

DOL Publishes Final Rules on Labor Law Posting for Federal Contractors

May 21, 2010

On May 20, the U.S. Department of Labor (DOL) issued its final regulations describing how federal contractors and subcontractors will provide notice of employee rights under the federal labor laws. The final regulations were issued in response to President Barack Obama's Executive Order 13496, issued January 30, 2009, which requires federal contractors to post a notice informing employees of their rights under federal labor laws, such as their right to join a union. The DOL issued proposed rules on August 3, 2009.¹ The final rules contain some changes from the language proposed last year—but many employer-advocated changes were rejected and the final notice remains focused on pro-union rights.

Beginning on June 21, 2010, covered contractors must post the notice in the workplace physically and/or electronically. Contractors that physically post other notices to employees must post the labor law notice physically. In addition, contractors that customarily post notices to employees electronically must post the required notice electronically. The electronic posting must also contain a link to the DOL website that contains the full text of the poster. The link must read "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

Examples of the employee rights on the final poster include:

- The right of employees to organize a union to negotiate with their employer concerning their wages, hours, and other terms and conditions of employment.
- The right of employees to discuss their terms and conditions of employment or union organizing with their coworkers or a union.
- The right of employees to take action with one or more coworkers to improve their working conditions by, among other means, raising work-related complaints directly with their employer or with a government agency, and *seeking* help from a union.

The final notice further highlights a number of specific restrictions on both employers *and* unions under the National Labor Relations Act (NLRA). In contrast to the proposed rules issued in August 2009 that contained little information on unlawful *union* conduct, the DOL has added language specifying unlawful practices by unions against employees who refrain from supporting or joining a union.

¹ See our August 4, 2009 LawFlash, "DOL Publishes Proposed Regulations on Labor Law Posting for Federal Contractors," available at http://www.morganlewis.com/pubs/LEPG_FederalContractors_LF_04aug09.pdf.

The DOL's final regulations confirm that the notice-posting requirements flow past the prime contractor and include subcontractors with subcontracts above \$10,000. Prime contractors with federal contracts of \$100,000 or more, and must include the notice requirements in their own covered subcontracts. Potential remedies for failure to comply with any of the posting requirements may involve contract cancellation or contractor debarment.

The final poster is available on the DOL website at the following links:

http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf and
http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster2page_Final.pdf.

If you would like more information have any questions about the issues discussed in this LawFlash, please speak with any member of the firm's Labor and Employment Practice, or with any of the following Morgan Lewis attorneys:

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