

Legal Update Article

President Trump EO Revokes Workers' Right of First Refusal with Successor Service Contract Employers

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President Donald Trump signed an executive order on October 31 revoking the obligation of successor government service contract employers to offer their predecessor employers' employees the right of first refusal in positions for which they are qualified.

[“Executive Order on Improving Federal Contractor Operations by Revoking Executive Order 13495”](#) provides no explanation for the revocation, but the move likely was influenced by the new Secretary of Labor, Eugene Scalia.

Federal contractors are no longer required to post or provide any Executive Order 13495 (EO 13495) notices. The October 31 revocation, however, does not affect federal contractors' other posting or notice obligations, including those under [Executive Order 13496](#), which requires certain federal contractors to post a “Notification of Employee Rights under Federal Labor Laws.”

Executive Order 13495

Beginning in 2013, EO 13495, “Nondisplacement of Qualified Workers under Service Contracts,” provided some protection (a right of first refusal for continued employment) to qualified service workers when a government contract was replaced with a new contract and successor contractor at the same location.

[EO 13495](#) and its [implementing regulations](#) applied to any contract or subcontract for services entered into by the federal government or its contractors covered by the McNamara-O’Hara Service Contract Act (SCA). It required that qualified workers (non-exempt workers covered by the SCA’s requirements) on a covered contract who stood to lose their jobs because of the completion or expiration of a contract be given a right of first refusal for employment with the successor contractor.

Generally, the successor contractor was prohibited from hiring any new employees under the successor contract until qualified workers performing the prior contract were provided the opportunity to accept a job with the successor. EO 13495 applied only to successor contracts for the performance of the same or similar services at the same location.

EO 13495 required the predecessor contractor to provide [written notice](#) to eligible employees by a conspicuous workplace posting or with notices delivered to the employees individually.

Revocation

The new executive order requires the Labor Secretary and others to “promptly move to rescind any orders, rules, regulations, guidelines, programs, or policies implementing or enforcing Executive Order 13495.” Significantly, it immediately terminates any existing investigations or compliance actions based on EO 13495.

Previously, the President had revoked other Executive Orders signed by President Barack Obama, including the [“Blacklisting” Order](#).

For additional guidance, please contact a Jackson Lewis attorney.

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