

22.2109 Enforcement of Executive Order 13706 paid sick leave requirements.

(a) *Authority.* Section 4 of the E.O. grants to the Secretary of Labor the authority for investigating potential violations of, and obtaining compliance with, the E.O. The Secretary of Labor, in promulgating the implementing regulations required by section 3 of the E.O., has assigned this authority to the *Administrator* of the Wage and Hour Division. *Contracting* agencies do not have authority to conduct compliance investigations under 29 CFR Part 13 as implemented in this subpart. This does not limit the *contracting officer's* authority to otherwise enforce the terms and conditions of the contract.

(b) *Complaints.*

(1) Complaints are filed with the *Administrator* of the Wage and Hour Division and *may* be brought by any person (including the *employee*), entity, or organization that believes a violation of this subpart has occurred.

(2) The identity of any individual who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the individual's identity, *shall* not be disclosed in any manner to anyone other than Federal officials without the prior consent of the individual, unless otherwise authorized by law.

(3) If the *contracting* agency receives a complaint or is notified that the *Administrator* of the Wage and Hour Division has received a complaint, the *contracting officer shall* report, within 14 days, to the Department of Labor, Wage and Hour Division, Office of Government Contracts, 200 Constitution Avenue N.W., Room S3006, Washington, D.C. 20210, all of the following information that is available without conducting an investigation:

(i) The complaint or description of the alleged violation.

(ii) Available statements by the *employee*, contractor, or any other person regarding the alleged violation.

(iii) Evidence that clause [52.222-62](#), *Paid Sick Leave Under Executive Order 13706*, was included in the contract.

(iv) Information concerning known settlement negotiations between the parties, if applicable.

(v) Any other relevant facts known to the *contracting officer* or other information requested by the Wage and Hour Division.

(c) *Investigations.* Complaints will be investigated by the *Administrator* of the Wage and Hour Division, if warranted, in accordance with the procedures in 29 CFR 13.43.

(d) *Remedies and sanctions.*

(1) *Withholding or suspending payment.* The *contracting officer shall*, upon his or her own action or upon written request of the *Administrator* of the Wage and Hour Division-

(i)

(A) Withhold or cause to be withheld from the contractor under the contract covered by the E.O. or any other Federal contract with the same contractor, so much of the accrued payments or advances as *may* be considered necessary to pay *employees* the full amount owed to compensate for any violation of E.O. 13706 or 29 CFR Part 13; and

(B) In the event of any such violation, the *contracting* agency *may*, after authorization or by direction of the *Administrator* of the Wage and Hour Division and written notification to the contractor, take action to cause *suspension* of any further payment, advance, or guarantee of funds until such violations have ceased; or

(ii) Take action to cause *suspension* of any further payment, advance, or guarantee of funds to a contractor that has failed to make available for *inspection*, copying, and transcription any of the records identified in 29 CFR 13.25.

(2) Civil actions to recover greater underpayments than those withheld.

(i) If the payments withheld under 29 CFR 13.11(c) are insufficient to reimburse all monetary relief due, or if there are no payments to withhold, the Department of Labor, following a final order of the Secretary of Labor, *may* bring an action against the contractor in any court of competent jurisdiction to recover the remaining amount.

(ii) The Department of Labor *shall*, to the extent possible, pay any sums it recovers in this manner directly to the *employees* who suffered the violation(s) of 29 CFR 13.6(a) or (b).

(iii) Any sum not paid to an *employee* because of inability to do so within 3 years *shall* be transferred into the Treasury of the *United States* as miscellaneous receipts.

(3) *Termination*. *Contracting officers* *may* consider the failure of a contractor to comply with the requirements of E.O. 13706 or 29 CFR Part 13 as grounds for *termination for default* or cause.

(4) *Debarment*.

(i) The Department of Labor *may* initiate *debarment* proceedings under 29 CFR 13.44(d) and 29 CFR 13.52 whenever a contractor is found to have disregarded its obligations under E.O. 13706 or 29 CFR Part 13.

(ii) *Contracting officers* *shall* consider notifying the agency *suspending and debarring official* in accordance with agency procedures when a contractor commits significant violations of contract terms and conditions related to this subpart (see subpart [9.4](#)).

