

SURVEY OF EXECUTIVE ORDERS APPLYING TO FEDERAL CONTRACTORS

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Name:	Date Issued:	Applies To:	Requirement:
EO 13706: Establishing Paid Sick Leave for Federal Contractors	September 7, 2015	Contracts entered into after January 1, 2017 for procurement of services or construction; contracts covered by the SCA; concession contracts; or contracts in connection with federal property or lands and related to offering services for federal employees, their dependents or the general public.	Requires contractors to provide paid sick leave to employees. Paid sick leave must accrue at 1 hour for every 30 hours worked. Total accrual per year cannot be less than 56 hours. Employees must be allowed to carry paid sick leave forward. Employees rehired within 12 months after separation are entitled to reinstatement of their previously accrued sick leave. Contractors are not required to pay accrued by unused sick leave at termination.
EO 13672: Amendment to EO 11246 Equal Employment Opportunity	July 21, 2014	All federal contractors and subcontractors.	Prohibits discrimination of employees and applicants on the basis of sexual orientation and gender identity.
EO 13665: Non-Retaliation for Disclosure of Compensation Information	April 8, 2014	All federal contractors and subcontractors.	Prohibits contractors and subcontractors from discharging, or otherwise discriminating against, employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants. Excludes employees or applicants who make the disclosure based on information obtained when performing essential job functions.

Name:	Date Issued:	Applies To:	Requirement:
EO 13658: Establishing a Minimum Wage for Contractors	February 20, 2014	Contracts for the procurement of services or construction; contracts covered by the SCA; concession contracts; or contracts in connection with federal property or lands and related to offering services for federal employees, their dependents or the general public.	Requires a minimum wage. Beginning January 1, 2016, that wage is \$10.15.
EO 13627: Strengthening Protections Against Trafficking in Persons in Federal Contracts	September 25, 2012	All federal contractors and subcontractors.	Requires contractors to take certain actions and implement policies designed to thwart human trafficking; contracts with large projects outside of the United States are subject to much more stringent requirements.
EO 13496: Notification of Employee Rights under Federal Labor Laws	January 30, 2009	All federal contracts subject to the National Labor Relations Act with a prime contract above the simplified acquisition threshold (currently, \$150,000).	Requires contractors to post notices about the employees' federal labor rights including their rights under the NLRA to form, join and assist a union and to bargain collectively with their employer.
EO 13494: Economy in Government Contracting	January 30, 2009	All federal contracts and subcontracts.	Prohibits contractors from seeking reimbursement for expenses incurred to influence employees regarding their decisions to form unions or engage in collective bargaining.

Name:	Date Issued:	Applies To:	Requirement:
EO 13495: Non-displacement of Qualified Workers under Service Contracts	January 30, 2009	All federal contracts and subcontracts, except those below the simplified acquisition threshold (currently, \$150,000); those awarded pursuant to the Javits-Wagner-O'Day Act; and, certain contracts employing the services of the severely handicapped.	Requires successor contractors to offer a right of first refusal of employment to those employees previously employed under the predecessor contract and whose employment would have been terminated as a result of the award of the successor contract.

DETAILED OVERVIEW OF EXECUTIVE ORDERS

Executive Order 13706 "Establishing Paid Sick Leave for Federal Contractors"

Applies to:

Contracts entered into after January 1, 2017 that are:

- a) Procurement contracts for services or construction;
- b) Contracts for services covered by the Service Contract Act;
- c) Contracts for concessions, including any concessions contracts excluded by Department of Labor regulations at 29 CFR 4.133(b); and,
- d) Contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.

AND workers must be covered by the FLSA, SCA or DBA.

Accrual of Sick Leave:

Contractors must permit employees to earn at least 1 hour of paid sick leave for every 30 hours worked. In addition, contractors cannot limit accrual of paid sick leave to less than 56 hours per year. Although any unused but accrued paid sick leave does not need to be paid upon termination, contractors must permit employees to carry forward paid sick leave from year to year. If an employer is rehired within 12 months after job separation, the employee's prior paid sick leave bank must be reinstated.

Use of Paid Sick Leave:

An employee may use paid sick leave for:

1. Physical or mental illness, injury, or medical condition;
2. Obtaining diagnosis, care, or preventive care from a health care provider;
3. Caring for a child, parent, spouse, domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, who has any of the conditions, or needs for diagnosis, care, or preventive care described above;

4. Domestic violence, sexual assault, or stalking if the time is to obtain counseling, seek relocation, seek assistance from a victim services organization, take legal action (including preparation for or participation in any related civil or criminal legal proceeding) or to assist any individual in paragraph 3 with the activities described in this paragraph.

Contractors may not require employees to find a replacement to cover their work before taking paid sick leave. Employees should give an oral or written request when taking paid sick leave at least 7 calendar days in advance if the need is foreseeable, and in all other cases, give notice "as is practicable." If an employee is absent on paid sick leave for three or more consecutive workdays and the absence is not due to domestic violence, sexual assault or stalking, the contractor may request certification from a health care provider with the minimum necessary information establishing a need for the employee to be absent from work for that length of time.

Executive Order 13672 "Amendment to EO 11246 Equal Employment Opportunity"

This Executive Order specifically prohibits discrimination of employees and applicants on the basis of sexual orientation and gender identity. Contractors should amend their Equal Employment Opportunity clause accordingly.

