April 12, 2016

Mr. Robert Waterman  
Compliance Specialist  
Wage and Hour Division  
United States Department of Labor  
200 Constitution Avenue NW, Room S-3510  
Washington, DC 20210

Subject: Comments of the Independent Electrical Contractors; Opposing Proposed Rule Implementing Executive Order 13706; Requiring Paid Sick Leave for Federal Contractors; RIN Docket Number 1235-AA13

Dear Mr. Waterman:

On behalf of the Independent Electrical Contractors (IEC), Inc. thank you for the opportunity to comment on the Department of Labor’s (the “Department”) proposed rule published in the Federal Register on February 25, 2016, at 81 FR 9591, to implement Executive Order 13706 (“EO 13706”), issued on September 5, 2015 by President Barack Obama. EO 13706 proposes to mandate that workers on federal contracts are permitted to accrue one hour of paid sick leave for every 30 hours worked, up to a maximum of 56 hours (equal to seven days) in an accrual year. IEC opposes the Department’s proposed rule and requests it be removed from consideration.

The Independent Electrical Contractors is an association of over 50 affiliates and training centers, representing over 2,100 electrical contractors nationwide. While IEC membership includes many of the top 20 largest firms in the country, most of our members are considered small businesses. Our purpose is to establish a competitive environment for the merit shop – a philosophy that promotes free enterprise, open competition and economic opportunity for all. IEC and its training centers conduct apprenticeship training programs under standards approved by the U.S. Department of Labor’s (DOL) Office of Apprenticeship. Collectively, in the 2015 school year, IEC trained more than 8,000 electrical apprentices.

**Effects on Small Electrical Contractors**

IEC is concerned with the proposed rule’s expansive paid sick leave requirement for companies that work on covered contracts as it would likely lead to fewer companies willing to bid on federal contracts in general. This will have the result of further limiting competition and driving up cost to the taxpayer. The tracking and reporting requirements alone will deter small businesses from bidding on contracts with the government due to the need to possibly hire new staff or implement completely new systems and procedures to monitor the hours worked.
on covered and non-covered contracts and ultimately establish completely separate leave policies. In the electrical contracting industry, employees don’t generally get dedicated to one project from start to finish, but rather, work on multiple projects in a given week, making tracking the time even more challenging. Small business will be at a disadvantaged and less apt to engage in work with the government, as they lack the resources to comply. This will also negatively affect the federal government itself as its agencies strive to reach statutory goals of awarding a certain number of contracts and subcontracts to small business.

In addition, the proposed rule’s paid sick leave mandate will reduce an electrical contractor’s ability to expand its operation. Since paid sick leave appears as a liability on a company’s balance sheet, it reduces its access to credit as well as its bonding capacity. Having less of both further reduces a company’s ability to invest in new equipment or expand its business and add more jobs. It’s also possible in some instances for a small electrical contractor to choose to pay its current employees overtime, rather than hire additional electricians that will in turn be required to accrue 7 days of paid sick leave per year.

Effects on Small Business Processes and Procedures
IEC believes the Department should take into account processes and procedures already in place in most small businesses. Most businesses have a grace period or probationary period in place for new hires that prohibit the taking of leave until they have proven their work to be satisfactory. The proposed rule is unclear on how, if at all, such a period is permitted before paid sick leave can be used. IEC recommends that the Department permit companies that work on covered contracts be permitted to apply a 90 day probationary period to new employees before they are able to take paid sick leave.

Furthermore, the proposed rule mandates that a government contractor inform an employee working on a covered contract of his or her paid sick leave balance “no less than monthly; at any time when the employee makes a request to use paid sick leave; upon the employee’s request for such information, but no more often than once a week; upon a separation from employment; and upon reinstatement.” IEC believes it’s in a company’s best interest to keep their employees apprised of pay and benefits information, as well as all leave balances provided. However, each employer has varying resources and certain systems already in place that works best for them. Businesses will have to modify their systems to suit the employees they have working on covered contracts in order to comply with these requirements, which will unnecessarily increase cost to small businesses. IEC believes the Department should leave it up to each individual employer as to when and how they inform their employees of their paid sick leave balances.

Permitted Uses of Paid Sick Leave
IEC has serious concerns with the proposed rule requiring employers permit an employee working on a covered contract to use paid sick leave in connection with an “Individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship” as well as an “Intimate partner.” While IEC appreciates the Department’s effort to be sensitive to situations to tend to individuals that are “like family” to an employee, requiring
companies to amend their policies to include assisting individuals where there is no biological or legal connection will likely lead to rampant fraud and abuse. Electrical contractors are busy servicing their federal and private sector client’s needs to the best of their ability, and do not have the time, resources, ability or legal authority to track or know the details of their employees personal lives. IEC is unsure how its members would know with whom their employees may have an “intimate relationship” or with whom they have “a significant bond that is or is like a family relationship.” These types of relationships are by definition, personal, and each individual handles disclosing (or not disclosing) them to their employer differently. IEC recommends the Department permit the use of paid sick leave only to assist individuals that have a biological or legal connection with the employee.

In conclusion, the Department’s proposed rule mandating 7 days or 56 hours of sick leave for employees of federal contractors will have significant repercussions for small electrical contractors that bid on government contracts or those considering working with the government. Such a mandate is something that most small businesses cannot afford, limiting the number of small companies able to do business with the government. Therefore, IEC strongly urges the Department to seriously consider the concerns listed above and reconsider moving forward with such disruptive proposal.

Respectfully,

Jason E. Todd
Vice President, Government Affairs
Independent Electrical Contractors