

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 16-23

July 1, 2016

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Anne Purcell, Associate General Counsel

SUBJECT: Collecting Data in Connection with Fair Pay and Safe Workplaces
Executive Order

On July 31, 2014, the President signed the [Fair Pay and Safe Workplaces Executive Order](#) to promote federal government procurement from responsible sources who comply with labor laws, including the NLRA. The Executive Order creates in each federal agency a new position--a Labor Compliance Advisor, who will assist contracting officers in making their responsibility determinations of contractors by assessing whether the contractors' violations of labor law are "serious," "repeated," "willful," or "pervasive." The Executive Order contemplates that DOL, EEOC, and the NLRB shall make information concerning agency findings of labor law violations available to the Labor Compliance Advisors which is necessary for their assessments.

The Agency has correlated certain data points already tracked in the NxGen case management system for forwarding to Labor Compliance Advisors. However, beginning with complaints issued on or after July 1, 2016, the Agency will collect four additional data points, which are necessary to link the data in NxGen with the data gathered by the other enforcement agencies and with the data in the GSA acquisition systems. These four additional data points are:

- 1) Is the charged party employer a federal contractor now or in the past? If so, its Commercial And Government Entity ("CAGE") number;
- 2) The charged party employer's Data Universal Numbers System ("DUNS") number, if it has one;
- 3) The charged party employer's four-character DUNS number suffix (DUNS+4), if it has one;
- 4) The charged party employer's Employer Identification Number (EIN) or Taxpayer Identification Number (TIN).

Attachment 1 to this Memorandum is a [fillable pdf form](#) that charged party employers can use to furnish these four data points regarding their businesses.¹ Attachment 2 to this Memorandum is model language Regions should use at the time of merit determinations to solicit charged party employers to complete the form. Regions are encouraged to share information about the form and have charged party employers complete it earlier where practicable. In connection with updates to the NxGen case management system initiated on June 24, 2016, four fields correlating to the data points itemized above have been created. Upon determination that a complaint will issue in the absence of settlement, Regions should request charged party employers to complete and remit the fillable form. Regions should enter the information into the NxGen data fields as soon as practicable after receipt, and in any event no later than the issuance of complaint. Where Regions have requested the information but the charged party employer has not supplied it, Regions should indicate such by using a fifth field, also deployed in the latest NxGen release, which specifies that the information was requested and the charged party employer did not provide it. To the extent practicable, the Regions should continue to request this information and if the charged party employer eventually furnishes the information the Region should enter the data into the appropriate NxGen fields.

Attachment 3 to this Memorandum is how-to instructions with screen shots, explaining how to enter the data into the NxGen system to ensure its availability to Labor Compliance Advisors. Also any completed forms should be updated into NxGen. The requirement to enter this data is applicable to all cases where complaint issues on or after July 1, 2016.

If you have any questions, please contact your Deputy or AGC, or DAGC John Doyle.

/s/
A. P.

cc: NLRBU

¹ We intend the fillable pdf form and data-entry process described in this Memorandum as an interim solution. The NxGen team is in the process of designing an internet portal that will allow charged parties to enter this information, as well as commerce information, Notices of Appearance, Designation of Representatives for Service of Documents, through a wizard-like interface that will feed directly into the NxGen system from the authenticated portal, improving casehandling efficiency. The measures described herein are to be taken pending development and deployment of that interface so that Labor Compliance Advisors' ability to assess labor law compliance by potential contractors is not impaired in the meantime.