

Senate Votes to Disapprove Obama-Era Fair Pay and Safe Workplaces Executive Order

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The U.S. Senate has passed, by a single-vote margin, a [joint resolution](#) previously passed by the U.S. House that “disapproves” President Barack Obama’s 2014 [Executive Order 13673: Fair Pay and Safe Workplaces](#), often called the “blacklisting” executive order. (For more on Executive Order 13673, see our articles, [‘Blacklisting’ Rules for Government Contractors Proposed by Federal Agencies under Executive Order](#) and [DOL and FAR Council Publish Final ‘Fair Pay and Safe Workplaces’ Rules for Government Contractors](#).)

The joint resolution, authorized by the Congressional Review Act, is headed for President Donald Trump’s signature, the last hurdle to the demise of the “blacklisting” regulations. Trump is expected to sign the joint resolution without much deliberation.

Most provisions of Executive Order 13673 are on hold. A U.S. District Court in Texas in October 2016 halted implementation of the “labor law violation” reporting provision of the FAR Council’s final rule implementing the Order, as well as the prohibition of mandatory arbitration agreements. (See our article, [Texas Federal Court Blocks Enforcement of Key Portions of Fair Pay and Safe Workplaces Rules](#).) Nonetheless, the “paycheck transparency” provisions took effect for new contracts on January 17, 2017. (See our article, [Paycheck Transparency Mandates of Fair Pay and Safe Workplaces E.O. Take Effect January 1](#).) This left many contractors with compliance responsibilities for regulations in legal limbo, in light of the lawsuit and the results of the presidential election.

If Trump signs the resolution, the Order, the FAR provisions and DOL’s Guidance document will be dead. In addition, the lawsuit challenging the Order will be moot, and federal contractors will be free from the Order’s burdens and obligations, including the paycheck transparency obligations.

Federal contracting agencies likely will be directed to halt implementation of the pay transparency regulations as soon as the joint resolution is signed. Contractors that have the pay transparency provision in their contracts or in pending solicitations will want to pursue removing such provisions.

Please contact a Jackson Lewis attorney with any questions about this or other developments.

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