

Breaking News: President Obama Signs Executive Order Requiring Federal Agencies to Take Record of Labor and Employment Law Violations

Article By:

Mickey Silberman

In the latest in [a series of recent Executive Orders](#) signed by the President, creating significant additional burdens for federal contractors, the President signed today the [“Fair Pay and Safe Workplaces Executive Order”](#). In addition to releasing the EO (Executive Order), the White House also published a [fact sheet](#) on the new obligations contained in the EO.

The **EO is misleadingly named** in that it primarily covers topics other than fair pay and safe workplaces – these topics are covered among the wide-ranging set of new obligations. The new requirements will include:

1. Federal Agencies considering the three-year record of labor and employment law violations when making contract award decisions,
2. Contractor reporting of violations of employment laws,
3. Contractor provision of information to employees to allow them to “verify the accuracy of their paycheck”, and
4. Prohibition on mandatory arbitration agreements to resolve claims of civil rights violations.

Agencies will be required to take into account violations of **14 Federal statutes** (and equivalent state laws) when considering contract awards. Contractors and subcontractors will be required to report violations of these same laws. Among others, these laws include:

1. Fair Labor Standards Act,
2. Occupational Safety and Health,
3. National Labor Relations Act,

4. Family and Medical Leave Act,
5. Davis Bacon,
6. Service Contract Act, and
7. Title VII of the Civil Rights Act,
8. Americans with Disability Act,
9. Age Discrimination in Employment Act,
10. Executive Order 11246,
11. Vietnam Veterans Readjustment Assistance Act,
12. Section 503 of the Rehabilitation Act, and
13. Executive Order 13658 (federal contractor minimum wage)

We anticipated much of what was in this Executive Order but there was also one big surprise – **a provision prohibiting contractors and subcontractors from requiring new employees enter into pre-dispute mandatory arbitration agreements**. Many employers require employees to sign arbitration agreements at the outset of employment. This provision of the EO is a “game changer” that government contractors and subcontractors must review and determine how to respond. It is possible employers will bring litigation challenging this provision of the EO.

In an effort to assist contractors with the burden of the above, and existing reporting obligations, the Executive Order tasks the General Services Administration to develop a single website for contractors to meet their reporting requirements.

This is a breaking story. We are doing a “deep dive” into the many details. Stay tuned for additional posts in the upcoming days as we analyze the details and implication of these new obligations.

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