National Tooling & Machining Association
NTMA PRECISION
Business Management Advisory
For Precision Custom Manufacturers

REPORTING UNDER THE FEDERAL DISCLOSURE ACT

SUMMARY

On September 14, 1959, President Eisenhower signed into law the "Labor-Management Reporting and Disclosure Act of 1959." This was the first major labor legislation since the Taft-Hartley Act.

While the major portion of this law was designed to effect needed reforms in labor organizations, there are certain reports required by employers under Title 11 of the Act, presumably as a result of the theory advanced by union officials, that the reporting obligations should be equalized. Conditions under which employers are obligated to file reports are covered specifically in Section 203 of the Act and are described in this BMA.

PAYMENTS OR LOANS TO LABOR ORGANIZATIONS

The law states that every employer who makes any payment or loan, direct or indirect, of money (including reimbursed expenses) or makes any promise or agreement to make such payment to any labor organization is required to make a report. Apparently, such payment or loan should be reported regardless of the purpose of intent of the employer. Payments made to unions under a lawful dues checkoff system, however, need not be reported.

PAYMENTS MADE TO YOUR EMPLOYEES OR A COMMITTEE

Employers are required to report any payment to employees or a committee of employees if its purpose was to influence employees one way or the other to organize and bargain collectively. Reporting, however, is not required if these payments were made known to the employees.

EXPENDITURES TO OBTAIN CERTAIN INFORMATION OR WHICH INTERFERE WITH ORGANIZING OR BARGAINING

Any expenditure must be reported if its purpose is to directly or indirectly interfere with, restrain or coerce employees in the exercise of their right to organize or bargain collectively through representatives of their own choosing. A report must also be filed of any expenditure made to obtain information concerning the activities of employees or the activities of a labor organization in connection with a labor dispute involving the employer, except for use solely in conjunction with an administrative or judicial proceeding or with arbitration. An employer need not report any expenditure that might have been made to obtain information about a labor dispute in which he or she is not involved.

RETENTION OF A LABOR RELATIONS CONSULTANT

An employer is required to report any agreement with a labor relations consultant or other independent contractor or organization which undertakes to persuade employees as to their rights to organize and bargain collectively or if the consultant supplies information to the employer concerning the activities of employees or a labor organization involved in labor disputes with the employer.

Under this law, the labor relations consultant is also required to file a report within 30 days after entering into such an agreement with an employer. This report must be filed with the Secretary of Labor and must disclose specific information relating to the services the consultant has agreed to give the employer.

Any payment made by the employer to a labor relations consultant (including reimbursed expenses) must also be reported by both the employer and the consultant.

SPECIFIC EXEMPTIONS TO THE REPORTING PROVISION

Neither the employer nor the labor relations consultant is required to submit reports if the consultant's purpose is to give advice to the employer or represent him or her before any

court, administrative agency or tribunal of arbitration. The same exemption applies to consultants who represent employers in collective bargaining agreements.

Another important exemption is that no regular officer, supervisor or employee is required to file a report in connection with services rendered to the employer. Similarly, no employer is required to report expenditures made to any of the company's regular officers, supervisors or employees for their services in connection with labor-management activities.

FREE SPEECH PROVISION HAS NOT BEEN ALTERED

Nothing in the employer reports section of this law changes the "free speech" provision of the National Labor Relations Act.

Employers are free to make speeches or other direct communications to their employees through company publications or other media reporting expenditures if they do not contain any threat of reprisal or force or promise of benefit.

On the other hand, if an employer enters into any agreement with a labor relations consultant to conduct such communications or other activities to persuade employees in the exercise of their rights, such arrangement might have to be reported.

KEEPING OF RECORDS

Every employer required to file a report must maintain detailed records, Such records must include vouchers, worksheets, receipts and applicable resolutions and shall be kept available for examination for not less than five years after the filing of the documents.

FILING OF THE REPORTS

If an employer engages in any of the activities which require reporting, the reports must be filed with the Secretary of Labor. They must show in detail the date and amount of each payment, loan, promise, agreement or arrangement. Also included must be the name, address, and position, if any, in any firm or labor organization of the person to whom it was made as well as a full explanation of the circumstances of all such payments.

A Bureau of Labor - Management Reports has been established to interpret the disclosure law, initiate investigations of suspected violations of the Act, and to hold hearings.

CRIMINAL PROVISIONS OF THE DISCLOSURE ACT

The Act provides for a fine of not more than $10,000 or imprisonment of not more than one year, or both, for any person who willfully violates its provisions, The same penalty is imposed on anyone who makes a false statement or who fails to disclose a material fact in any document or report, or who makes false entries or destroys books, records or reports. The Act holds the individual who is required to sign the reports is personally responsible for the filing of the reports and for any statement in the report which he or she knows to be false.

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