

## Removal of Fair Pay and Safe Workplaces Rule Imminent: GSA Issues Interim Memorandum

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Rulemaking is underway to amend the Federal Acquisition Regulation (FAR) to remove the Fair Pay and Safe Workplaces Final Rule, the General Services Administration has said in guidance to federal agencies instructing them not to wait for the formal rescission to ensure certain contract clauses are not in new or existing government contracts and solicitations.

The GSA's "[Class Deviation from the Federal Acquisition Regulation \(FAR\) to remove the Fair Pay and Safe Workplaces final rule \(FAR Case 2014-025\)](#)" implements and provides guidance to federal agencies and contracting officers regarding Executive Order 13782, "Removal of the Fair Pay and Safe Workplaces Final Rule," signed by President Donald Trump on March, 27, 2017. The GSA memorandum notes the rule is null and void as a result of both legislative and Executive Order actions. For a history of the rule's long journey, see our articles, '[Blacklisting' Rules for Government Contractors Proposed by Federal Agencies under Executive Order](#), [DOL and FAR Council Publish Final 'Fair Pay and Safe Workplaces' Rules for Government Contractors](#), [Senate Votes to Disapprove Obama-Era Fair Pay and Safe Workplaces Executive Order](#), and [Trump Signs Legislation and Issues Order Ending Obama-Era Fair Pay and Safe Workplaces Executive Order](#).

The memorandum states that no solicitations and contracts dated after January 1, 2017, should have included the following provisions or clauses: FAR 52.222-57, 52.222-58, 52.222-59, 52.222-61, and paragraph(s) of the provision at 52.212-3.

It instructs agencies to "take all steps necessary," including the following:

- Ensure new solicitations do not include clause at FAR 52.222-60;
- If a solicitation has been issued with the clause at FAR 52.222-60, amend those solicitations immediately to remove that clause; and
- If a contract has been issued that contains the clause at FAR 52.222-60, modify the contract to delete that clause.

This GSA memorandum provides additional authority for contract clause removal for any contractors who may find these now-prohibited FAR clauses in any solicitations or contracts.

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

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