

Proposed Regulation Would Require Federal Contractors to Notify Employees of Their Rights Under Federal Labor Laws

August 4, 2009

Yesterday, the Department of Labor issued a proposed regulation that would require virtually all federal contractors to notify their employees of their rights under the National Labor Relations Act ("NLRA"). The regulation is mandated by an executive order which was signed by President Obama in January. Under the proposed regulation, all federal contractors and subcontractors must agree as a condition of their U.S. government contracts to post a lengthy notice detailing employees' rights under the NLRA, including the right to form, join or assist a union and to strike and picket. Further, the proposed notice describes employer conduct that is unlawful under the NLRA, such as prohibiting employees from soliciting co-workers to join a labor union during non-work time and from wearing union hats, buttons and shirts in the workplace. Finally, the proposed notice directs employees to contact the National Labor Relations Board if they believe their rights have been violated.

Under the proposed regulation, employers will be required to post the notice in conspicuous areas, including those places where employee notices are customarily posted. Employers that regularly post notices electronically will be required to use specific language on their websites that serves as a link to the full text of the notice. The proposed regulation contemplates that employers who fail to comply with the notice requirements will be subject to possible suspension and debarment from public contracts.

The proposed regulation seeks to make it easier for labor unions to organize employees of federal contractors by educating employees of their rights. Because the proposed regulation is required by executive order, it is virtually certain to be implemented, albeit with some changes. Interested parties are permitted to comment on the proposed rule on or before September 2, 2009, and the Department of Labor may consider any comments in the final version of the rule.

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