

EXECUTIVE ORDER 13496: FEDERAL CONTRACTORS REQUIRED TO PROVIDE NOTICE OF EMPLOYEE RIGHTS

Federal contractors will soon be required to inform their employees of their rights under Federal labor laws.

On June 21, 2010 Executive Order 13496 (“the Order”) will take effect following the final rule published by the Department of Labor’s Office of Labor-Management Standards (“OLMS”) on May 20, 2010.

The Order, signed by President Obama on January 30, 2009, requires Federal contractors and subcontractors to post a required notice in their workplaces notifying employees of their rights under Federal labor laws. The notice must be in an 11x17-inch poster format or larger. The Order also requires that such notice to employees be included in Federal contracts and subcontracts.

The required notice details employees’ rights under the National Labor Relations Act (“NLRA”) to form, join, and sustain a union and to bargain collectively with their employer. It also offers examples of unlawful employer and union conduct that impinges on those rights.

Additionally, the notice specifies how employees can contact the National Labor Relations Board, the federal agency that enforces those rights under the NLRA, with concerns, questions or to file complaints. The text of the employee notice and the provisions that must be incorporated into federal contracts and subcontracts can be located at Title 29 of the Code of Federal Regulations, Part 471 Appendix A.

The requisite notice will be added to all Federal contracts, except those concerning purchases under the simplified acquisition threshold presently set at \$100,000 and contracts resulting from solicitations issued before the effective date of June 21, 2010. Subcontracts for less than \$10,000 are exempt but all levels of subcontracts above that limit are included.

The Department of Labor (“DOL”), however, will allow incorporation of the required employee notice by reference in contract and subcontracts instead of demanding that the entire text of the notice be contained in every contract.

Employers who fail to comply with the new standards set forth in the Order could be subject to: investigation from the Secretary of Labor; private or public hearings regarding compliance with the Order; the cancellation, termination or suspension of contracts or portions of contracts; restraints on further contracts with Federal agencies or departments; and publicizing the names of contractors or subcontractors due to their non-compliance.

As part of their compliance with the Order, employers must also post copies of the notice poster in languages other than English if employees not literate in English make up a “significant portion” of the workforce. Furthermore, employers must post the posters in noticeable locations where they are prominent and easily viewed by employees.

Employers who post electronic notices to employees must also post the required notice through a link to the OLMS website and include the text: “Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers.”

Contractors and subcontractors can download the poster in a PDF file in either an 11x17-inch, or 11x8.5-inch format via the DOL’s OLMS website:

<http://www.dol.gov/olms/regs/compliance/EO13496.htm>

The required posters can also be obtained by calling (202) 693-0123 or by contacting Federal contracting departments and agencies or field offices of the DOL’s OLMS or Office of Federal Contract Compliance Programs (“OFCCP”).