

Labor and Employment

March 28, 2017

Key Points

- As anticipated, President Trump took two coordinated actions to rescind President Obama's Fair Pay and Safe Workplaces Executive Order and its underlying regulations.
- Contractors will no longer need to comply with the requirements of that executive order, including the pay notification requirements that were not previously blocked by the federal court in Texas.



President Trump Rescinds the Blacklisting Executive Order

On March 27, 2017, President Trump took the much-anticipated action of rescinding President Obama's Fair Pay and Safe Workplaces Executive Order 13673 and its underlying regulations (the "Blacklisting Rules," as it became known in the business community). As we [previously discussed](#), the Blacklisting Rules required federal contractors and subcontractors to disclose violations of federal and state labor laws for the government to assess before awarding federal contracts. The Blacklisting Rules also prohibited certain contractors from using pre-dispute arbitration agreements covering Title VII and tort claims for sexual harassment/assault and mandated new pay notification requirements. In October 2016, a federal district court in Texas granted a [preliminary injunction](#) blocking the implementation of the labor law disclosure requirements and arbitration restrictions, but left in place the pay notification obligations.

After the election, many in the contracting community anticipated that the Trump administration would completely rescind the Blacklisting Rules. President Trump did just that through two coordinated actions. First, he signed a joint resolution passed by Congress ([H.J. Res. 37](#)) under the Congressional Review Act (CRA) disapproving of the Blacklisting Rules. Second, the President issued an executive order called the [Revocation of Federal Contracting Executive Orders](#), which expressly stripped the legal foundation for the Blacklisting Rules.

As a result of President Trump's actions, contractors will no longer have to comply with any of the costly obligations associated with the Blacklisting Rules, including the pay notification requirements that were left in place by the federal district judge in Texas. Any future administration that wishes to implement similar requirements will also face an uphill battle. Because the Blacklisting Rules were rescinded through the CRA, any new order based on substantially similar requirements would require congressional action.

Although the Blacklisting Rules are gone, President Trump has yet to rescind some other significant executive orders of the Obama administration affecting federal contractors, including the executive orders

on paid sick leave (Executive Order 13706) and minimum wage (Executive Order 13658). Contractors will have to wait and see whether those orders may face a similar fate.

Contact Information

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