



Four New Executive Orders for Federal Contractors and Subcontractors

Since January 30, 2009, President Obama has signed four new Executive Orders into law affecting Federal contractors and subcontractors. These Executive Orders include the following:

1. **Nondisplacement of Qualified Workers Under Service Contracts:** When a service contract with the government expires and a new contractor is awarded the contract, the new contractor or subcontractor must make an offer of employment to employees covered by the Service Contract Act of the prior contractor. The new contractor must give the prior contractor's employees a minimum ten day right of first refusal of employment in positions for which they are qualified before the new contractors may make offers of employment to anyone else. As an exception to the requirement to offer employment to the prior contractor's employees, the new contractor is permitted to employ any individual who has worked for the new contractor for three months immediately before the commencement of the covered contract and who would have otherwise faced lay-off or discharge. No requirements concerning wages and benefits or the hiring of fewer employees than the prior contractor are included in the Executive Order.
2. **Notification of Employee Rights Under Federal Labor Laws:** This Executive Order cancels President Bush's Executive Order regarding the posting of employees rights concerning payment of union fees or dues. The new Executive Order requires a poster that notifies employees of their rights under the National Labor Relations Act (NLRA) to encourage collective bargaining, which will eliminate the causes of substantial obstructions to the free flow of commerce and mitigate these obstructions when they have occurred. The wording of the poster will not be available until sometime after June 1, 2009. Penalties for noncompliance with this Executive Order include contract cancellation, termination or suspension, and noncompliant contractors may be prevented from entering further contracts until they come into compliance.
3. **Economy in Government Contracting:** All costs of activities undertaken by an employer to persuade employees to exercise or not exercise their labor rights to organize and bargain collectively are disallowed for federal contractors, effective immediately. Examples of such disallowable costs include: preparing and distributing materials; hiring or consulting legal counsel; holding meetings, including paying salaries of participants; managerial or supervisory time spent planning or conducting such activities. While the Executive Order does not prohibit such actions, the costs associated must be conducted completely at the employer's expense.

Costs to maintain satisfactory relations between the contractor and its employees continue to be allowable, such as costs of employee publications not related to persuasive matters and costs of labor-management committees.

4. **Project Labor Agreements can be Mandated for Federal Contractors:** Executive agencies of the federal government may require every contractor or subcontractor on a large-scale construction project to negotiate or become party to a Project Labor Agreement (PLA) with one or more labor organizations. A PLA is a pre-hire collective bargaining agreement between contractors and one or more unions that establishes terms and conditions of employment for a specific construction project. Any PLA provided for under the Order will bind all contractors and subcontractors on the project.