

EMPLOYER ALERT: No More Wage

Secrecy for Federal Contractors

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The Office of Federal Contract Compliance Programs (OFCCP) has published its Notice of Proposed Rulemaking (NPRM) on "pay transparency." This NPRM is in follow-up to Executive Order 13665, which President Obama signed on April 8, amending Executive Order 11246 and prohibiting federal contractors from retaliating against applicants and employees for discussing their compensation. Generally, with limited exceptions, this proposal prohibits employers from firing or taking other adverse actions against employees who discuss their pay and other employees' pay.

Also, government contractors will be required to amend their EO clauses to mirror the language set forth in the Executive Order, which states:

[text_box] The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information. [/text_box]

Employers subject to the rule would need to amend their employee handbooks or manuals, in addition to engaging in training to educate decision-makers in the workplace on this new requirement.

By Timm W. Schowalter

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