

Insights: Alerts

Fair Pay & Safe Workplaces Final Rule: Does the Bell Toll for Thee?

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In our previous [August 25, 2016 Legal Alert](#), we informed readers about the voluminous final rule and guidance regarding Fair Pay & Safe Workplaces and that we would be issuing a series of alerts. The heart of the final rule is the requirement for government contractors to report certain labor law violations including administrative merits determinations, civil judgments, and arbitration decisions. This reporting could ultimately result in a contractor's "blacklisting" from government contracting. This second alert provides details about which contractors are covered and when they have to start complying with the regulations.

The most common question we have seen so far from clients and readers is "Am I subject to the reporting requirements of this rule?" The short answer is that if you are a government contractor or subcontractor, and plan on obtaining contracts after October 25, 2016, you will likely be subject to this rule. The final rule explains that the core reporting requirements will eventually apply to all prime contracts and subcontracts estimated to be greater than \$500,000 after October 25, 2016. Subcontracts for commercially available off-the-shelf ("COTS") items will not, however, be subject to the rule.

The final rule mercifully uses a phased-in approach for both prime contracts and subcontracts:

- When the final rule goes into effect on October 25, 2016, it will first apply to prime solicitations and contracts issued on or after October 25, 2016, that are estimated to be more than \$50 million.
- Starting April 25, 2017, however, the reporting requirements will apply to prime solicitations and contracts issued on or after October 25, 2016, that are estimated to be more than \$500,000.
- Subcontractors will not be subject to the reporting requirements until October 25, 2017. We note that government contractors often times wear dual hats as both prime contractors and subcontractors. Accordingly, companies may find themselves in a situation where a prime contract may trigger compliance requirements on October 25, 2016, even though the company may traditionally be a subcontractor.

Our series of alerts will continue next week with a discussion on the specifics of what needs to be reported. In the meantime, if you have any questions about the requirements please reach out to one of the authors or your regular Kilpatrick Townsend contact.

Related People



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