

PUBLICATION

Final Rule Issued for \$10.10 Minimum Wage for Federal Contractors

Authors: Jennifer G. Hall

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In February 2014, President Obama issued Executive Order 13658 to raise the minimum wage for federal construction and service contractors to \$10.10 for all employees. Executive Order 13658 instructed the Department of Labor (DOL) to issue regulations to implement the federal contractor minimum wage.

On June 17, 2014, the DOL issued a Notice of Proposed Rulemaking (NPRM), which is the first step in the regulation-adopting process. DOL received comments to the proposed rules, and, on October 1, 2014, the Final Rule was issued. We now have regulations implementing Executive Order 13658.

The Final Rule defines key terms used in the Executive Order, sets standards for contractors to apply to determine if their workers are subject to the Executive Order and establishes an enforcement process.

Specifically, the Final Rule makes clear that Executive Order 13658 applies to procurement contracts for construction under the Davis-Bacon Act (DBA), service contracts under the Service Contract Act (SCA), concessions contracts including those excluded from SCA, and contracts in connection with federal property or lands and related to offering service for federal employees, their dependents or the general public. For example, a company running the souvenir shop at a national park must pay its employees at least \$10.10 per hour beginning January 1, 2015. Similarly, a company running a day care for federal employees would need to pay their employees the \$10.10 minimum wage.

Additionally, the Final Rule makes clear that the contracting agencies must include the Executive Order minimum wage requirement as a clause in the contract. Moreover, contractors must include the clause on any lower-tiered subcontracts.

Finally, the Final Rule includes enforcement procedures. Specifically, any person or entity (including the contracting agency) may file a complaint with the Wage and Hour Division (WHD). WHD will investigate the complaint. Sanctions for violations include payment of back wages and debarment.

The Final Rule estimates that Executive Order 13658 will benefit approximately 200,000 workers. If your company provides any type of services to the federal government, you should seek legal assistance to determine whether your company is subject to the \$10.10 minimum wage.