

§471.10

- Threaten you that you will lose your job unless you support the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take other adverse action against you based on whether you have joined or support the union.

“If you and your coworkers select a union to act as your collective bargaining representative, your employer and the union are required to bargain in good faith in a genuine effort to reach a written, binding agreement setting your terms and conditions of employment. The union is required to fairly represent you in bargaining and enforcing the agreement.

“Illegal conduct will not be permitted. If you believe your rights or the rights of others have been violated, you should contact the NLRB promptly to protect your rights, generally within six months of the unlawful activity. You may inquire about possible violations without your employer or anyone else being informed of the inquiry. Charges may be filed by any person and need not be filed by the employee directly affected by the violation. The NLRB may order an employer to rehire a worker fired in violation of the law and to pay lost wages and benefits, and may order an employer or union to cease violating the law. Employees should *seek* assistance from the nearest regional NLRB office, which can be found on the Agency’s Web site: <http://www.nlr.gov>. “Click on the NLRB’s page titled “About Us,” which contains a link, “Locating Our Offices.” You can also contact the NLRB by calling toll-free: 1-866-667-NLRB (6572) or (TTY) 1-866-315-NLRB (6572) for hearing impaired.

“*The National Labor Relations Act covers most private-sector employers. Excluded from coverage under the NLRA are public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered).

“This is an official Government Notice and must not be defaced by anyone.

“2. The contractor will comply with all provisions of the Secretary’s notice, and related rules, regulations, and orders of the Secretary of Labor.

“3. In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) above, this contract may be cancelled, terminated, or sus-

29 CFR Ch. IV (7–1–10 Edition)

pending in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 13496 of January 30, 2009. Such other sanctions or remedies may be imposed as are provided in Executive Order 13496 of January 30, 2009, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

“4. The contractor will include the provisions of paragraphs (1) through (4) herein in every subcontract or purchase order entered into in connection with this contract (unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 3 of Executive Order 13496 of January 30, 2009), so that such provisions will be binding upon each subcontractor. The contractor will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for non-compliance: Provided, however, if the contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

§471.10 How will the Department determine whether a contractor is in compliance with Executive Order 13496 and this part?

(a) The Director of OFCCP may conduct a compliance evaluation to determine whether a contractor holding a covered contract is in compliance with the requirements of this part. Such an evaluation may be limited to compliance with this part or may be included in a compliance evaluation conducted under other laws, Executive Orders, and/or regulations enforced by the Department.

(b) During such an evaluation, a determination will be made whether:

(1) The employee notice required by §471.2(a) is posted in conformity with the applicable physical and electronic posting requirements contained in §471.2(d) and (f); and

(2) The provisions of the employee notice clause are included in government contracts, subcontracts or purchase orders entered into on or after

Ofc. of Labor-Management Standards, Labor

§ 471.13

June 21, 2010, or that the government contracts, subcontracts or purchase orders have been exempted under §471.3(b).

(c) The results of the evaluation will be documented in the evaluation record, which will include findings regarding the contractor's compliance with the requirements of the Executive Order and this part and, as applicable, conciliation efforts made, corrective action taken and/or enforcement recommended under § 471.13.

§ 471.11 What are the procedures for filing and processing a complaint?

(a) *Filing complaints.* An employee of a covered contractor may file a complaint alleging that the contractor has failed to post the employee notice as required by the Executive Order and this part; and/or has failed to include the employee notice clause in subcontracts or purchase orders. Complaints may be filed with the Office of Labor-Management Standards (OLMS) or the Office of Federal Contract Compliance Programs (OFCCP) at 200 Constitution Avenue, NW., Washington, DC 20210, or with any OLMS or OFCCP field office.

(b) *Contents of complaints.* The complaint must be in writing and must include:

- (1) The employee's name, address, and telephone number;
- (2) The name and address of the contractor alleged to have violated the Executive Order and this part;
- (3) An identification of the alleged violation and the establishment or construction work site where it is alleged to have occurred;
- (4) Any other pertinent information that will assist in the investigation and resolution of the complaint; and
- (5) The signature of the employee filing the complaint.

(c) *Complaint investigations.* In investigating complaints filed with the Department under this section, the Director of OFCCP will evaluate the allegations of the complaint and develop a case record. The record will include findings regarding the contractor's compliance with the requirements of the Executive Order and this part, and, as applicable, a description of conciliation efforts made, corrective action

taken, and/or enforcement recommended.

§ 471.12 What are the procedures to be followed when a violation is found during a complaint investigation or compliance evaluation?

(a) If any complaint investigation or compliance evaluation indicates a violation of the Executive Order or this part, the Director of OFCCP will make reasonable efforts to secure compliance through conciliation.

(b) Before the contractor may be found to be in compliance with the Executive Order or this part, the contractor must correct the violation found by the Department (for example, by posting the required employee notice, and/or by amending its subcontracts or purchase orders with sub-contractors to include the employee notice clause), and must commit, in writing, not to repeat the violation.

(c) If a violation cannot be resolved through conciliation efforts, the Director of OFCCP will refer the matter to the Director of OLMS, who may take action under §471.13.

(d) For reasonable cause shown, the Director of OLMS may reconsider, or cause to be reconsidered, any matter on his or her own motion or in response to a request.

§ 471.13 Under what circumstances, and how, will enforcement proceedings under Executive Order 13496 be conducted?

(a) *General.* (1) Violations of the Executive Order or this part may result in administrative enforcement proceedings. The bases for a finding of a violation may include, but are not limited to:

- (i) The results of a compliance evaluation;
- (ii) The results of a complaint investigation;
- (iii) A contractor's refusal to allow a compliance evaluation or complaint investigation to be conducted; or
- (iv) A contractor's refusal to cooperate with the compliance evaluation or complaint investigation, including failure to provide information sought during those procedures.
- (v) A contractor's refusal to take such action with respect to a subcontract as directed by the Director of