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OFFICE OF MANAGEMENT AND BUDGET
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MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

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SUBJECT: Strengthening Support for Federal Contract Labor Practices

The White House Task Force on Worker Organizing and Empowerment (Task Force) released a report that included recommendations to strengthen Federal contract labor and employment practices. This memorandum provides guidance to agencies regarding the Task Force's recommendation to ensure labor advisors are in place at agencies to improve implementation and compliance with contract labor law requirements for Federal contractors.¹

Federal contract labor laws are designed to promote safe, equitable and productive working environments that increase the likelihood of timely, predictable, and satisfactory delivery of goods and services in support of Federal agency missions. These laws help to strengthen the productivity of the contracting base by requiring contractors to have a well-trained, well-paid workforce that has a voice in workplace practices.

Labor advisors can be a valuable resource to the Federal acquisition workforce, including program officials whose projects are supported by Federal contractors, by helping to ensure the goals of labor laws and implementing regulations and policies are being met by their contractors. Labor advisors can promote Federal workforce understanding of longstanding labor laws, such as the Service Contract Act (SCA) and the Fair Labor Standards Act (FLSA), and nondiscrimination and affirmative action requirements such as those in Executive Order (E.O.) 11246. They can also support successful implementation of requirements that have been newly issued, enhanced, or refreshed, such as those addressing an increased minimum wage for Federal

¹ See [Report to the President](#), recommendation entitled "Increase the Number and Coordination of Agency Labor Advisors" on p. 36.

contract workers,² non-displacement of service contract workers,³ and the mandatory use of project labor agreements.⁴

Equally important, labor advisors can play an important liaison role with enforcement agencies. For example, by regularly communicating with the Wage and Hour Division (WHD) in the Department of Labor (DOL) over issues arising under the Davis Bacon Act (DBA), the Davis Bacon Related Acts (DBRA) and the SCA and with DOL's Office of Federal Contract Compliance Programs (OFCCP) over issues arising under E.O. 11246, labor advisors can facilitate early resolution of issues and help prevent or mitigate labor violations. This engagement can also help ensure continued contract performance in compliance with the law. In addition, labor advisors can provide important support to agency officials as they consider recommendations made in the Task Force's Report.

For many years, the Federal Acquisition Regulation (FAR) has identified certain responsibilities to be performed by the agency labor advisor,⁵ but there is no Government-wide guidance addressing the designation of these individuals. The Task Force observed that a number of agencies do not have labor advisors, and there is no current mechanism to support training or coordination of these individuals. The Task Force recommended that: (i) labor advisors be designated at all Federal agencies, and (ii) greater attention be given to the need for training of—and coordination among—agency labor advisors.

Designation of Labor Advisor

Each Chief Financial Officer (CFO) Act agency shall, and other Federal agencies should, ensure that one or more labor advisors who are career employees are designated to advise agency officials on Federal contract labor matters. Agencies shall advise DOL of the name and contact information of their designation, or confirm the name of the agency's existing labor advisor(s) to laboradvisors@dol.gov not later than February 15, 2023. DOL intends to publicize the name of each agency's labor advisor(s) on its website and on the System for Award Management (SAM.gov) as a resource for contracting agencies and the public.

The designated labor advisor should have a working knowledge of contract labor laws (e.g., SCA, DBRA, DBA) and a general understanding of Federal acquisition. DOL will provide training and technical assistance on labor issues to any individual newly designated by the agency or currently serving in this role, as well as ongoing training and technical assistance to labor advisors as needed.

² Exec. Order No. 14,026, 87 Fed. Reg. 59464 (2022).

³ Exec. Order No. 14,055, 86 Fed. Reg. 66397 (2021).

⁴ Exec. Order No. 14,063, 87 Fed. Reg. 7363 (2022).

⁵ FAR § 22.001 defines the term "agency labor advisor" as an individual responsible for advising contracting agency officials on Federal contract labor matters. The FAR makes specific reference to agency labor advisors in carrying out or supporting certain activities. For example, FAR 22.1003-7 requires the contracting officer to request the advice of the agency labor advisor in addressing questions concerning the applicability of the Service Contract Act. FAR 22.1013 requires the contracting officer to contact the agency labor advisor to consider requesting a hearing at DOL's Wage and Hour Division if wages, fringe benefits, or periodic increases provided for in a collective bargaining agreement vary substantially from those prevailing for similar services in the locality.

