

Paid Sick Leave to Be Required for Employees of Federal Contractors

September 30, 2015



Dear Construction Clients and Friends,

On September 7, 2015, President Barack Obama signed an Executive Order requiring federal contractors to offer their employees up to seven days of paid sick leave per year. The executive order will impact contracts entered into on or after January 1, 2017. This will benefit an estimated 300,000 employees of federal government contractors and subcontractors, including lower-tier subcontractors.

Under the executive order, employees of federal contractors and subcontractors will earn a minimum of one hour of paid sick leave for every 30 hours worked, according to a fact sheet released by the White House. A contractor may not limit annual paid sick leave accrual at less than 56 hours, however, contractors are free to offer more generous leave amounts at their discretion. Workers may use the paid sick leave to care for themselves or a family member. The paid sick leave requirement is in addition to a contractor's obligations under the Service Contract Act and Davis-Bacon Act. The executive order provides that 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 this order. The executive order also provides that contractors may not interfere with or discriminate against an employee for taking (or attempting to take) paid sick leave "or in any manner asserting, or

assisting any other employee in asserting” their leave rights under the directive.

The executive order directs the Department of Labor to issue regulations enforcing the executive order by September 30, 2016, including setting forth exclusions from the requirements where appropriate, as well as recordkeeping requirements as needed to enforce the provision. The Department of Labor will also have authority to investigate potential violations of the executive order and obtain compliance with the measure, including its proscriptions on discrimination or interference.

We recommend that federal contractors follow these guidelines:

- Determine whether they are a federal contractor or subcontractor subject to the new order.
- Review the federal FMLA as well as state and local mandated sick leave laws, and determine whether they have employees in localities where these laws exist.
- Take into account that this is an accrual policy, and ensure that their payroll system can provide sick leave

For more information regarding the executive order, please contact your Anchin Relationship Partner or Phillip Ross, Practice Leader of Anchin’s Construction Industry Group at 212.840.3456.