

President Obama Signs Executive Order Requiring Federal Contractors to Provide Paid Sick Leave

President Obama signed an [Executive Order](#) on September 7, 2015, requiring that Federal contractors provide at least seven days of paid sick leave per year to employees working on Federal contracts and subcontracts that are solicited or awarded on or after January 1, 2017. According to a White House [Fact Sheet](#) summarizing and explaining the rationale behind the Executive Order, an estimated 44 million private sector workers (approximately 40%) do not have access to paid sick leave. Along with issuing the Executive Order, President Obama also urged Congress to pass the Healthy Families Act, which would require all businesses with 15 or more employees to offer up to seven days of paid sick leave annually.

The Executive Order applies to the following types of contracts or contract-like instruments: (1) procurement contracts for services or construction; (2) contracts for services covered by the Service Contract Act; (3) contracts for concessions; and (4) contracts entered into in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public. All Federal contracts falling within one of these categories will be subject to the Executive Order if the solicitation for the contract is issued on or after January 1, 2017, or if the contract is awarded outside the solicitation process on or after January 1, 2017.

The Executive Order requires covered Federal contracts and subcontracts to contain a clause “specifying, as a condition of payment, that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than 1 hour of paid sick leave for every 30 hours worked.” The Executive Order also provides that a contractor may not cap the total annual accrual of paid sick leave at less than 56 hours (seven days). Paid sick leave earned under the Executive Order may be used by an employee for an absence resulting from: (1) physical or mental illness, injury, or medical condition; (2) obtaining diagnosis, care, or preventive care from a health care provider; (3) caring for family members, domestic partners, and other individuals whose close association with the employee is the equivalent of a family relationship; and (4) domestic violence, sexual assault, or stalking. The use of paid sick leave cannot be made contingent upon the employee finding a replacement.

Accrued unused sick leave earned under the Executive Order must be carried over from one year to the next. In addition, although Federal contractors are not required to pay employees for accrued unused sick leave upon separation from employment, Federal contractors are required to reinstate any accrued unused sick leave that an employee had upon separation from employment if that employee is rehired within 12 months.

The paid sick leave required by the Executive Order is in addition to a Federal contractor’s obligations under the Service Contract Act and the Davis-Bacon Act. Federal contractors may not receive credit toward their prevailing wage or fringe benefit obligations for any paid sick leave provided in satisfaction of the requirements of the Executive Order.

The Secretary of Labor has been directed to issue regulations by September 30, 2016, to carry out the terms of the Executive Order.

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