

PART 13—ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS

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APPENDIX A TO PART 13—CONTRACT CLAUSE

AUTHORITY: 5 U.S.C. 301; E.O. 13706, 80 FR 54697, 3 CFR, 2016 Comp., p. 367; Secretary's Order 01–2014, 79 FR 77527.

SOURCE: 81 FR 67709, Sept. 30, 2016, unless otherwise noted.

Subpart A—General

§ 13.1 Purpose and scope.

(a) *Purpose.* This part contains the Department of Labor's rules relating to the administration and enforcement of Executive Order 13706 (Executive Order or the Order), "Establishing Paid Sick Leave for Federal Contractors." The Order states that providing paid sick leave to employees will improve the health and performance of employees of Federal contractors and will bring benefits packages offered by Federal contractors in line with model employers, ensuring they remain competitive in the search for dedicated and talented employees. The Executive Order concludes that providing paid sick leave will result in savings and quality improvements in the work performed by parties who contract with the Federal Government that will in turn lead to improved economy and efficiency in Government procurement.

(b) *Policy.* Executive Order 13706 sets forth the general position of the Federal Government that providing access to paid sick leave on Federal contracts will increase efficiency and cost savings for the Federal Government. The Order therefore provides that executive departments and agencies shall, to the extent permitted by law, ensure that new covered contracts, contract-like instruments, and solicitations (collectively referred to as "contracts") include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that employees will earn not less than 1 hour of paid sick leave for every 30 hours worked on or in connection with covered contracts.

(c) *Scope.* Neither Executive Order 13706 nor this part creates or changes any rights under the Contract Disputes Act or creates any private right of action. The Executive Order provides that disputes regarding whether a contractor has provided paid sick leave as prescribed by the Order, to the extent permitted by law, shall be disposed of only as provided in this part. However, nothing in the Order or this part is intended to limit or preclude a civil action under the False Claims Act, 31 U.S.C. 3730, or criminal prosecution

under 18 U.S.C. 1001. The Order and this part similarly do not preclude judicial review of final decisions by the Secretary of Labor in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

§ 13.2 Definitions.

For purposes of this part:

Accrual year means the 12-month period during which a contractor may limit an employee's accrual of paid sick leave to no less than 56 hours.

Administrative Review Board (ARB or Board) means the Administrative Review Board, U.S. Department of Labor.

Administrator means the Administrator of the Wage and Hour Division and includes any official of the Wage and Hour Division authorized to perform any of the functions of the Administrator under this part.

As soon as is practicable means as soon as both possible and practical, taking into account all of the facts and circumstances of the individual case.

Certification issued by a health care provider means any type of written document created or signed by a health care provider (or by a representative of the health care provider) that contains information verifying that the physical or mental illness, injury, medical condition, or need for diagnosis, care, or preventive care or other need for care referred to in § 13.5(c)(1)(i), (ii), or (iii) exists. The health care provider (or representative) need not have seen the employee or the individual for whom the employee is caring in person to create a valid certification.

Child means:

(1) A biological, adopted, step, or foster son or daughter of the employee;

(2) A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;

(3) A person for whom the employee stands *in loco parentis* or stood *in loco parentis* when that individual was a minor or required someone to stand *in loco parentis*; or

(4) A child, as described in paragraphs (1) through (3) of this definition, of an employee's spouse or domestic partner.

Concessions contract or *contract for concessions* means a contract under

which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services. The term *concessions contract* includes, but is not limited to, a contract the principal purpose of which is to furnish food, lodging, automobile fuel, souvenirs, newspaper stands, and/or recreational equipment, regardless of whether the services are of direct benefit to the Government, its personnel, or the general public.

Contract or *contract-like instrument* means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term *contract* includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term *contract* shall be interpreted broadly to include, but not be limited to, any contract that may be consistent with the definition provided in the Federal Acquisition Regulation (FAR) or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. The term *contract* includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts not subject