

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Information Collection Requirements

ACTION: Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its request for Office of Management and Budget (OMB) approval of the Information Collection 1215-XXXX: Notification of Employee Rights Under Federal Labor Laws. A copy of the proposed information collection request can be obtained by contacting the office listed below in the ADDRESS section of this Notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before [insert date 60 days from the date of publication].

ADDRESS: Mr. Steven D. Lawrence, U.S. Department of Labor, 200 Constitution Ave., NW, Room S-3201, Washington, D.C. 20210, telephone (202) 693-0292, fax (202) 693-1451, Email Lawrence.Steven@dol.gov. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION

I. Background: President Barack Obama signed Executive Order 13496 (E.O. 13496) on January 30, 2009, requiring certain Government contractors and subcontractors to post notices informing their employees of their rights as employees under Federal labor laws. The Order also provides the text of contractual provisions that Federal Government contracting departments and agencies must include in every Government contract, except for collective bargaining agreements and contracts for purchases under the Simplified Acquisition Threshold.

E.O. 13496 advances the Administration's goal of promoting economy and efficiency of Federal government procurement by ensuring that workers employed in the private sector as a result of Federal government contracts are informed of their rights to engage in union activity and collective bargaining. Knowledge of such basic statutory rights promotes stable labor-management, thus reducing costs to the Federal government.

The contractual provisions require contractors and subcontractors to post a notice, created by the Secretary of Labor, informing employees of their rights under the National Labor Relations Act. The notice also provides a statement of the policy of the United States to encourage collective bargaining, as well as a list of activities that are illegal under the Act. The notice concludes with a general description of the remedies to which employees may be entitled if these rights have been violated and contact information for further information about those rights and remedies, as well as enforcement procedures.

The clause also requires contractors to include the same clause in their nonexempt subcontracts and purchase orders, and describes generally the sanctions, penalties, and remedies that may be imposed if the contractor fails to satisfy its obligations under the Order and the clause.

The proposed regulatory provisions implementing E.O. 13496 (29 CFR part 471) include the language of the required notices, and they explain posting and contractual requirements, the complaint process, the investigatory process, and sanctions, penalties, and remedies that may be imposed if the contractor or subcontractor fails to comply with its obligations under the Order. Specifically, proposed 29 CFR part 471.11(c) sets forth the procedures that the Department must use when accepting written complaints alleging that a contractor doing business with the Federal government has failed to post the notice required by the Executive Order.

In accordance with the Government Paperwork Elimination Act (GPEA), the Notice to Employees poster is available for downloading at www.olms.dol.gov or by sending a request to OLMS-Public@dol.gov. Complaints must be submitted to the Department in writing.

The proposed part 471 requires contractors and subcontractors to post notices and cooperate with any investigation into a failure to comply with the requirements of proposed part 471 as the result of a complaint or a compliance evaluation. It also permits employees to file complaints with the Department alleging that a contractor or subcontractor has failed to comply with those requirements. The burden hours for this collection of information were determined by estimating the time required to perform the filing of complaints under the proposed regulation. Specifically, the Department based its estimates on the experience of the Office of Federal Contract

Compliance Programs (OFCCP) administering other laws applicable to Federal contractors, which determined that it will take an average of 1.28 hours for such a complainant to compose a complaint containing the necessary information and to send that complaint to the Department. This number is also consistent with the burden estimate for filing a complaint under E.O. 13201 and the now-revoked part 470 regulations.

The Department has estimated it would receive a total of 50 employee complaints in any given year, which is significantly larger than the estimate contained in its most recent PRA submission for E.O. 13201. In that submission, the Department estimated it would receive 20 employee complaints. This number itself had been revised downwards because the Department never received any employee complaints pursuant to the now-revoked 29 CFR part 470 regulations. Because the applicability of the proposed rule and E.O. 13496 is greater in scope than the now-revoked part 470 and E.O. 13201 in terms of geography (the now-revoked part 470 regulations only applied to states without right-to-work laws, whereas the proposed rule applies nationwide), the Department has revised upwards its estimate of employee complaints under the proposed rule from 20 to 50. In addition, E. O. 13201 required the posting of a notice containing information of interest to only a few – employees who may have objected to paying union dues or fees for non-representational activities – while the information in the poster required by this regulation should be of interest to all employees.

The Department is seeking a three year approval for this information collection in order to implement the complaint procedures of proposed 29 C.F.R. part 471.

II. Review Focus: The Department of Labor is particularly interested in comments that:

- * evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * enhance the quality, utility, and clarity of the information to be collected; and

- * minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The DOL seeks the approval of this information collection in order to ensure that employees of Federal contractors and subcontractors can properly submit complaints pursuant to proposed 29 C.F.R. 471.

Type of Review: Information Collection Request.

Agency: Employment Standards Administration.

OMB Number: 1215-XXXX

Affected Public: Employees of Federal Contractors and Subcontractors

Total Respondents: 50.

Total Annual responses: 50.

Estimated Total Burden Hours: 64.

Estimated Time Per Response: 1.28 hours.

Frequency: On occasion of employee of a Federal contractor or subcontractor filing a complaint alleging a violation of proposed 29 C.F.R. part 471.

Total Burden Cost (capital/startup): \$0

Total Burden Cost (operating/maintenance): \$0

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

DATED:

Steven D. Lawrence
Acting Chief, Branch of Management Review and Internal Control
Division of Financial Management
Office of Management, Administration and Planning
Employment Standards Administration

Billing Code: 4510-CP-P