(5) Remedies for interference.

(i) When the *Administrator* of the Wage and Hour Division determines that a contractor has interfered with an *employee's* accrual or use of *paid sick leave* in violation of 29 CFR 13.6(a), the *Administrator* of the Wage and Hour Division will notify the contractor and the relevant *contracting* agency of the interference and request that the contractor remedy the violation.

(ii) If the contractor does not remedy the violation, the *Administrator* of the Wage and Hour Division *shall* direct the contractor to provide any appropriate relief to the affected *employee(s)* in the

investigative findings letter issued pursuant to 29 CFR 13.51. Such relief *may* include-

(A) Any pay and/or benefits denied or lost by reason of the violation;

(B) Other actual monetary losses sustained as a direct result of the violation; or

(C) Appropriate equitable or other relief.

(iii) Payment of liquidated damages in an amount equaling any monetary relief *may* also be directed unless such amount is reduced by the *Administrator* of the Wage and Hour Division because the violation was in good faith and the contractor had reasonable grounds for believing it had not violated the E.O. or 29 CFR Part 13.

(iv) The *Administrator* of the Wage and Hour Division *may* additionally direct that payments due on the contract or any other contract between the contractor and the Federal Government be withheld as *may* be necessary to provide any appropriate monetary relief. Upon the final order of the Secretary of Labor that monetary relief is due, the *Administrator* of the Wage and Hour Division *may* direct the relevant *contracting* agency to transfer the withheld funds to the Department of Labor for disbursement.

(6) Remedies for discrimination.

(i) When the *Administrator* of the Wage and Hour Division determines that a contractor has discriminated against an *employee* in violation of 29 CFR 13.6(b), the *Administrator* of the Wage and Hour Division will notify the contractor and the relevant *contracting* agency of the discrimination and request that the contractor remedy the violation.

(ii) If the contractor does not remedy the violation, the *Administrator* of the Wage and Hour Division *shall* direct the contractor to provide appropriate relief to the affected *employee(s)* in the investigative findings letter issued pursuant to 29 CFR 13.51. Such relief *may* include, but is not limited to-

(A) Employment;

(B) Reinstatement;

(C) Promotion;

(D) Restoration of leave, or lost pay and/or benefits.

(iii) Payment of liquidated damages in an amount equaling any monetary relief *may* also be directed unless such amount is reduced by the *Administrator* of the Wage and Hour Division because the violation was in good faith and the contractor had reasonable grounds for believing the contractor had not violated the E.O. or 29 CFR Part 13.

(iv) The *Administrator* of the Wage and Hour Division *may* additionally direct that payments due on the contract or any other contract between the contractor and the Federal Government be withheld as *may* be necessary to provide any appropriate monetary relief. Upon the final order of the Secretary of Labor that monetary relief is due, the *Administrator* of the Wage and Hour Division *may* direct the relevant *contracting* agency to transfer the withheld funds to the Department of Labor for disbursement.

(7) *Recordkeeping*. When a contractor fails to make, maintain, or protect records; or produce records when requested by authorized representatives of the *Administrator* of the Wage and Hour Division, or otherwise comply with the requirements of 29 CFR 13.25 in violation of 29 CFR 13.6(c), the *Administrator* of the Wage and Hour Division will request that the contractor remedy the violation. If the contractor fails to produce required records upon request, the *contracting officer shall*, upon his or her own action or upon direction of an authorized representative of the Department of Labor, take such action as *may* be necessary to cause *suspension* of any further payment, advance, or guarantee of funds on the contract until such time as the violations are discontinued.

(e) *Inclusion of contract clause*. If a *contracting* agency fails to include the clause at FAR [52.222-62](#) in a contract to which the E.O. applies, the *contracting officer*, on his or her own initiative or within 15 days of notification by an authorized representative of the Department of Labor, *shall* incorporate the *contract clause* in the contract retroactive to commencement of performance under the contract through the exercise of any and all authority that *may* be needed (including, where necessary, its authority to negotiate or amend, its authority to pay any necessary additional costs, and its authority under any contract provision authorizing changes, cancellation, and termination).

Parent topic: [Subpart 22.21 - Establishing Paid Sick Leave For Federal Contractors](#)