



June 12, 2014



M-14-09

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Beth Cobert
Deputy Director for Management
Office of Management and Budget

Christopher Lu
Deputy Secretary
U.S. Department of Labor

SUBJECT: Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors

On February 12, 2014, the President issued Executive Order 13658 (the Order), "Establishing a Minimum Wage for Contractors." The Order requires that a minimum wage for workers of \$10.10 be included in agency solicitations for covered Federal contracts or contract-like instruments. The Order explains that "[r]aising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs . . . [which] will lead to improved economy and efficiency in Government procurement." See § 1.

By its terms, the Order applies to contracts or contract-like instruments where the solicitation has been issued on or after January 1, 2015. See § 8(a). The Order also provides that, for all new contracts negotiated before January 1, 2015, agencies are "strongly encouraged to take all steps that are reasonable and legally permissible to ensure that individuals working pursuant to those contracts and contract-like instruments are paid an hourly wage of at least \$10.10." See § 8(c).

This memorandum provides guidance to agencies on how to implement the requirements of the Order prior to January 1, 2015, and prior to the issuance of final regulations by the Department of Labor (DOL).

Ongoing Implementation Efforts.

DOL is actively working on rules to implement the Order. Within 60 days of the Secretary issuing final regulations, the Federal Acquisition Regulatory Council (FAR Council)

will amend the Federal Acquisition Regulation (FAR) to provide for inclusion of a contract clause in Federal procurement solicitations and contracts subject to the Order.

Pursuant to § 4(b), agencies with responsibility for contracts described in § 7(d)(i)(C) and (D) (e.g., a contract or contract-like instrument for concessions, or one entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public) are required to take steps, to the extent permitted by law, to exercise any applicable authority to ensure these contracts comply with the requirements of the Order. DOL has been conducting outreach to discuss these provisions with agencies.

If your agency has questions about its responsibilities under § 4(b) or the steps necessary to implement it, please contact DOL, as described below.

Steps Agencies Should Begin Taking Immediately.

For agency solicitations issued before DOL finalizes its regulations, DOL advises that agencies should assume – in accordance with the plain language of the Order – that contracts and contract-like instruments, such as concessions contracts, that are currently subject to the Service Contract Act or Davis-Bacon Act will be covered by its regulations. DOL’s regulations will also cover concessions contracts principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public, as well as leases of Federal property and licenses to use such property entered into for the purpose of offering services to the Federal Government, its personnel, or the general public (to the extent that such contracts are not otherwise covered by the Service Contract Act or Davis-Bacon Act). DOL will provide further information on covered contracts and contract-like instruments in its regulations. Prompt application of the Order will help to maximize the beneficial impact of a higher minimum wage. Therefore, please take all reasonable and legally permissible steps to begin implementing the Order now for your contract and contract-like instruments, particularly those subject to the Service Contract Act or Davis-Bacon Act.

To assist in this effort, at the request of DOL, OMB is requesting that the FAR Council provide standard wording for a clause that would be included in the agency’s procurement contracts subject to the FAR (the inclusion of this clause would be pursuant to a deviation from the FAR), pending issuance of the FAR rule implementing DOL’s rule.

Questions regarding this Order may be directed to Jon Rees at DOL at 202-693-5558 or Rees.Jonathan@dol.gov or to Julia Wise at OMB at 202-395-7561 or Julia_Wise@omb.eop.gov.