

Labor and Employment Update June 2010

You May be Required to Notify Your Employees of Their Right to Join A Union

By [Mary Elizabeth "Betsy" Davis](#)

Effective June 19, 2010, most federal government contractors and subcontractors are required to post a notice notifying employees about employee rights under the National Labor Relations Act ("NLRA"). Covered employers must disclose the following employee rights:

- employees have the right to organize and bargain collectively with their employers;
- employees have the right to engage in other protective concerted activities and to refrain from union or other concerted activity; and
- employees are protected from certain types of employer and union misconduct.



[Betsy Davis](#)

This notice requirement is contained in the U.S. Department of Labor's ("DOL") published final rule which implements provisions of Executive Order 13496, signed by President Obama on January 30, 2009. The posting of notice requirements apply to federal government contractors and their subcontractors at any tier. These requirements do not apply to:

- prime contracts below \$10,000.00;
- contracts resulting from solicitations issued before June 19, 2010;
- contracts and subcontracts for work performed exclusively outside the territorial United States;
- subcontracts that do not exceed \$10,000.00;
- contractors that are covered by the Railway Labor Act;
- contractors who are not covered by the NLRA; or
- collective bargaining agreements.

The DOL has published a poster which meets the requirements of the final rule. A copy of the poster is attached to this newsletter and may also be downloaded from the Office of Labor-Management Standards' website at <http://www.dol.gov/olms/regs/compliance/EO13496.htm>. The DOL notice provides specific examples of unlawful employer conduct requiring an employer to notify its employees that it is illegal for an employer to:

- prohibit employees from soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms;
- question employees about their union support or activities in a manner that discourages employees from engaging in that activity;
- fire, demote, or transfer employees, or reduce employees' hours or change their shift, or otherwise take adverse action against employees, or threaten to take any of these actions, because employees join or support a union, or because employees engage in concerted activity for mutual aid and protection, or because they choose not to engage in any such activity;

- threaten to close employees' workplace if workers choose a union to represent them;
- promise or grant promotions, pay raises, or other benefits to discourage or encourage union support;
- prohibit employees from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances; and
- spy on or videotape peaceful union activities and gatherings or pretend to do so.

It is important to note that even though all employers are not required to post the new notice, the conduct contained in the notice is prohibited for all employers. The poster must be posted in the workplace. In addition, employers who routinely post notices for employees on a website must also use an electronic posting in addition to the physical posting.

Two DOL agencies, the Office of Federal Contract Compliance Programs and the Office of Labor-Management Standards, are assigned to enforce these notice requirements. Failure to comply with the notice requirements may result in suspension or cancellation of the contract and may bar future federal contracts. To ensure compliance with the regulation, covered contractors should post the poster once they are awarded contracts based on solicitations issued on or after June 19, 2010. For more information regarding this final rule or assistance with other employment matters, contact [Betsy Davis](#).

Poster: [Employee Rights Under the National Labor Relations Act](#)
