

Employers Need to Know

Employment Law Alerts from Ober|Kaler's Employment & Labor Group

Employment & Labor Group

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Signing of Pro Labor Union Orders Signals Change Ahead

Since the end of January 2009, President Barack Obama has signed four Executive Orders that will greatly enhance union organizing activities in the months and years ahead, especially in government contracting. A federal government contractor is defined as a private company or entity that provides goods or services under contract to the government. Does that describe your company? If so, the following initiatives should be read with great interest.

An Executive Order entitled "**Notification of Employee Rights Under Federal Labor Laws**," creates posting obligations for all government contractors. This Order mandates that government contractors post signs informing employees of their rights to engage in collective bargaining under the National Labor Relations Act. The Order also instructs that government contractors are no longer permitted to post signs informing employees of their rights to limit their financial support to unions. That particular provision reverses prior Bush administration policy. Noncompliance with this Order are grounds for a host of sanctions.

Another Order that revokes another Bush administration policy and that will have major financial consequences due to the billions of dollars to be spent on government-related construction projects identified in the economic stimulus package is the "**Use of Project Labor Agreements for Federal Construction Projects**." Under this Order, executive agencies will now be permitted to require the use of union-only project labor agreements on high-dollar construction projects (>\$25million). This Order is expected to give organized labor a distinct advantage in contracting opportunities for significant projects.

A third Executive Order is dubbed, "**Economy in Government Contracting**." This Order prohibits federal contractors from being reimbursed for expenditures they might incur in the process of attempting to steer their workers from forming unions or engaging in the collective bargaining process.

The fourth Executive Order is called, "**Non Displacement of Qualified Workers Under Service Contracts**," which requires a successor federal government contractor to offer employment to the "carryover workforce" of the predecessor contractor. Specifically, the Order mandates the inclusion of a clause in all service contracts (and solicitations for such contracts), that obligates successor contractors to give preferential hiring rights to the existing workforce of the predecessor contractor (other than managerial and supervisory employees). The anticipated controlling regulations are expected to include punitive measures for noncompliance, such as debarment and suspension, and compensatory damages to affected employees.

Employers who function as government contractors are best advised to consider how the recently signed Executive Orders will impact their place of business. For assistance in addressing union organizing activities in your workplace, or advice relating to your general human resources needs, please contact [Ober|Kaler's Employment & Labor Group](#).

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