

More Transparency on Horizon for Federal Contractors



Article By

[Brittany Blackburn Koch](#)

[McBrayer, McGinnis, Leslie and Kirkland, PLLC](#)

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The **U.S. Department of Labor** (“DOL”) has issued a proposed rule that would bar federal contractors from firing or discriminating against employees or applicants who discuss their pay, or the pay of their co-workers. The proposal comes after President Obama’s executive order in April, which instructed the DOL to issue a rule requiring pay transparency among federal contractors.

According to the Office of Federal Contract Compliance (“OFCCP,” a sub-agency of the DOL), pursuant to the rule, federal contractors or subcontractors would be banned from firing or otherwise discriminating against any employee or applicant for discussing, disclosing, or inquiring about their compensation or that of any other employee or applicant. The rule would also require that federal contractors include the nondiscrimination provision in their handbooks and manuals. The rule would also add definitions for key words such as “compensation,” “compensation information,” and “essential job functions.”

OFCCP believes that existing pay secrecy policies interfere with the requirement that those who work for federal contractors be compensated for merit and that such policies can lead to decreased worker productivity, due to employees’ decline in trust and motivation. The proposal was published on September 17, 2014, in the Federal Register and is open for comment until December 16, 2014.

In addition to the ban on pay secrecy policies, the DOL also recently proposed another rule which would require most federal contractors and subcontractors

annually to submit Equal Pay Reports on employee compensation to OFCCP. The aim of that rule is to collect summary data on how federal contractors and subcontractors pay their employees, with an eye toward identifying potential gender-based and race-based pay disparities.

In anticipation of these rules becoming final, employers should review and revise current compensation systems with legal counsel. Compensation disparity issues should be identified and addressed immediately in order to minimize future risks.

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