

Insights: Alerts

A New Era in Government Contracting Labor Laws: How the Fair Pay and Safe Workplaces Final Rule and Guidance Requires Contractors and Subcontractors to Tell on Themselves and Impact Future Awards

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On August 24, 2016, the Federal Acquisition Regulatory Council and the Department of Labor issued a long awaited final rule and guidance implementing the Fair Pay and Safe Workplaces Executive Order. Under the final rule, federal government contractors and subcontractors seeking contracts or subcontracts valued at more than \$500,000 will be required to disclose to contracting agencies labor law violations, including civil judgments, administrative decisions, and arbitration awards over the last three years. Labor laws captured by this final regulation include the Fair Labor Standards Act, the Occupational Safety and Health Act of 1970, Davis-Bacon, Service Contract Act, Equal Employment Opportunity, the Family and Medical Leave Act, Americans with Disabilities Act, Age Discrimination in Employment Act, and Minimum Wage for Contractors. Contracting officers, along with labor compliance advisors, will be required to consider any disclosures when deciding to award contracts or extensions. The final rule also includes other requirements such as mandating federal contractors to provide employees with detailed wage information.

The final rule will become effective on October 25, 2016, and will be phased-in. For example, the labor law violation reporting requirement will only apply to deals valued at more than \$50 million for the first six months that the rule is effective. Additionally, subcontractors will not be required to make disclosures until October 2017.

The final rule and guidance are substantial with more than 800 pages between the two. Our Government Contracts and Labor & Employment teams are reviewing the regulations and will be publishing a series of alerts over the next few weeks. Federal contractors and subcontractors will need to update their government contracts policies and procedures to address the changes ushered in by this final rule and guidance. Our alerts will provide a path forward for contractors and subcontractors to do just that. Please contact one of the authors or your regular Kilpatrick Townsend contact with any questions.

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