

**Memorandum of Understanding**  
**Relating to Administration and Enforcement of Executive Order 13496 and**  
**29 C.F.R. Part 471**

**Office of Labor-Management Standards**  
**Office of Federal Contract Compliance Programs**

I. Legal Authority

This Memorandum of Understanding (MOU) is made pursuant to Executive Order 13496, Notification of Employee Rights under Federal Labor Laws (the Executive Order) and the Department of Labor's implementing regulations at 29 C.F.R. Part 471, which impose certain duties and responsibilities upon the Director of the Office of Labor-Management Standards (OLMS) and the Director of the Office of Federal Contract Compliance Programs (OFCCP) with regard to the administration and enforcement of the obligations of federal contractors and subcontractors concerning notification of employee rights under federal labor laws. The Secretary of Labor has delegated his responsibility under the Executive Order to the Director of OLMS and the Director of OFCCP per Secretary's Order 3-2012, 77 FR 69375 (Nov. 16, 2012) and Secretary's Order 7-2009, 74 FR 58834 (Nov. 13, 2009).

II. Purpose

The purpose of this MOU is to delineate areas of responsibility and procedures in connection with the administration and enforcement of the Executive Order implemented by 29 C.F.R. Part 471, and to indicate which agency will undertake such responsibilities and procedures.

III. Terms of Understanding

It is hereby agreed and understood between OLMS and OFCCP as follows:

a. The Director of OLMS shall be responsible for making modifications to the contract provisions included in 29 C.F.R. Part 471 Appendix A (Appendix A) as necessary to achieve the purposes of the Executive Order and 29 C.F.R. Part 471. The Director of OLMS shall also be responsible for issuing any necessary rules, regulations, or orders concerning modification of such contract provisions in order to achieve those purposes. Prior to making such modifications or issuing any rules, regulations or orders concerning such modifications, the Director of OLMS will consult with the Director of OFCCP.

b. The Director of OLMS shall be responsible for the content and layout of the required employee notice poster as set forth in Appendix A. The poster in English, or in translation as warranted, shall be available for distribution to the public by the OLMS National Office and by field offices of OLMS and OFCCP. The Director of OLMS shall

be responsible for distributing printed copies of the poster to the OLMS field offices. The Director of OFCCP shall be responsible for distributing printed copies of the poster to the OFCCP field offices. The Director of OFCCP shall be responsible for ordering and for the cost of printing copies of the poster to be used by or distributed through OFCCP. The Director of OLMS shall be responsible for ordering and for the cost of printing copies of the poster to be used by or distributed through OLMS. The Director of OLMS will be responsible for ensuring that a copy of the poster in English and in any languages other than English is available for download from the OLMS web site at <http://www.olms.dol.gov> and from the Department of Labor's poster page at <https://www.dol.gov/general/topics/posters>. The Director of OLMS shall be responsible for authorizing and acquiring language translations of the employee notice poster as needed.

c. The Director of OLMS shall be responsible for reviewing requests for exemptions under 29 C.F.R. 471.3(b) and (c), and making necessary determinations on whether to exempt a contracting department or agency or groups of departments or agencies from the requirements of 29 C.F.R. Part 471. The Director of OLMS shall also be responsible for reviewing and making determinations on withdrawals of exemptions previously granted. The Director of OLMS is responsible for providing copies of these determinations to the OFCCP Division of Program Operations (DPO).

d. OFCCP shall be responsible for conducting compliance evaluations under 29 C.F.R 471.10. OFCCP shall be responsible for documenting the results of all compliance evaluations and notifying the OLMS Chief of the Division of Interpretations and Regulations (OLMS CDIR) of the results of such evaluations. In cases where the record includes findings evidencing that a contractor has failed to post the required employee notice in conformity with the regulations or has failed to include the employee notice clause in subcontracts or purchase orders, OFCCP shall forward the evaluation record to the OLMS CDIR, with a description, as applicable, of conciliation efforts made, corrective actions taken, and enforcement actions recommended. OFCCP shall also forward to the OLMS CDIR a copy of the letter transmitted to the contractor under review indicating that the matter has been referred to OLMS for possible enforcement.

