

ALERTS AND UPDATES

Department of Labor's New Regulations Require Federal Contractors and Subcontractors to Post Notices Informing Employees of Rights to Join a Union

June 2, 2010

On May 20, 2010, the Office of Labor-Management Standards (OLMS) of the U.S. Department of Labor published [new regulations](#) in the *Federal Register*, implementing Executive Order 13496. This Executive Order, issued on January 30, 2009, states that all federal government contracting departments and agencies must include a provision in most government contracts stipulating that the contractor post a notice in all places where notices to employees are customarily posted, both physically and electronically, informing employees of their rights under the National Labor Relations Act (NLRA).

This order revoked a previous Executive Order that former President Bush put into effect, requiring federal contractors to post a notice—otherwise known as a "Beck notice"—to employees informing them that they were not required to join a labor union, and that those who were not union members could object to paying a portion of the dues or fees to support activities that are not related to collective bargaining, contract administration or grievance adjustment. The current regulations have a different focus.

Content of New Required Notice

The required notice lists employees' rights under the NLRA to form, join and support a union, and to bargain collectively with their employer. The notice also lists examples of unlawful conduct by either an employer or a union that would interfere with employees' rights under the NLRA. Moreover, the notice provides for a complaint procedure, with information to employees on how they can contact the National Labor Relations Board.

Paper and Electronic Posting Requirements

According to the new regulations, federal contractors and subcontractors must include in full or by reference the requirement of posting the information required by the new regulations in all of their federal contracts and subcontracts. These contractors and subcontractors must post the notice of NLRA rights conspicuously in and around their plants and offices in a prominent place readily seen by employees. In particular, contractors and subcontractors must post the notice where other notices to employees about their jobs are posted.

Additionally, contractors and subcontractors who are in the practice of posting notices to employees are also required to post the notice of employees' rights under the NLRA electronically by providing a link to the OLMS website. That link must be placed where the contractor customarily places other online notices to employees about their jobs. The link cannot be smaller or less noticeable than other such employee notices. Furthermore, employers should be aware that posting a link to the OLMS website does not relieve them of their duty to also post hard-copy notices.

Coverage

The posting requirements do not apply to prime contracts under the simplified acquisition threshold, which is currently set at \$100,000, and do not apply to subcontracts below \$10,000. Employers with multiple facilities may not be required to post the

notice to their employees at all facilities. Employers are required to post a notice wherever employees engage in activities relating to the performance of the government contract. This includes contract-related activity that is indirect or auxiliary work without which the contract could not be accomplished, such as maintenance, repair, personnel and payroll work.

A copy of the poster in English and other languages may be downloaded from the OLMS website at <http://www.olms.dol.gov>. This rule goes into effect on June 21, 2010.

It is important to note that for employers with qualifying federal contracts, these new regulations change their posting obligations. These employers should promptly analyze their obligations and determine what postings are necessary in order to potentially avert sanctions for noncompliance in the event of an investigation.

For Further Information

If you have any questions about this *Alert*, please contact any of the [attorneys](#) in our [Employment, Labor, Benefits and Immigration Practice Group](#) or the attorney in the firm with whom you are regularly in contact.