Labor advisors should:

- Work with the acquisition workforce and other agency personnel, including the agency's Office of General Counsel, to promote greater awareness and understanding of labor law requirements, including wages, benefits, recordkeeping, reporting, and notice requirements, as well as effective and promising practices for obtaining compliance with contract labor law requirements;
- Work with DOL, the Federal Acquisition Institute, the Defense Acquisition University, and Acquisition Career Managers on the development of Federal workforce training, as needed, on labor law requirements, and tools and information that can be used by the acquisition workforce, including agency requiring officials, program and project managers, contracting officers, contract specialists, and their contracting officer representatives, source selection officials, and other appropriate professionals;
- Serve as a liaison to WHD, the Occupational Safety and Health Administration, OFCCP, the National Labor Relations Board, and the Equal Employment Opportunity Commission to advise and assist contracting officers and other agency officials, in consultation with agency Offices of General Counsel, when these enforcement agencies interact with the agency's contracting officer;
- Partner with agency industry liaisons to coordinate assistance for agency contractors seeking help in addressing and preventing labor violations; and
- Facilitate understanding and appropriate use of contract labor practices endorsed or reinforced by the Task Force, including proper classification of contractor employees subject to the FLSA, non-interference with worker organizing efforts, the use of project labor agreements to avoid labor disruptions on large-scale construction projects, and the exploration of labor peace agreements under the policy of FAR § 22.101-1, where there is cause to believe that there is a possibility of work stoppages on a projected acquisition because of organizing activity among unrepresented employees.

In addition, labor advisors are encouraged to:

- Collaborate with agency acquisition innovation advocates on business practices and technology applications that enable more efficient implementation of labor laws, regulations and policies applicable to acquisition;
- Work with DOL and agency small business directors on strategies to improve small business contractor access to training resources on Federal contract labor requirements, including through the Small Business Administration's Business Development Centers, the Minority Business Development Agency's Business Centers, and Procurement Technical Assistance Centers; and
- Consult with the agency's Chief Acquisition Officer and Senior Procurement Executive, and with DOL in the development of regulations, policies, and guidance.

Contract Labor Advisor Group (CLAG)

DOL and the Office of Federal Procurement Policy within the Office of Management and Budget (OMB) will establish and jointly manage the CLAG, an interagency working group of labor advisors and acquisition personnel to promote better understanding and implementation of contract labor laws and improved communication across agencies in support of a strengthened Federal contracting base. Representatives from the Chief Acquisition Officers Council (CAOC) and the Small Business Procurement Advisory Council (SBPAC) will be invited to participate as advisors and additional members or advisors may be added as appropriate.

The working group will meet regularly, and no less than quarterly, to:

- Share and advocate for effective and promising practices for implementation of contract labor laws, executive orders, regulations and policies, including those that have been newly issued, enhanced, or refreshed;
- Examine the lines of communication among contractors, labor advisors, contracting officials, and DOL enforcement agencies with an eye toward making this communication more effective;
- Serve as a sounding board to support the work of existing councils, including the CAOC and the SBPAC, and make recommendations to DOL and OMB for improvements to strengthen existing contract labor policies, practices, operational tools, and training;
- Provide input, as needed, to DOL and the Federal Acquisition Regulatory Council during their development of regulations addressing the application of contract labor laws to the Federal acquisition system; and
- Provide a community of practice for labor advisors, ensuring they have the latest training and technical assistance to perform their roles effectively.

Initial areas of focus for the CLAG will include:

- (1) Training on E.O. 14055 (on non-displacement) and E.O. 14063 (on project labor agreements) to support their effective implementation and providing advice to DOL, OMB, the Department of Defense, NASA, and the General Services Administration on additional training needs;
- (2) Exploring ways to promote labor peace using the policy of FAR 22.101-1 where the agency has cause to believe that there is a possibility of work stoppages on a projected acquisition because of organizing activity among unrepresented employees, for example by including language in solicitations requiring an agreement between the offeror and any labor organization seeking to organize its employees that would assure the uninterrupted delivery of services over the course of the contract;

- (3) Asking contracting officers to encourage contractors whose employees have recently organized to take advantage of no-cost services offered by the Federal Mediation and Conciliation Service to assist the parties in reaching a first collective bargaining agreement; and
- (4) Asking contracting officers to remind their contractors of their responsibility under E.O. 13496, Notification of Employee Rights Under Federal Labor Laws⁶ to post and distribute notices to employees of their rights under the National Labor Relations Act and of the prohibition on using Federal contract dollars to support or oppose unionization among their workforce pursuant to E.O. 13494, Economy in Government Contracting.⁷

OMB and DOL appreciate your prompt attention in designating labor advisors by February 15, 2023. Your support and the leadership of your agency's labor advisors can help to ensure the improved contract results that come with strong labor practices. Questions regarding this memorandum may be sent to laboradvisors@dol.gov and/or MBX.OMB.OFPPv2@OMB.eop.gov.

⁶ Exec. Order No. 13, 496, 74 Fed. Reg. 6107 (2009).

⁷ Exec. Order No. 13, 494, 74 Fed. Reg. 6101 (2009).