

Subpart 22.16 - Notification of Employee Rights Under the National Labor Relations Act

Parent topic: [Part 22 - Application of Labor Laws to Government Acquisitions](#)

22.1600 Scope of subpart.

This subpart prescribes policies and procedures to implement Executive Order 13496, dated January 30, 2009 (74 FR 6107, February 4, 2009).

22.1601 Definitions.

As used in this subpart-

Secretary means the *Secretary* of Labor, U.S. Department of Labor.

United States means the 50 States, the District of Columbia, Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

22.1602 Policy.

(a) Executive Order 13496 requires contractors to post a notice informing employees of their rights under Federal labor laws.

(b) The *Secretary* has determined that the notice *must* contain employee rights under the National Labor Relations Act (Act), [29 U.S.C. 151](#) *et seq.* The Act encourages collective bargaining, and protects the exercise by employees of their freedom to associate, to self-organize, and to designate representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

22.1603 Exceptions.

(a) The requirements of this subpart do not apply to-

(1) Contracts under the *simplified acquisition threshold*;

(2) Subcontracts of \$10,000 or less; and

(3) Contracts or subcontracts for work performed exclusively outside the *United States*.

(b) Exemptions granted by the *Secretary*.

(1) If the *Secretary* finds that the requirements of the Executive Order impair the ability of the Government to procure goods and services on an economical and efficient basis or if special circumstances require an exemption in order to serve the national interest, the *Secretary may* exempt a *contracting* department or agency, or groups of departments or agencies, from the requirements of any or all of the provisions of this Executive Order with respect to a particular contract or subcontract, or any class of contracts or subcontracts, including the requirement to include the clause at [52.222-40](#), or parts of that clause, in contracts.

(2) Requests for exemptions *may* be submitted in accordance with Department of Labor regulations at 29 CFR 471.3.

22.1604 Compliance evaluation and complaint investigations and sanctions for violations.

(a) The *Secretary may* conduct compliance evaluations or investigate complaints of any contractor or subcontractor to determine if any of the requirements of the clause at [52.222-40](#) have been violated.

(b) *Contracting* departments and agencies *shall* cooperate with the *Secretary* and provide such information and assistance as the *Secretary may* require in the performance of the *Secretary's* functions.

(c) If the *Secretary* determines that there has been a violation, the *Secretary may* take such actions as set forth in 29 CFR 471.14.

(d) The *Secretary may* not terminate or suspend a contract or suspend or debar a contractor if the *agency head* has provided written objections, which *must* include a statement of reasons for the objection and a finding that the contractor's performance is essential to the agency's mission, and continues to object to the imposition of such sanctions and penalties. Procedures for enforcement by the *Secretary* are set out in 29 CFR 471.10 through 29 CFR 471.16.

22.1605 Contract clause.

(a) Insert the clause at [52.222-40](#), Notification of Employee Rights under the National Labor Relations Act, in all *solicitations* and contracts, including *acquisitions* for *commercial products*, *commercial services*, and commercially available off-the-shelf items, except *acquisitions-*

(1) *Under the simplified acquisition threshold*. For indefinite-quantity contracts, include the clause only if the value of orders in any calendar year of the contract is expected to exceed the *simplified acquisition threshold*;

(2) For work performed exclusively outside the *United States*; or

(3) Covered (in their entirety) by an exemption granted by the *Secretary*.

(b) A *contracting* agency *may* modify the clause at [52.222-40](#), if necessary, to reflect an exemption granted by the *Secretary* (see [22.1603\(b\)](#)).