e. When a complaint is filed with OLMS under 29 C.F.R. 471.11 alleging that a contractor has failed to post the required employee notice or has failed to include the contract clause in subcontracts or purchase orders, the OLMS CDIR is responsible for promptly forwarding the complaint to OFCCP.

f. OFCCP shall be responsible for evaluating complaints filed under 29 C.F.R. 471.11 and developing a case record. If a violation cannot be resolved through conciliation efforts, OFCCP must refer the matter to the OLMS CDIR with a description, as applicable, of findings, conciliation efforts made, corrective actions taken, and enforcement actions recommended. OFCCP shall also forward to the OLMS CDIR a copy of the letter transmitted to the contractor under review indicating that the matter has been referred to OLMS for possible enforcement.

g. Under 29 C.F.R. 471.12(d), 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. This authority commences no earlier than the referral by OFCCP of the matter to the OLMS CDIR.

h. Following the referral by OFCCP of a matter to the OLMS CDIR for enforcement consideration, the Director of OLMS shall consider whether enforcement is necessary and appropriate, and if so, shall refer the matter to the Solicitor of Labor under 29 C.F.R. 471.13(b). Any referral to the Solicitor of Labor shall include all materials contained in the compliance evaluation record, the complaint record, or both, and any recommendations from the Director of OFCCP or the Director of OLMS, or both, regarding the matter.

i. As delegated by Secretary's Orders 3-2012 and 7-2009, the Director of OLMS and the Director of OFCCP shall have concurrent rulemaking and interpretative authority under the Executive Order and the regulations contained in 29 C.F.R. Part 471 in accordance with their respective responsibilities under the regulations. OFCCP may receive requests for a ruling as OLMS' agent and will refer such requests to the OLMS CDIR. The Director of OLMS must consult with the Director of OFCCP on issues related to OFCCP coverage and similar matters to the extent necessary and appropriate to issue such ruling or interpretation.

j. This agreement does not itself authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligations.

IV. Communication between Agencies: Representatives from OLMS and OFCCP shall meet quarterly to discuss issues surrounding effectuation of E.O. 13496 and its implementing regulations.

V. Notification to Other Agency: Whenever either OLMS or OFCCP learns of or is informed about any matter coming within the responsibility of the other agency, as set forth above, it will notify such other agency in writing and furnish all information in its possession regarding the matter. Notice directed to OLMS should be sent to the OLMS CDIR. Notice directed to OFCCP should be sent to [OFCCP Director of Program Operations].

VI. Exercise of other functions: Nothing in this MOU shall be construed to affect the jurisdiction, authorities, or responsibilities of OFCCP or OLMS under other statutes, regulations, and executive orders.

VII. Instructions: So that the terms of understanding will be effectively performed, OFCCP and OLMS will issue instructions, as warranted, for the guidance of its officers. Such instructions shall be submitted for comment to the other agency prior to their issuance.

VIII. Duration and Review: This MOU shall become effective upon execution of all required signatures and shall remain in effect until May 13, 2027.

IX. No Legally Enforceable Rights Created: The MOU was adopted for the purpose of the internal management of the Department of Labor. The MOU is not intended to, does not, and may not be relied upon to, create any rights, substantive or procedural, enforceable at law or in equity by any party in any matter civil or criminal, nor does the MOU place any limitations on otherwise lawful investigative or enforcement prerogatives of the United States.

X. Limitation on Effect of MOU: Nothing in this MOU shall be construed to limit the rights of the Department of Labor to act in a manner it deems advisable to carry out its programs.

XI. Resolution of Disagreements: Disputes arising under this Agreement will be resolved informally by discussions between Agency Points of Contact, or other officials designated by each agency.

XII. Designations: References to the Director of OLMS and the Director of OFCCP shall include his or her designees.

**JEFFREY FREUND** Digitally signed by JEFFREY  
FREUND  
Date: 2022.05.13 15:36:06 -04'00'

5/13/22

Jeffrey R. Freund, Director  
Office of Labor-Management Standards

Date

**JENNY YANG** Digitally signed by JENNY YANG  
Date: 2022.05.16 19:10:48 -04'00'

5/16/22

Jenny R. Yang, Director  
Office of Federal Contract Compliance Programs

Date