



## THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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January 26, 2006

Kay H. Oshel

Director of the Office of Policy, Reports and Disclosure  
United States Department of Labor  
Employment Standards Administration  
Office of Labor-Management Standards  
200 Constitution Avenue, NW, Room N-5605  
Washington, DC 20210

*Submitted via e-mail to [olms-reg-1215-ab49@dol.gov](mailto:olms-reg-1215-ab49@dol.gov) and [olms-public@dol.gov](mailto:olms-public@dol.gov)*

### **RE: LM-10 Employer Filing Requirements**

Dear Ms. Oshel:

The Associated General Contractors of America (AGC) submits this letter in response to statements from the Department of Labor encouraging the submission of comments and questions regarding the Department's latest guidance on employer LM-10 reporting obligations (published online at [http://www.dol.gov/esa/regs/compliance/olms/LM10\\_FAQ.htm](http://www.dol.gov/esa/regs/compliance/olms/LM10_FAQ.htm)) during the formal period prescribed for comments on the proposed revisions to the LM-30 requirements.

AGC is the nation's largest and most diverse trade association in the commercial construction industry, representing both union and nonunion employers in all sectors of the industry. AGC's 32,000 member firms include 7,000 general construction contractors, 12,000 specialty contractors, and 13,000 suppliers and service providers, in a nationwide network of 99 chapters.

AGC wishes to echo sentiments expressed by many other employer representatives that the new standards set forth in the guidance are unduly burdensome. The Labor-Management Reporting and Disclosure Act was enacted to curtail "instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct," a mission which AGC certainly supports. However, the current guidance creates excessive recordkeeping and reporting obligations for employers, reaching far beyond that statutory objective and contravening the objectives of the Paperwork Reduction Act of 1995.

The standards require employers to keep track of and report on many transactions that are legitimate and insubstantial. The guidance states that employers need not report "infrequent, insubstantial offers of hospitality, such as coffee and donuts at a meeting, restaurant meals, or gifts at holidays." The guidance further defines "insubstantial" as limited to gifts and gratuities

with an aggregate value of \$250 or less in a fiscal year. In today's economy, \$250 a year is a very low threshold indeed for defining a breach of trust, corruption, or disregard of individual employee rights. Moreover, by setting this low threshold on strictly an aggregate rather than a single-transaction basis, the Department is effectively requiring employers to keep track of every nickel and dime spent on every innocent transaction – including each coffee, donut, meal, and token gift – to see whether they add up to \$250 at the end of the year.

The dollar amount for the *de minimis* standard ought to be raised so that the requirements serve to curb true abuses. Perhaps a bifurcated standard would be in order, one that would establish one dollar amount per transaction and another dollar amount per year. For example, a *de minimis* standard that requires employers to report gifts and gratuities that individually exceed \$250 in value or aggregately exceed \$2,500 per year would be a more reasonable and manageable approach.

Thank you for your consideration of our comments. If you would like any further information from AGC, please do not hesitate to contact me. As a participant in the Department's Partnerships for Compliance Assistance Program, AGC also pledges to help inform employers about their LM-10 obligations and any related compliance assistance tools that the Department may provide.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Denise Gold". The signature is written in a cursive, flowing style.

Denise S. Gold  
Associate General Counsel, Labor & Employment Law

cc: Victoria A. Lipnic