

Government Contracts Blog

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New Employee Notification Requirements For Federal Contractors And Subcontractors

By [*Sheldon M. Kline*](#), [*Karin Hunter Johnson*](#), and [*Ashley T. Hirano*](#)

Executive Order 13496 requires federal contractors and subcontractors to inform employees of their rights under federal labor laws. The Executive Order was signed at the end of 2009 and the Department of Labor (“DOL”) issued a final regulation implementing the Executive Order on May 20, 2010. The DOL regulation went into effect on June 21, 2010.

Pursuant to the DOL regulation, all contracts resulting from solicitations issued on or after June 21, 2010 must contain provisions requiring the federal contractor to display a notice to employees explaining their rights under federal labor laws during the term of the contract. Federal contractors operating under such contracts must display the notice for the duration of the contract in “conspicuous places in and about its plants and offices” at all locations where employees “engage in activities relating to the performance of the contract.” Federal contractors must also insert specific language into their subcontracts requiring their subcontractors to adhere to the same notification requirements.

The DOL implementing regulation is crafted so as to have broad application to most entities entering into contracts to provide products or services to the federal government, even to those entities not traditionally viewed as government contractors.

There are limited exceptions for entities with contracts that fall below the simplified acquisition threshold of \$100,000 or where work under the contract is performed entirely outside the United States. Subcontracts for amounts under \$10,000 are also exempt from the regulation’s requirements. In addition, the Director of the Office of Labor-Management Standards may grant individual exemptions, although it is unclear at present what would form the basis for such an exemption. Aside from these limited exceptions, the rule is intended to broadly cover all entities performing work for and with the federal government.

The Department of Defense (“DOD”) has indicated that the Defense Federal Acquisition Regulations Council and the Civilian Agency Acquisition Council are in the process of crafting an interim rule, under Federal Acquisition Regulation (“FAR”) Case 2010-006, to implement the Executive Order and the DOL implementing regulations into the FAR. The DOD issued Class

Deviation 2010-00013 on June 21, 2010 to provide an appropriate clause for use in all covered contracts and enable federal contractors to comply with the requirements of the Executive Order until an interim rule is issued.

For more information regarding the regulation, as well as the official notice, please visit:
<http://www.dol.gov/olms/>.

Authored by:

[Sheldon M. Kline](#)
(202) 772-5378
skline@sheppardmullin.com

and

[Karin Hunter Johnson](#)
(202) 218-0008
kjohnson@sheppardmullin.com

and

[Ashley T. Hirano](#)
(619) 338-6547
ahirano@sheppardmullin.com