

CLIENT ALERT

FAR Council Finalizes Definition of Prohibited "Recruitment Fees" Under Anti-Trafficking Regulations

Dec.26.2018

On December 20, 2018, the DoD, GSA, and NASA issued a [final rule](#) to define "recruitment fees" under FAR subpart 22.17, Combating Trafficking in Persons, and the associated contract clause at FAR 52.222–50. While the prohibition against charging employees "recruitment fees" was added to the regulations in 2015, the FAR Council did not include a definition at that time.

The FAR Council has now finalized the expansive definition, which includes various types of fees that contractors, subcontractors, and their employees or agents are prohibited from charging to employees or potential employees that are covered by FAR 52.222–50. Specifically, "recruitment fees" are fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee. The definition also includes thirteen representative examples, including but not limited to, fees for: (i) obtaining permanent or temporary labor certifications; (ii) acquiring visas; (iii) acquiring photographs and identity or immigration documents, such as passports; (iv) government-mandated fees, such as border crossing fees, levies, or worker welfare funds; and (v) certain transportation and subsistence costs. Such fees are considered "recruitment fees" regardless of whether they are paid in property, money or deducted from wages; and even if the fee is paid back to the employee, or collected by a third party.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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