THE WHITE HOUSE
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FACT SHEET: Fair Pay and Safe Workplaces Executive Order

While the vast majority of federal contractors play by the rules, every year tens of thousands of American workers are denied overtime wages, not hired or paid fairly because of their gender or age, or have their health and safety put at risk by corporations contracting with the federal government that cut corners. Taxpayer dollars should not reward corporations that break the law, so today President Obama is cracking down on federal contractors who put workers' safety and hard-earned pay at risk.

As part of this Year of Action, the President will sign an Executive Order that will require prospective federal contractors to disclose labor law violations and will give agencies more guidance on how to consider labor violations when awarding federal contracts. Although many contractors already play by the rules, and federal contracting offers already must assess a contractor's record of integrity, these officers still may not necessarily know about companies' workplace violations. The new process is also structured to encourage companies to settle existing disputes, like paying back wages. And finally, the Executive Order also ensures that workers are given the necessary information each pay period to verify the accuracy of their paycheck and workers who may have been sexually assaulted or had their civil rights violated get their day in court by putting an end to mandatory arbitration agreements at corporations with large federal contracts.

By cracking down on federal contractors who break the law, the President is helping ensure that all hardworking Americans get the fair pay and safe workplaces they deserve.

❖ Key Provisions of the Executive Order ❖

The Fair Pay and Safe Workplaces Executive Order will govern new federal procurement contracts valued at more than $500,000, providing information on companies' compliance with federal labor laws for agencies. We expect the Executive Order to be implemented on new contracts in stages, on a prioritized basis, during 2016. The Department of Labor estimates that there are roughly 24,000 businesses with federal contracts, employing about 28 million workers.

1. Hold Corporations Accountable: Under the terms of the Executive Order, agencies will require prospective contractors to disclose labor law violations from the past three years before they can get a contract. The 14 covered Federal statutes and equivalent state laws include those addressing wage and hour, safety and health, collective bargaining, family and medical leave, and civil rights protections. Agencies will also require contractors to collect similar information from many of their subcontractors.

2. Crack Down on Repeat Violators: Contracting officers will take into account only the most egregious violations, and 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. This advisor will support individual contracting officers in reviewing disclosures and consult with the Department of Labor. The Executive Order 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 waste taxpayer money.

3. Promote Efficient Federal Contracting: Federal agencies risk poor performance by awarding contracts to companies with a history of labor law violations. In 2010, the Government Accountability Office issued a report finding that almost two-thirds of the 50 largest wage-and-hour violations and almost 40 percent of the 50 largest workplace health-and-safety penalties issued between FY 2005 and FY 2009 were at companies that went on to receive new government contracts. Last year, Senate Health, Education, Labor, and Pensions Committee Chairman Tom Harkin issued a report revealing that dozens of contractors with significant health, safety, and wage and hour violations were continuing to be awarded federal contacts. Another study detailed that 28 of the companies with the top workplace violations from FY 2005 to FY 2009 subsequently received federal contracts, and a quarter of those companies eventually had significant performance problems as well—suggesting a strong relationship between contractors with a history of labor law violations and those that cannot deliver adequate performance for the taxpayer dollars they receive. Because the companies with workplace violations are more likely to encounter performance problems, today's action will also improve the efficiency of federal contracting and result in greater returns on federal tax dollars.

4. Protect Responsible Contractors: The vast majority of federal contractors have clean records. The Department of Labor estimates that the overwhelming majority of companies with federal contracts have no federal workplace violations in the past three years. Contractors who invest in their workers' safety and maintain a fair and equitable workplace shouldn't have to compete with contractors who offer low-ball bids—based on savings from skirting the law—and then ultimately deliver poorer performance to taxpayers. The Executive Order builds on the existing procurement system, so it will be familiar to contractors and will fit into established contracting practices. Responsible businesses will check a single box on a bid form indicating that they don't have a

history of labor law violations. The Federal contracting community and other interested parties will be invited to participate in listening sessions with OMB, DOL, and senior White House officials to share views on how to ensure implementing policies and practices are both fair and effective. DOL and other enforcement agencies along with the Federal Acquisition Regulatory Council will consider this input as they draft regulations and guidance, which will be published for public comment before being finalized.

5. Focus on Helping Companies Improve: The goal of the process created by the Executive Order is to help more contractors come into compliance with workplace protections, not to deny contracts to contractors. Companies with labor law violations will be offered the opportunity to receive early guidance on whether those violations are potentially problematic and remedy any problems. Contracting officers will take these steps into account before awarding a contract and ensure the contractor is living up to the terms of its agreement.

6. Give Employees a Day in Court: The Executive Order directs companies with federal contracts of $1 million or more not to require their employees to enter into predispute arbitration agreements for disputes arising out of Title VII of the Civil Rights Act or from torts related to sexual assault or harassment (except when valid contracts already exist). This builds on a policy already passed by Congress and successfully implemented at the Department of Defense, the largest federal contracting agency, and will help improve contractors' compliance with labor laws.

7. Give Employees Information About their Paychecks: As a normal part of doing business, most employers give their workers a pay stub with basic information about their hours and wages. To be sure that all workers get this basic information, the Executive Order requires contractors to give their employees information concerning their hours worked, overtime hours, pay, and any additions to or deductions made from their pay, so workers can be sure they're getting paid what they're owed.

8. Streamline Implementation and Overall Contractor Reporting: The Executive Order directs the General Services Administration to develop a single website for contractors to meet their reporting requirements—for this order and for other contractor reporting. Contractors will only have to provide information to one location, even if they hold multiple contracts across different agencies. The desire to "report once in one place" is a key theme in the feedback received from current and potential contractors. This step is one in a series of actions to make the federal marketplace more attractive to the best contractors, more accessible to small businesses and other new entrants, and more affordable to taxpayers.

Part of the basic American bargain is that if you take responsibility, work hard and play by the rules, workers can count on fair wages, freedom from discrimination on the job,

and safe and equitable workplaces. Taxpayer dollars shouldn't be used by unscrupulous employers to drive down living standards for our families, neighbors, and communities. By creating incentives for better compliance and a process for helping contractors come into compliance with basic workplace protection laws, the Executive Order is basic good government that will increase efficiency in federal contracting and will help strengthen our workforce and our economy.

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