

OFCCP Update: Executive Order 13673, Fair Pay and Safe Workplaces

Since April 2014, President Obama has signed a long list of Executive Orders affecting government contractors' relationships with employees. None has triggered more opposition than Executive Order 13673 which calls for greater scrutiny of government contractor bidders' compliance with a myriad of federal and state laws relating to labor law and workplace safety and creates a vast new compliance mechanism. Not surprisingly, there is a sharp difference of opinion between the proponents of the Executive Order and the opponents who have dubbed it the "Blacklisting Order." The opposition has been escalating in 2015.

Along with issuance of the Executive Order on July 31, 2014, the White House issued a fact sheet. Based on the Order and the accompanying Fact Sheet, the law's provisions and purposes are as follows:

- Agencies will require prospective contractors to disclose labor law violations from the past three years before they can get a contract. Contractors will be responsible for getting this information from many of their subcontractors as well. The fourteen covered Federal statutes and equivalent state laws identified in the Executive Order include those addressing wage and hour, safety and health, collective bargaining, family and medical leave, and civil rights protections.
- The purpose of the Executive Order is to crack down on repeat offenders. Contracting officers will take into account only the most egregious violations. Each agency will designate a senior official as a Labor Compliance Advisor to provide consistent guidance on whether contractors' actions rise to the level of a lack of integrity or business ethics. The Labor Compliance Advisor will support individual contracting officers in reviewing disclosures and consult with the Department of Labor. The Executive Order states that this process will ensure that the worst actors, who repeatedly violate the rights of their workers and put them in danger, don't get contracts and thus can't delay important projects and taxpayer money.

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