

Wage and Hour Division

Overview of Section 14(c) of the Fair Labor Standards Act

Presented by

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U.S. Department of Labor
Wage and Hour Division



Section 14(c) of the FLSA

- Part of FLSA since 1938
- Should not be the first or primary option to obtain employment



FLSA Principles

- Apply to all employees:
 - Coverage
 - Employment relationship
 - Hours worked



Section 14(c) of the FLSA

- Authorizes the employment of workers with disabilities at subminimum wages when the disabilities impair their productivity for the work being performed
- Subminimum wages can only be paid when authorized by a certificate issued to the employer by DOL



Subminimum Wage

- Must be commensurate with the workers' productivity as compared to the wage and productivity of experienced workers who are not disabled for the work
- May be less than federal FLSA rate or wage determination rate for SCA



Executive Order 13658

- Effective January 1, 2015, establishes a minimum wage to be paid to workers performing on or in connection with a covered contract with the Federal government
- Section 14(c) certificate holders may continue to pay commensurate wages to workers employed on or in connection with Executive Order-covered contracts **ONLY** if the rate is greater than the Executive Order minimum wage



The Process to Determine a Commensurate Wage

- Develop a job description
- Determine the prevailing wage
- Define the work
- Establish the standard
- Measure the worker
- Calculate and implement rate of pay



14(c) Certification

- Only employers who have applied for and received a certificate from the Wage and Hour Division may choose to pay commensurate wages to workers who are disabled for the work being performed
- The granting of a certificate is NOT a statement of compliance by the Wage and Hour Division
- Certificates will not be issued retroactively



Types of Establishments

- WHD issues 14(c) certificates to:
 - Community Rehabilitation Programs (CRPs)
 - 2 year certificates
 - Establishments that employ patient workers
 - 2 year certificates
 - Business establishments
 - 1 year certificates
 - School Work Experience Programs (SWEPS)
 - 1 year certificates



Application Processing

- WHD Wage Specialists review each application for completeness, accuracy, and compliance with the provisions of section 14(c)
- Once the review is completed, a certificate will be issued or denied



Certificate Expiration

- Certificates are issued with both an effective date and an expiration date
- Certificates, along with the employer's authorization to pay subminimum wages, expire on the indicated date unless the employer properly files an application for renewal with WHD before the expiration date



Certificate Revocation

- A certificate may be revoked by the WHD Administrator for the following reasons:
 - False statements were made or facts were misrepresented in obtaining the certificate
 - The certificate holder violated any of the provisions of the FLSA or terms of the certificate
 - It is determined that the certificate is no longer necessary to prevent the curtailment of employment opportunities for workers with disabilities
- A petition for review may be filed within 60 days



Employer Responsibilities

- Certificate Attestations
 - Each employer requesting a 14(c) certificate attests to providing accurate information and complying with the FLSA and other labor statutes, etc.
- Records
 - Must document the requirements to pay subminimum wages
- Notice
 - Must notify each worker paid a subminimum wage orally and in writing of the terms of the 14(c) certificate



WHD Enforcement

- Conduct investigations of 14(c) certificate holders to ensure continued compliance
- Develop enforcement strategies to create the most impact possible through our investigations
 - Including inter-agency collaboration and cross-training to maximize referral opportunities
- Use all available enforcement tools to remedy violations and deter future violations



WHD Compliance Assistance & Outreach

- Provide public guidance materials
 - Developing employee rights card
- Conduct outreach events
 - Annual one-day seminars across the country
- Provide technical assistance



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