) concern income, benefits, interests, and transactions relating to two different types of employers:
 - (1) any employer that does a substantial amount of business with an employer whose employees your Local Union represents or actively seeks to represent
 - (2) any employer, including a vendor, that does any amount of business with your Local Union or with a trust in which your Local Union is interested
- Items 13 and 14 (Part C) relate to income, benefits, interests, and transactions with an employer which your Local Union does not represent or seek to represent but whose interests might conflict with those of your Local Union

WHO MUST FILE AN LM-30 REPORT?

Any officer or employee of a USW Local Union (other than an employee performing exclusively clerical or custodial work):

- (1) who has a reportable financial interest in, or has received a reportable payment or benefit from, a covered employer or business; or
- (2) whose spouse or minor child has such a financial interest or has received such payment or benefit.

(Note: If you, your spouse or minor child do not have a reportable financial interest, payment or benefit, then no LM-30 need be filed. Also no LM-30 need be filed for payments received from their employers by Local Union grievors or officers for Union leave or to cover lost time spent representing the Local Union in labor-management matters including participation in grievance procedures, negotiation committees, or in other labor-management committees.)

WHAT ARE THE COVERED EMPLOYERS OR BUSINESSES?

The four types of covered employers or businesses for USW Local Union officers and employees are:

- (1) an employer whose employees your Local Union represents or seeks to represent;
- (2) an employer that does a substantial amount of business with an employer whose employees your Local Union represents or actively seeks to represent;
- (3) an employer, including a vendor, that does any amount of business with your Local Union or with a trust in which your Local Union is interested; or
- (4) an employer or labor relations consultant whose interests might conflict with those of your Local Union even though your Local Union does not presently represent or seek to represent such employer's employees.

WHAT KINDS OF FINANCIAL INTERESTS, PAYMENTS, RECEIPTS, AND TRANSACTIONS INVOLVING COVERED EMPLOYERS DO **NOT** HAVE TO BE REPORTED ON THE LM-30 FORM?

The following types of financial interests, payments, receipts, and transactions involving covered employers do not have to be reported on the LM-30 form:

- (1) ownership, purchase or sale, or income derived from bone-fide investments in publicly traded securities and mutual funds.
- (2) ownership, purchase or sale, or income derived from bona-fide investments in other types of securities but only if the holding or transaction involves \$1,000 or less and income received from any one security is less than \$100.
- (3) gifts or gratuities from a single employer whose combined cost over the course of the year totals \$250 or less (payments or gifts of \$20 or less do not need to be included in determining whether the \$250 threshold has been met).
- (4) benefits, including food and entertainment, received at one or two widely attended meetings at which the employer or business has spent \$125 or less per attendee per gathering is not reportable and is not included in calculating the \$250 threshold (a widely attended gathering is one at which in addition to union officers and employees a substantial number of individuals with no relation to the union or a trust in which the union is interested are in attendance). However, if three or more events are attended, all employee expenditures are counted towards the \$250 threshold.
- (5) income or benefits, such as pension or retiree health insurance payments, received by a USW Local Union officer or employee, or their spouse or minor child, as compensation for, or by reason of, his or her present or past services as a bona-fide employee of a covered employer.
- (6) sale or purchase of an article or commodity at a price generally available to any employee of the employer.
- (7) payments from employers for Union leave or lost time incurred in representing the Union in labor-management matters with the employer.

WHAT KINDS OF FINANCIAL INTERESTS, PAYMENTS, RECEIPTS AND TRANSACTIONS INVOLVING COVERED EMPLOYERS **DO** HAVE TO BE REPORTED ON THE LM-30 FORM?

The following types of financial interests, payments, receipts, and transactions involving covered employers must be reported on the LM-30 form:

- (1) gifts of all types of securities, whether or not publicly traded.
- (2) loans.
- (3) gifts or gratuities from a single employer whose combined cost over the course of the year exceeds \$250. [Note: Employers are required to file Form LM-10 reporting such payments in excess of \$250, and the DOL, in recognition of the fact that Union employees can only estimate the cost of gifts and gratuities received from employers, permits union officials and employees to contact employers in good faith to determine whether the combined cost of any gifts and gratuities received from that employer exceed \$250 and thus require the filing of a Form LM-30].
- (4) any ownership interest, income or business transaction or arrangement which is not listed in the six categories of non-reportable payments and transactions described in the answer to the previous question.
- (5) payments, gifts, or gratuities intended to influence you in the performance of your duties as a union officer or employee.

WHEN IS THE LM-30 REPORT DUE?

If an individual must file, the LM-30 report must be submitted within ninety days of the end of the officer or employee's fiscal year. **For the many individuals who file tax returns on a calendar-year basis, the LM-30 report is due no later than March 31, 2013, for reportable transactions during the year 2012. If you are unable to file an LM-30 report by March 31, 2013, you should file the report as soon as possible after that date.**

QUESTIONS?

Filing the LM-30 is the individual responsibility of the reporting officer or employee. After you have read the attachments, if you have questions or need legal advice, you should bear in mind that there is uncertainty whether your discussion of this topic with USW Legal Department attorneys would be regarded as covered by the attorney/client privilege or otherwise protected against later disclosure. While most items that are reportable on a Form LM-30 are perfectly lawful, some can constitute federal criminal violations. We therefore remind you of your right to consult your own lawyer concerning the LM-30 filing requirement, and we will of course be willing to provide interested parties with references to capable outside counsel. In all events, because the USW has an interest in assisting its officers and employees to comply with this reporting requirement, your questions of a general nature about the reporting requirement may be directed to Associate General Counsel Mel Stein at (412) 562-2546 or me at (412) 562-2549.

WHERE SHOULD THE FORM LM-30 BE FILED?

The completed Form LM-30 can be filed electronically (the attached Instructions contain detailed information concerning electronic filing). In addition, the completed forms can be filed by mail at the following address:

U.S. Department of Labor
ESA/OLMS
Room N-5616
200 Constitution Avenue, N.W.
Washington, D.C. 20210-0001