



March 1, 2016

**VIA E-MAIL**

The Honorable Thomas E. Perez  
Secretary, Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

The Honorable Dr. David Weil  
Administrator, Wage and Hour Division  
Department of Labor  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**Re: Establishing Paid Sick Leave for Federal Contractors; Proposed Rule**

Dear Secretary Perez and Administrator Weil:

The Office of Advocacy (Advocacy) of the U.S. Small Business Administration respectfully requests that the Department of Labor (DOL) extend by 30 days the comment period for this proposed rule, which requires certain parties that contract with the Federal Government to provide their employees with up to 7 days of paid sick leave, including paid leave allowing for family care.<sup>1</sup> The proposed rule implements Executive Order 13706, signed by President Barack Obama on September 7, 2015. The Executive Order directs the Secretary of Labor (Secretary) to issue regulations by September 30, 2016.<sup>2</sup>

---

<sup>1</sup> DOL, *Establishing Paid Sick Leave for Federal Contractors*, 81 Fed. Reg. 9592 (Feb. 25, 2016).

<sup>2</sup> Executive Order 13706, *Establishing Paid Sick Leave for Federal Contractors*, 80 Fed. Reg. 54697 (Sept. 7, 2015).



## **The Office of Advocacy**

Congress established Advocacy under Pub. L. 94-305 to represent the views of small entities before Federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA); as such the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), gives small entities a voice in the Federal rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, Federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy. The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to these written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so.

## **Request for an Extension of the Comment Period**

In this proposed rule, DOL has completed an Initial Regulatory Flexibility Analysis (IRFA) because this rule may have a significant economic impact on a substantial number of small entities. DOL estimates that this proposed rule affects an estimated at 422,400 small federal contractors and subcontractors.<sup>3</sup> Advocacy is concerned that it will be difficult, if not impossible, for small businesses to provide meaningful comments within the 30 days provided in this rulemaking. Advocacy has received many requests from small business stakeholders for the comment period to be extended to provide extra time to assess the impact of this rule.

Advocacy is also concerned that DOL has underestimated the number of small businesses impacted by this regulation, as the agency's IRFA fails to quantify and estimate the economic impact of this regulation on restaurant, retail, outdoor recreation, and other private businesses with contracts to operate on military bases, federal buildings, and National Parks.<sup>4</sup> Advocacy needs more time to conduct small business outreach to these affected small businesses.

---

<sup>3</sup> 81 Fed. Reg. at 9653.

<sup>4</sup> 80 Fed. Reg. at 54699; 81 Fed. Reg. at 9563, n. 72 (stating "The Executive Order applies to new contracts or contract-like instrument, if: (i)(A) it is a procurement contract for services or construction; (B) it is a contract or contract-like instrument or services covered by the Service Contract Act; (C) it is a contract or contract-like instrument for concessions including any concessions contract excluded by DOL regulations at 29 CFR 4.133(b); or (D) it is a contract or contract-like instrument entered into the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and (ii) the wages of employees under such contract or contract-like instrument are governed by the Davis Bacon Act, Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from the FLSA's provisions"). *Id.* (showing DOL utilizes the GSA's System for Award Management (SAM) to analyze the number of small entities impacted by this rule, even though SAM may exclude some of the covered firms listed in section (C) and (D)).

Given these issues and the significant public interest in the outcome of this rule, Advocacy respectfully requests that DOL extend the public comment period for at least another 30 days, from March 29 to April 28, 2016. For additional information or assistance please contact me or Janis Reyes at (202) 619-0312 or [Janis.Reyes@sba.gov](mailto:Janis.Reyes@sba.gov).

Sincerely,



Darryl L. DePriest  
Chief Counsel  
Office of Advocacy  
U.S. Small Business Administration



Janis C. Reyes  
Assistant Chief Counsel  
Office of Advocacy  
U.S. Small Business Administration

Copy to: The Honorable Howard Shelanski  
Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget