

## [New Employee Rights Poster Issued for Federal Contractors](#)

June 18, 2010 by [Adam Santucci](#)

[Executive Order 13496](#), requires federal contractors to post a notice regarding employee rights under the National Labor Relations Act, among other things. The [Department of Labor \(DOL\)](#) recently issued [final regulations \(pdf\)](#) implementing the Executive Order.

### **Who is covered by the posting requirement?**

Prime contracts under \$100,000 and subcontracts under \$10,000 are not covered by the notice requirements. In addition, government contracts resulting from solicitations issued before June 21, 2010 are exempt. However, it is possible that an exempt contract may nevertheless contain a provision requiring the posting – so careful review of all recent and future federal contracts and subcontracts for this requirement is advisable.

### **What is the posting requirement?**

Covered contractors are required to post a notice "of such size and in such form, and containing such content as the Secretary of Labor shall prescribe..." In other words, contractors don't have the discretion to alter the form of the [DOL poster](#). The [DOL poster](#) is currently in two forms: a one-page 11"x17" version or a two-page 11"x8.5" format.

### **When does the Executive Order take Effect?**

Covered contractors are required to comply by June 21, 2010.

### **Where must the notice be posted?**

The DOL regulations issued state that the notice must be posted:

- "In conspicuous places in and in and about the contractor's...offices so that the notice is prominent and readily seen by employees...[including, but not limited to]...areas in which the contractor posts notices to employees about the employees' terms and conditions of employment";
- "Where employees covered by the National Labor Relations Act engage in activities relating to the performance of the [federal] contract" (i.e. work that fulfills a contractual obligation or facilitates performance of the contract or jobs for which the cost or a portion of the cost is allowable as a cost of the contract);
- A contractor that "customarily posts notices to employees electronically must also post the required notice electronically."

Compliance may require posting in multiple locations (at a minimum, with other postings and where employees performing contract work perform their jobs), electronically and in other languages if a "significant portion" of the contractor's workforce is not proficient in English.

### **What happens to contractors that fail to comply?**

The [Office of Federal Contract Compliance Programs \(OFCCP\)](#) will enforce the Executive Order, and may conduct "evaluations" to determine whether a contractor is in compliance. In addition, employees and individuals may file complaints with the OFCCP or the [Office of Labor-Management Standards](#). If a contractor is found to be in violation, the OFCCP will first seek voluntary compliance. If a contractor still fails to comply, then further action will be taken, including the issuing of a cease and desist order and other "appropriate remedies," which may include penalties and sanctions, including the suspension, cancellation or termination of the contract and even disbarment.

Federal contractors, subcontractors and potential contractors should carefully review Executive Order 13496 and ensure compliance with all of its provisions.

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