

GC GUIDANCE ON MEETINGS WITH UNION OFFICIALS

Department officials often receive requests to meet with officials of labor unions whose members are employees of Department contractors. Department officials should feel free to meet with such union officials subject to this guidance. Department officials must take care, however, not to insert themselves or the government inappropriately into the relationship between the unions and the contractors

Sometimes unions will wish to meet with Department officials simply to learn about publicly stated Department plans or to make the Department aware of union concerns regarding a DOE policy applicable to contractors on a complex-wide basis. Department officials also may find it useful to initiate meetings with union officials to hear about general union concerns or gather information that is useful in the policy-making process. Meetings of this sort do not raise legal issues, provided that all the information being shared by Department officials may be made public.

More often, however, unions will wish to meet with Department officials because of concerns or complaints about specific contractors. These meetings raise legal concerns and must be handled carefully. Most importantly, Department officials must ensure that such discussions cannot be interpreted as bargaining or as a promise to the union that would interfere with a contractor's ability to administer its contract in accordance with contractual requirements. Department officials should also not say anything that might undermine a contractor's freedom to bargain collectively with a union.

To allow meetings between unions and the Department to occur without undue legal risk, below is specific guidance as to how union meeting requests should be handled:

1. If a union official calls a site program official to request a meeting about a specific contract or contractor matter, the program official should obtain the individual's name, the contract and contractor of interest, the identity of the union and the subject of the requested meeting. HQ should be notified of the union's request.
2. If a union contacts a HQ program official, the program official should contact the appropriate site for any relevant information to be prepared for the meeting and ask relevant site officials to participate.
3. Once site and HQ officials have conferred, a meeting request from a union about a specific contract or contractor matter may be accepted.
4. While program officials can and should learn as much as possible about union concerns during such a meeting, they must make clear that they cannot mediate or resolve contractor and union disputes. Program officials may, if appropriate, indicate that they will inquire about the union's concerns in light of the contractor's responsibilities under its contract with DOE. Program officials

cannot, however, indicate that they will somehow “fix” the union’s concern or take action against the contractor.

5. After a discussion with union officials, program officials may contact the contractor and ask for information regarding the union's concerns. Program officials should not indicate to the contractor that DOE is taking sides in the matter or expects the contractor to take specific action to address the union's concerns. Program officials may tell the contractor that the Department expects the contractor to work with the relevant unions in accordance with the terms of its contract. If program officials are not satisfied with the contractor's response to a union's allegations and find the contractor is not fulfilling its obligations under the contract, the Contracting Officer may take appropriate steps as part of contract administration. In the end, DOE may do no more than ensure that the contractor lives up to its obligations under its obligations with the contract.

Finally, Department officials must remember that they have a general obligation to act equitably with all similarly situated members of the public, including unions. Thus if the Department initiates a meeting with union officials to impart public information or for another general purpose, the Department must be sure to provide similar opportunities to meet with other unions that would be similarly interested in that information.

22 February 2010