

**CLASS DEVIATION
FINDINGS AND DETERMINATION
USE OF CLAUSE TO IMPLEMENT EXECUTIVE ORDER 13658,
ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS, AND
OMB POLICY MEMORANDUM M-14-09, IMPLEMENTATION OF THE
PRESIDENT'S EXECUTIVE ORDER ESTABLISHING A MINIMUM
WAGE FOR CONTRACTORS**

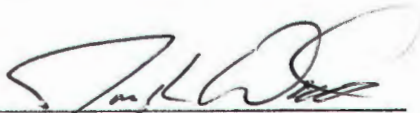
Findings

1. Executive Order 13658, Establishing a Minimum Wage for Contractors, signed February 12, 2014, seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$10.10 the hourly minimum wage paid by those contractors. The Executive Order requires agencies, to the extent permitted by law, to include a clause in new solicitations and resultant contracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, in the performance of the contract or any subcontract there under, shall be at least \$10.10 per hour beginning January 1, 2015. The Department of Labor is required to issue regulations to implement the Executive Order and the Federal Acquisition Regulatory Council is required to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to the Executive Order.
2. Section 8(c) of Executive Order 13658 further provides that, for all new solicitations and resultant contracts negotiated on or after the date of the Executive Order, but before the effective date of the implementing regulations by the FAR Council, agencies are strongly encouraged to take all steps that are reasonable and legally permissible to ensure that individuals working pursuant to those contracts are paid an hourly wage of at least \$10.10 beginning January 1, 2015. Pursuant to the Executive Order, OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors, dated June 12, 2014, requested the FAR Council to provide standard wording for a contract clause to be used pending issuance of Department of Labor and FAR regulations.
3. The Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2014-03 on June 25, 2014 authorizing covered agencies to authorize the issuance of a class deviation in accordance with FAR 1.404, to allow contracting officers to use Clause 52.222-99, Establishing a Minimum Wage for Contractors (DEVIATION). This clause, which implements Executive Order 13658 and OMB Policy Memorandum M-14-09, is attached to the CAAC Letter and requires payment, beginning January 1, 2015, of an hourly wage of at least \$10.10 to contractor employees performing on contracts subject to construction wage rate requirements and/or the Service Contract Labor Standards statute. CAAC Letter 2014-03 serves as the CAAC consult required of the agency official approving the class deviation in accordance with FAR 1.404(a)(1).

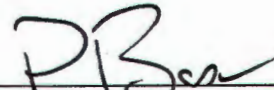
Determination

It is hereby determined that a class deviation to allow contracting officers to use Clause 52.222-99, Establishing a Minimum Wage for Contractors (DEVIATION), attached to CAAC Letter 2014-03, is appropriate to implement Executive Order 13658 and OMB Policy Memorandum M-14-09.

Accordingly, for solicitations and resultant contracts that include the FAR clause(s) 52.222-6, Construction Wage Rate Requirements, and/or 52.222-41, Service Contract Labor Standards, and will be performed, in whole or in part, in the United States (the 50 States and the District of Columbia), contracting officers shall insert Clause 52.222-99 in solicitations issued on or after the date this deviation is signed; and to the maximum extent practicable, solicitations issued on or after the date of the Executive Order and before the date of this deviation, if the solicitation is otherwise being amended. This deviation remains in effect until it is incorporated into the FAR or DEAR or is otherwise rescinded.



Joseph Waddell, Deputy Associate
Administrator for Acquisition and
Project Management, NNSA



Paul Bosco, Director
Office of Acquisition and
Project Management, DOE

October 10, 2014
Effective Date

Attachments:

1. Clause 52.222-99, Establishing a Minimum Wage for Contractors (DEVIATION)
2. CAAC Letter 2014-03
3. Executive Order 13658, Establishing a Minimum Wage for Contractors
4. OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors
5. FAR 1.4 – Deviations from the FAR