DEPARTMENT OF LABOR

Employment Standards Administration

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Employment Standards Administration, Labor.

ACTION: Interim Procedural Notice.

SUMMARY: The Employment Standards Administration (ESA) is issuing this interim procedural notice to assist federal contractors and subcontractors in meeting their obligations under Executive Order 13201 (66 FR 11221, February 22, 2001) issued pursuant to the Constitution and laws of the United States, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 et seq. and in order to ensure the economical and efficient administration and completion of Government contracts.


FOR FURTHER INFORMATION CONTACT: Don Todd, Deputy Assistant Secretary, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S2321, Washington, DC 20210 at (202) 693-0200 (this is not a toll-free number). Individuals with hearing impairments may call 1-800-877-8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: This interim procedural notice is intended
to provide guidance during the period between the April 18, 2001 effective date of the Order and the date ESA issues a final rule implementing the Order to employers who, on or after April 18, 2001, enter into a federal contract other than collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8) and purchases under the "Simplified Acquisition Threshold" as defined in the Office of Federal Procurement Policy Act (41 U.S.C. 403). During this interim period, such employers may fulfill their posting obligations under the Order by replicating the text of the Employee Notice which is set forth below and posting it in conspicuous places in and about their plants and offices, including all places where notices to employees are customarily posted. Executive Order 13201 also requires federal contractors and subcontractors to include a clause in federally connected subcontracts and purchase orders requiring subcontractors and vendors to post the notice. Following is the text of the required Notice:

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collecting bargaining, contract administration, or grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of
its Regional offices or at the following address: National Labor Relations Board, Division of Information, 1099 14th Street, NW., Washington, DC 20570.

To locate the nearest NLRB office, see NLRB's website at www.nlrb.gov.

The last sentence of the Notice, however, shall be omitted in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 152 et seq.).

Regulatory Procedures

Executive Order 12866

The Department of Labor has determined that this notice is not a "significant regulatory action" under Executive Order 12866 because this action will not: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency, or otherwise interfere, with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, a regulatory impact analysis is unnecessary.

Congressional Review Act

This notice is not a major rule for purposes of the Congressional Review Act.

Unfunded Mandates

Executive Order 12875--This notice does not create an unfunded Federal Mandate upon any State, local, or tribal government.

Unfunded Mandate Reform Act of 1995--This notice does not include any Federal mandate that may result in increased expenditures by
State, local and tribal governments in the aggregate of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Executive Order 13132

This notice has been reviewed in accordance with Executive Order 13132 regarding Federalism. This notice will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this notice.

Regulatory Flexibility Act

This notice does not substantially change the existing obligations of Federal contractors or subcontractors. The Department of Labor certifies that the notice will not have a significant economic impact on a substantial number of small business entities. Therefore, no regulatory flexibility analysis is required.

Signed at Washington, DC this 13th day of April, 2001.
Joe N. Kennedy,
Acting Assistant Secretary of Labor for Employment Standards.
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