Executive Order 13665 "Non-retaliation for Disclosure of Compensation Information"

Contractors are prohibited from discharging or discriminating against employees who inquire about, discuss or disclose their compensation or compensation of other employees or applicants. This rule excludes employees who have access to the compensation information of employees or applicants through their essential job functions and make the disclosure to an individual who would not otherwise have access to the information. This rule does not apply to disclosure in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or consistent with a legal duty to furnish information.

Contractors must incorporate this nondiscrimination provision into existing handbooks, and contractors must disseminate the nondiscrimination provision to employees and job applicants via an electronic notice or by posting a copy of the provision in a conspicuous place available to employees and applicants.

Executive Order 13658 "Establishing a Minimum Wage for Federal Contractors"

This Executive Order applies to workers whose wages are covered by the FLSA, SCA or DBA, and the contracts:

1. Are for the procurement of services or construction;
2. Are covered by the SCA;
3. Are concession contracts; or
4. Are contracts in connection with federal property or lands and related to offering services for federal employees, their dependents or the general public

For contracts covered by the SCA or DBA, the contract must meet the minimum threshold amount then specified in the particular statute, and for contracts covered by the FLSA, the contract must meet the micro-purchase threshold (currently \$3,000).

This Executive Order applies to "new contracts" issued on or after January 1, 2015, or a contract awarded outside of the solicitation process on or after January 1, 2015. A contract is considered "new" even if it was entered into before January 1, 2015, if the contract is renewed, extended (unless extended pursuant to a term as of December 31, 2014 providing for short-term limited extension), or the contract is amended pursuant to a modification that is outside the scope of the contract.

Any worker covered by the FLSA, SCA or DBA is entitled to the minimum wage pursuant to this Executive Order. The only exclusion is that any FLSA-covered worker performing "ancillary" work in connection with a covered contract for less than 20 percent of his or her hours in given workweek will not be entitled to minimum wage. However, if the employee performs any work directly related to the contract (i.e., specifically called for by the contract), the employee is entitled to the minimum wage for all his hours worked no matter how little time he actually spent performing the work.

This Executive Order also covers tipped employees who must be paid a cash wage of at least \$4.90 per hour, and they must receive tips amounting to at least the difference between the cash wage paid and the minimum wage.

The Secretary of Labor establishes the minimum wage annually effective January 1, and it will be published at least 90 days before the new minimum wage is to take effect.

Executive Order 13627 "Strengthening Protections Against Trafficking in Persons in Federal Contracts"

Contractors must establish policies and procedures to ensure that their employees do not engage in or support trafficking activities prohibited by law, including procuring commercial sex acts or using forced labor. Contractors must notify their contracting officer of any information they receive that employee conduct has violated trafficking laws and any action they take against such employees.

Contractors are prohibited from:

- Destroying, concealing, confiscating, or otherwise denying an employee access to his or her identity documents;
- Using misleading or fraudulent recruitment practices;
- Charging recruitment fees to employees;
- Providing or arranging housing that fails to meet the host country and safety standards;
- Failing to provide a written employment contract, recruitment agreement, etc. in the employee's native language; and,

- Failing to pay return transportation costs upon the end of employment for employees who were brought into a country for the purpose of working on a federal contract or subcontract.

Contractors must protect and interview all employees suspected of being victims of or witnesses to prohibited activities. Also, contractors are prohibited from preventing or hindering the cooperation of these employees with government authorities.

If contractors become aware of violations, they must self-report to the agency inspector general, agency official responsible for suspension and debarment actions, and law enforcement, if applicable.

Executive Order 13496 "Notification of Employee Rights Under Federal Labor Laws"

This Executive Order requires contractors to give notice to their employees of their rights under the National Labor Relations Act.

The contractor must:

- Post the required employee notice so that it is prominent and readily seen by employees;
- Post the required notice electronically where they customarily place other electronic notices if they communicate with employees electronically; and
- Insert provisions in their subcontracts requiring subcontractors to comply with the above posting requirements as well.

The size, form and content of the notice are prescribed by the Secretary of Labor and cannot be altered by contractors or subcontractors.

Executive Order 13494 "Economy in Government Contracting"

This Executive Order prohibits contractors from seeking reimbursement for expenses incurred while attempting to influence employees to exercise or not to exercise the right to organize and bargain collectively. Examples include: preparing and distributing materials; hiring or consulting legal counsel or consultants on these matters; holding meetings; and, planning or documenting activities by managers, supervisors or union representatives during work hours, if these activities relate to influencing employees on their collective bargaining rights.

However, contractors may still use federal funds to "maintain satisfactory relations between the contractor and its employees," including costs of labor-management committees, employee publications, and other related activities.

Executive Order 13495 "Nondisplacement of Qualified Workers Under Service Contracts"

This Executive Order requires contractors to give workers who would otherwise lose their jobs as a result of completion or expiration of a contract a "right of first refusal" for continued employment with the successor contractor. The right of first refusal must be held open for at least ten days.

The right of first refusal excludes employees:

- Who are exempt from SCA-coverage because they operate in a bona fide executive, administrative or professional capacity;
- Who remain employed by the predecessor contractor;
- Failed to perform suitably on the job; or,
- Were hired by the predecessor contractor to work on federal and nonfederal service contracts as part of a single job.

In addition, successor contractors may retrain their own employees in lieu of predecessor employees if the successor employees have worked for more than 3 months with the contractor and they would otherwise face layoff or discharge.

The head of the contracting department or agency may exempt a particular contract, subcontract or class of contracts from this Executive Order if he finds that its application would not serve the purposes of the Order or would impair the ability of the government to procure services economically and efficiently.

A contractor must include provisions in subcontracts restating this requirement, and the contractor must take such action against the subcontract as is necessary to enforce these requirements.