Government Contracts Update

January 2025

FAR Council Withdraws Proposed Rule on Pay Equity and Pay Transparency

Early this month, the Federal Acquisition Regulatory Council (FAR Council) formally withdrew its proposed rule regarding pay equity and transparency for federal contractors and subcontractors. Originally issued on January 30, 2024, the proposed rule sought to impose several sweeping requirements on federal contractors, including prohibiting contractors from seeking or considering a job applicant's compensation history during the hiring process and requiring disclosure of salary, wage and benefits information in all advertisements for job openings related to a federal contract or subcontract. The proposed rule's notice and comment period ended on April 1, 2024, but there had been no indication from the FAR Council as to when (or if) a final rule would be issued.

The FAR Council ended any further speculation in a notice published in the Federal Register on January 8, 2025. Citing the Biden administration's limited remaining time, as well as federal agencies' other priorities, the FAR Council formally withdrew the proposed rule. As a result, any federal salary history bans and/or compensation disclosure requirements for government contractors are dead in the water.

While it is unlikely that the proposed rule (or any revised version) will be revived by the Trump administration, federal contractors and subcontractors should be aware of similar pay transparency and pay equity requirements under Department of Labor regulations or state or local law. As a part of its compliance review process, the Office of Federal Contract Compliance Programs (OFCCP) actively monitors contractor compensation practices and demands specific proof of a contractor's pay equity efforts. Additionally, 14 states, the District of Columbia and several municipalities currently impose some form of wage disclosure requirements on private employers, and at least 17 states and 10 cities and counties have salary history bans in effect.

Federal contractors operating in these jurisdictions should therefore review their existing job posting and hiring procedures to ensure compliance with any pay transparency requirements that may apply. Contractors should also be mindful of their ongoing pay equity obligations under OFCCP regulations and take steps to evaluate their compensation practices so that any disparities can be identified and appropriately resolved. Contractors with specific questions or concerns regarding their compliance obligations should contact legal counsel.

FOR MORE INFORMATION

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