

Fact Sheet #83A – ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS UNDER EXECUTIVE ORDER 13658

On February 12, 2014, President Obama signed Executive Order 13658, “Establishing a Minimum Wage for Contractors.” This Order establishes a minimum wage to be paid to workers performing on or in connection with a covered contract with the Federal Government. Workers covered by this Executive Order are due at least the full Executive Order minimum wage.

What wage rates must be paid to workers performing on or in connection with contracts subject to Executive Order 13658?

Covered workers performing work on or in connection with a covered contract must generally be paid no less than \$10.10 per hour beginning January 1, 2015. Beginning January 1, 2016, and annually thereafter, this amount has increased to an amount determined by the Secretary of Labor based on inflation. **Effective January 1, 2022, the minimum wage for contractors under Executive Order 13658 will increase from \$10.95 per hour to \$11.25 per hour.** Workers who are working on or in connection with a covered contract are entitled to any increase in the Executive Order minimum wage immediately on the effective date of the increase. This required wage rate is a monetary wage rate, and may not include credit for any fringe benefits provided by the contractor.

Please note that, as of January 30, 2022, a higher minimum wage rate of \$15.00 applies to federal contracts covered by Executive Order 14026. This fact sheet provides information about how to determine whether a contract is covered by Executive Order 13658 or Executive Order 14026.

What contracts are covered by Executive Order 13658?

Executive Order 13658 applies to new contracts and replacements for expiring contracts with the Federal Government that result from solicitations issued **on or between January 1, 2015 and January 29, 2022**, or to contracts that are awarded outside the solicitation process **on or between January 1, 2015 and January 29, 2022**. The Executive Order minimum wage requirement applies to four major categories of contractual agreements:

- procurement contracts for construction covered by the Davis-Bacon (DBA)
- service contracts covered by the Service Contract Act (SCA);
- concessions contracts, including concessions contracts excluded from SCA coverage; and
- contracts 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.

Please note that contracts entered into on or after January 30, 2022, or contracts that are renewed or extended (e.g., an option is exercised) on or after January 30, 2022, are generally covered by Executive Order 14026 and will have a minimum wage requirement of at least \$15.00 per hour, beginning January 30, 2022.

What contracts are not covered by Executive Order 13658?

The Executive Order and the final rule contain certain narrow exclusions from coverage for the following types of contractual agreements:

- grants within the meaning of the Federal Grant and Cooperative Agreement Act;
- contracts and agreements with and grants to Indian Tribes under Public Law 93-638, as amended;
- any procurement contracts for construction that are not subject to the DBA (i.e., procurement contracts for construction under \$2,000); and
- any contracts for services, except for those otherwise expressly covered by the final rule, that are exempted from coverage under the SCA or its implementing regulations.

For example, the SCA exempts contracts for public utility services, including electric light and power, water, steam, and gas, from its coverage. See C.F.R. Part 4 ([Labor Standards for Federal Service Contracts](#)). It additionally exempts employment contracts providing for direct services to a Federal agency by an individual, such as a contract with an individual to provide sign language interpretation for an event. Such contracts would also be exempt from coverage of the Executive Order and the final rule.

The Department also notes that the Executive Order does not apply to contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, including those subject to the [Walsh-Healey Public Contracts Act](#).

Finally, the Department notes that Executive Order 13838, "Exemption from Executive Order 13658 for Recreational Services on Federal Lands," exempted certain recreational service contracts from coverage of Executive Order 13658. As of January 30, 2022, Executive Order 13838 is rescinded. Such contracts will therefore be covered by Executive Order 13658 to the extent that they qualify as "new contracts" under that Executive Order and contracting agencies exercise appropriate authority to insert the Executive Order 13658 contract clause into such contracts.

What workers are entitled to the Executive Order 13658 minimum wage?

Workers performing on or in connection with covered Federal contracts whose wages are governed by the Fair Labor Standards Act (FLSA), the Service Contract Act (SCA), or the Davis Bacon Act (DBA) are generally entitled to receive the Executive Order minimum wage for all time spent performing on or in connection with covered Federal contracts. The Executive Order therefore generally applies to the following categories of workers performing on or in connection with covered Federal contracts:

- employees who are entitled to the FLSA minimum wage;
- service employees who are entitled to prevailing wages under the SCA; and

- laborers and mechanics who are entitled to prevailing wages under the DBA.

If a worker is entitled to a wage rate higher than the Executive Order 13658 minimum wage pursuant to another Federal, State, or local law (e.g., Executive Order 14026, the SCA, or the DBA), the worker **must** be paid the higher wage rate.

Workers covered by Executive Order 13658 and due the full Executive Order minimum wage include workers with disabilities working on or in connection with covered contracts whose wages are calculated pursuant to certificates issued under section 14(c) of the Fair Labor Standards Act (FLSA). See Fact Sheet # 29C: Minimum Wages for Workers with Disabilities Under Executive Orders 13658 and 14026.

What workers are not covered by Executive Order 13658?

The Executive Order and the final rule contain a few limited exclusions from coverage for certain workers. For example, workers who are employed in a bona fide executive, administrative, or professional capacity and who consequently are exempt from the FLSA's minimum wage and overtime requirements are not entitled to receive the Executive Order minimum wage ([Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act \(FLSA\)](#)). FLSA-covered workers performing "in connection with" covered contracts are also excluded from coverage of the Executive Order if they spend less than 20% of their work hours in a particular workweek performing in connection with covered contracts.

What are the notice requirements under Executive Order 13658?

The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. For service employees on contracts covered by the SCA and laborers and mechanics on contracts covered by the DBA, the contractor may meet the Executive Order notification requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination ([SAM.gov | Home](#)). With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the poster provided by the Department. Contractors that customarily post notices to workers electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor and customarily used for notices to workers about terms and conditions of employment.

How does Executive Order 13658 apply to tipped workers performing on or in connection with a covered contract?

Executive Order 13658 established an annually adjusted minimum cash wage rate for workers considered tipped employees pursuant to section 3(t) of the FLSA until that rate equaled 70% of the applicable Executive Order 13658 minimum wage rate. If a worker's tips combined with the required cash wage paid by the contractor does not equal the Executive Order minimum wage rate, the contractor must increase the cash wage to make up the difference. **Effective January 1, 2022, the minimum wage for tipped workers performing on or in connection with covered contracts under Executive Order 13658 is increased from \$7.65 per hour to \$7.90 per hour.**

What happens if a contractor violates Executive Order 13658?

If the Wage and Hour Division determines that a contractor has violated the Executive Order, the Order provides authority to withhold contract funds to reimburse underpaid workers, terminate the contract,

hold the contractor liable for associated costs to the government, and debar a contractor from future government contracts for a period of three years.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

For more information about Executive Order 13658 and its implementing regulations, please visit <http://www.dol.gov/whd/flsa/eo13658>.

For more information about the provisions of the Service Contract Act (SCA), including fact sheets, regulations, and other resources, please visit [McNamara-O'Hara Service Contract Act \(SCA\) | U.S. Department of Labor \(dol.gov\)](#).

For more information about the provisions of the Davis-Bacon Act (DBA), including fact sheets, regulations, and other resources, please visit: [Davis-Bacon Act | U.S. Department of Labor \(dol.gov\)](#)

This publication is general information and is not to be considered in the same light as official statements of position contained in the regulations.

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