

DOL Establishes Paid Sick Leave for Employees of Federal Contractors

October 05, 2016

On September 29, 2016, the U.S. Department of Labor (DOL) published a final rule that directs federal contractors to provide paid sick leave. The rule implements Executive Order 13706, signed by President Obama on September 7, 2015.

The rule is applicable to new contracts solicited on or after January 1, 2017, and also to contracts in effect before January 1, 2017 if they are renewed, extended, or amended on or after January 1, 2017. The rule applies to those contracts, or portions of contracts, that are performed in the United States under the following types of contracts:

1. Procurement contracts for services or construction covered by the Davis-Bacon Act;
2. Contracts or contract-like instruments for services covered by the Service Contract Act;
3. Contracts or contract-like instruments for concessions; and
4. Contracts or contract-like instruments in connection with federal property or lands and related to offering services for federal employees, their families, or the general public.

The rule allows employees who work “on” or “in connection with” covered federal contracts to accrue 1 hour of paid sick leave for every 30 hours worked, up to 56 hours in a year or at any point in time. Working “on” a covered contract means that the employee is “perform[ing] the specific services called for by the contract.” Working “in connection with” a covered contract means “the employee’s work activities are necessary to the performance of a contract, but are not the specific services called for by the contract.”

If an employer’s business includes covered government contracts as well as other contracts, only employees working on or in connection with the covered federal contracts must accrue sick leave, and then only for the hours worked on or in connection with the covered contracts. Additionally, employees working “in connection with” covered contracts are entitled to accrue sick leave only “if that employee spends 20 percent or more of her hours worked in a given workweek in connection with covered contracts.” Those nuances highlight the importance of developing a system to track the details of employees’ work.

Employees may use the paid sick leave for their own health care needs, the health care needs of a family member or loved one, or for purposes resulting from being the victim of domestic violence, sexual assault, or

stalking, or to care for a family member or loved one who is such a victim. The rule prohibits contractors from discriminating or retaliating against any employee who exercises his rights under the rule, but does allow an employer to investigate genuine concerns about the fraudulent use of leave.

The rule does not create a private cause of action for an aggrieved employee. The Wage and Hour Division of the DOL would investigate compliance and determine whether a violation occurred. Depending on the type of violation, possible remedies include payment of wages or benefits denied or lost, payment of actual damages suffered as a result of the violation, payment of liquidated damages, withholding of payments due on the contract, and reinstatement of a wrongfully discharged employee.

The DOL maintains detailed information about the rule [on its website](#).