



Final Rule: Executive Order 13706

Paid Sick Leave for Workers on Federal Contracts

Effective January 1, 2017

With the Department of Labor publishing a final rule to implement Executive Order 13706, Paid Sick Leave will be established for Federal Contractors. Executive Order 13706 was signed by President Barack Obama on September 7, 2015, and requires parties that enter into covered contracts with the Federal Government to provide covered employees with up to 7 days of paid sick leave annually, including paid leave allowing for family care.

DEPARTMENT OF LABOR FACT SHEET

What contracts are covered by EO 13706 and the proposed regulations?

The requirements of the Executive Order apply only to certain categories of contracts with the Federal Government, and only to contracts that are “new” on or after January 1, 2017.

Under the Final Rule, Executive Order 13706 applies to four major categories of contractual agreements:

- procurement contracts for construction covered by the Davis-Bacon Act (DBA);
- service contracts covered by the McNamara-O’Hara Service Contract Act (SCA);
- concessions contracts, including any concessions contract excluded from coverage under the SCA by Department of Labor regulations at 29 CFR 4.133(b); or
- contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.

Furthermore, any subcontract of a covered contract that falls into one of these four categories is subject to the paid sick leave requirements.

What is a new contract?

The proposed regulations apply to “new contracts,” that is, contracts with the Federal Government that result from solicitations issued on or after January 1, 2017 or that are awarded outside the solicitation process on or after January 1, 2017.

A contract that is entered into prior to January 1, 2017 will constitute a new contract if, through bilateral negotiation, on or after January 1, 2017:

- the contract is renewed;
- the contract is extended, unless the extension is made pursuant to a term in the contract as of December 31, 2016 providing for a short-term limited extension; or
- the contract is amended pursuant to a modification that is outside the scope of the contract.

**Source: US Department of Labor; Wage and Hour Division; Website: www.wagehour.dol.gov;
1-866-4-USWAGE**

What is the amount of paid sick leave required under EO 13706?

Under the Executive Order, a contractor must permit an employee to accrue (earn) not less than 1 hour of paid sick leave for every 30 hours worked on or in connection with a covered contract, up to the limits described below.

Maximum Accrual, Carryover, Reinstatement, and Payment for Unused Leave

The Final Rule provides that contractors may limit the amount of paid sick leave employees may accrue to 56 hours each year and must permit employees to carry over accrued, unused paid sick leave from one year to the next. The Final Rule also allows contractors to limit the amount of paid sick leave employees have accrued to 56 hours at any point in time. Furthermore, contractors are required to reinstate employees' accrued, unused paid sick leave if the employees are rehired by the same contractor within 12 months after a job separation unless contractors provide payment to employees for accrued, unused paid sick leave upon separation. Contractors are not required to pay employees for accrued, unused paid sick leave at the time of a job separation ("cash-out"); however, if they do provide cash-out, they will not be required to reinstate unused leave.

Requests to Use Leave

Under the Final Rule, an employee's request to use paid sick leave may be made orally or in writing. A leave request must be made at least 7 calendar days in advance where the need for the leave is foreseeable, and in other cases as soon as is practicable. A contractor is required to communicate any denial of a request to use paid sick leave in writing, with an explanation for the denial—which cannot be based on whether the employee has found a replacement worker or on the contractor's operational needs.

Contact McCloskey Partners, LLC with questions and to find out additional information and updates or visit the US Department of Labor website, www.dol.gov.

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Source: US Department of Labor; Wage and Hour Division; Website: www.wagehour.dol.gov;
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