

USDOL Issues Final Rule Implementing Paid Sick Leave for Certain Federal Contractors

On September 29, the U.S. Department of Labor announced the issuance of its final rule implementing Executive Order 13706, which requires certain Federal contractors to provide at least 56 hours of paid sick leave per year to all employees (both hourly and salaried employees) working on Federal contracts. The final rule was published in the Federal Register on September 30 and applies to new or replacement contracts that result from solicitations issued on or after January 1, 2017 (or are awarded outside the solicitation process on or after January 1, 2017).

Coverage under the final rule is nearly identical to [regulations for Executive Order 13658](#), which requires payment of a higher minimum wage to employees of certain Federal contractors. Coverage applies to four types of contracts (including subcontracts):

- 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 contracts excluded from the SCA; and
- Contracts in connection with Federal property or lands and related to offering of services for Federal employees, their dependents, or the general public.

As stated in our [March 8, 2016 New York Labor and Employment Law Report](#), paid sick leave may be used for employees' own healthcare, care of family members or loved ones, and for purposes resulting from being a victim of domestic violence, sexual assault, stalking, or to assist a family member or loved one who is such a victim. The regulations create a regulatory scheme similar in complexity to the Family and Medical Leave Act, with detailed notice and recordkeeping rules.

The final rule contains a few changes from the proposed rule discussed in our prior blog post. The modifications include:

- An option to provide employees with the 56 hours of paid sick leave at the beginning of each year, rather than accruing throughout the year. Under the accrual method, employees would accrue 1 hour for every 30 hours worked on a Federal contract.
- The addition of a provision specifying that contractors who grant PTO that meets the requirements in the final rule do not have to provide separate paid sick leave even if the employee uses all of the time for vacation.
- A grace period until January 1, 2020, or the termination date of the labor agreement, whichever is sooner, for contractors with a collective bargaining agreement that provides at least 56 hours of paid leave time for health-related reasons.
- The ability for contractors to fulfill their obligations jointly with other contractors by utilizing multi-employer plans to provide access to paid sick leave.
- Confirmation that a contractor will not have to reinstate accrued sick leave that was paid out to an employee upon separation from employment if the employee returns within 12 months.

Additional information is provided on the Department of Labor's Wage and Hour Division [landing page](#) for the final rule.

If you have any questions about this Information Memo, please contact [Larry P. Malfitano](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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