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Federal Contractors Must Provide Paid Sick Time in the Future

On Labor Day, September 7, President Barack Obama signed an executive order (the "Order") requiring federal contractors and subcontractors to allow their employees to earn at least seven days of paid sick time each calendar year if they do not already have policies providing for at least that amount of time off for the same purposes and under the same conditions.

The sick-time requirements will apply to federal service contracts solicited or awarded on or after January 1, 2017, including procurement contracts for services or construction, contracts covered by the Service Contract Act, and contracts for concessions, if employee wages under the contract are governed by the Davis-Bacon Act, the Service Contract Act or the Fair Labor Standards Act. The Order does not apply to grants, agreements with Indian Tribes or contracts that are expressly excluded in the implementing regulations to be promulgated by the Secretary of Labor.

Covered contracts will need to include a clause conditioning payment on the contractor or subcontractor providing at least one hour of paid sick time to each employee for every 30 hours of work the employee performs on the contract. Employees must be permitted to accrue at least 56 hours of paid sick time per calendar year.

Employees can use paid sick time earned under the Order for the following purposes:

- Physical or mental illness, injury, or medical condition.
- To obtain diagnosis, care or preventive care from a health care provider.
- To care for a child, parent, spouse, domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship; who has a physical or mental illness, injury, or medical condition; or who needs diagnosis, care or preventive care from a health care provider.
- To obtain counseling, seek relocation, seek assistance from victim services organizations, or participate in legal action related to domestic violence, sexual assault or stalking, or to assist a family member in engaging in any of these activities.

Such time may be carried over to the next calendar year. Contractors do not need to pay an employee for unused, accrued sick time upon separation from employment, but the earned time must be reinstated if the employee is rehired by a covered contractor within a year.

Where the need for leave is foreseeable, the employee must ask for leave at least seven days in advance, either orally or in writing. If not, the employee must notify the contractor as soon as practicable. The contractor cannot condition use of leave on an employee finding a replacement to cover his or her absence. Contractors may require documentation demonstrating the employee's need for leave.

Covered contractors may not interfere with or discriminate against employees for using or attempting to use paid sick time or for asserting or assisting other employees in asserting rights under the Order. Contractors cannot use paid sick time to satisfy their prevailing wage or fringe benefit obligations under the Service Contract Act or the Davis-Bacon Act.

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