

Is Your Company in Compliance With Executive Order 13706?

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In September 2015, Executive Order 13706 was signed, requiring employers that enter into covered contracts with the federal government to provide covered employees with up to seven days (56 hours) of paid sick leave annually, including paid leave allowing for family care. The passage and requirements of the Executive Order did not receive widespread attention, but the Department of Labor has begun audits of covered employers to ensure compliance.

Covered Contracts:

Under the Executive Order, paid sick leave requirements apply to a new contract (beginning on or after Jan. 1, 2017) that is:

1. a procurement contract for construction covered by the Davis-Bacon Act (DBA);
2. service contracts covered by the Service Contract Act (SCA); or
3. contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.

The Executive Order does not apply to contracts that are subject only to the Davis-Bacon Related Acts (81 FR 67613).

Covered Employees:

The Executive Order applies to employees that are: (1) working “on” or “in connection with” a covered contract; and (2) whose wages are governed by the DBA, SCA, or FLSA, including employees who qualify for an exemption from the FLSA’s minimum wage and overtime provisions.



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An employee who works only “in connection with” covered contracts and spends less than 20% of their time in any workweek doing so does not accrue paid sick leave in that workweek. 29 CFR 13.4(e)

Accrual and Usage:

All employees, in the performance of the covered contract or any subcontract thereunder, must earn at least 1 hour of paid sick leave for every 30 hours worked on or in connection with a covered contract, up to a total of 56 hours.

Paid sick leave earned under this order may be used by an employee for an absence resulting from:

- a. physical or mental illness, injury, or medical condition;
- b. obtaining diagnosis, care, or preventive care from a health care provider;
- c. caring for a child, a parent, a spouse, a 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 in paragraphs (1) or (2) of this subsection or is otherwise in need of care; or
- d. domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in paragraphs (1) and (2) of this subsection, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in paragraph (3) of this subsection in engaging in any of these activities.

The use of paid sick leave cannot be made contingent on the requesting employee finding a replacement to cover any work time to be missed.

Paid sick leave accrued under the Executive Order carries over from year to year and shall be reinstated for employees rehired by the employer within 12 months after a job separation. Contractors may limit employees' accrued amount of paid sick leave at any point in time to 56 hours.

The paid sick leave required by the Executive Order is in addition to an

employer's obligations under 41 U.S.C. chapter 67 (Service Contract Act) and 40 U.S.C. chapter 31, subchapter IV (Davis-Bacon Act), and employers may not receive credit toward their prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of the Executive Order.

Notice Requirements:

The Executive Order requires an employer to inform each employee, in writing, of the amount of paid sick leave that the employee has accrued but not used at least once each pay period or each month, whichever interval is shorter, as well as upon a separation from employment and upon reinstatement of paid sick leave.

An employer's existing procedure for informing employees of their available paid time off, such as notification accompanying each paycheck, or an online system an employee can check at any time, can be used to satisfy or partially satisfy these requirements provided it is written (including electronically) and clearly indicates the amount of paid sick leave an employee has accrued separately from indicating amounts of other types of paid time off available.

In addition, employers must post a notice at the worksite informing employees of the Executive Order's paid sick leave requirements.

Employers who have (or will) entered into covered contracts should also ensure that their paid sick leave policies are compliant with the Executive Order and the Massachusetts Earned Sick Time Law.

Please contact a member of our Labor, Employment and Employee Benefits Group if you have any questions about Executive Order 13706.