

“New” Minimum Wage

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Wednesday, the President signed an **Executive Order (EO)** “Establishing a Minimum Wage for Contractors.” The EO was first announced in advance of the President’s State of the Union Address in January, 2014. The EO continues the momentum of other, federal contract labor-related policies like the President’s January, 2009 EO titled “Nondisplacement of Qualified Workers under Service Contracts”.

The new EO’s stated policy is that: “Raising 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. These savings and quality improvements will lead to improved economy and efficiency in Government procurement.” In order to accomplish this goal, the President has ordered the Secretary of Labor to institute a minimum wage of \$10.10 per hour beginning January 1, 2015, to be paid to workers working on “a procurement contract for services or construction,” “a contract or contract-like instrument for services covered by the Service Contract Act,” “a contract or contract-like instrument for concessions,” or “a contract or contract-like instrument 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,” where the “wages of workers under such contract or contract-like instrument are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.” The Secretary of Labor will adjust the new minimum wage upward each year based on “the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted).” The EO’s policies will be more fully developed through agency rulemaking – by both the Secretary of Labor and the FAR Council.

Federally-mandated minimum wage laws are not new to federal contractors. Most federal contractors understand – and many are already subject to – the minimum wage and benefit levels already mandated by the Davis-Bacon Act (for federally funded construction) and the Service Contract Act (for federal service contracts).

The Secretary of Labor has existing authority to raise the minimum wages of the workers targeted by this EO. However, this authority is exercised through a lengthy, complicated, locality-specific survey process, where the Secretary of Labor determines a “prevailing” wage for specific categories of workers in a particular geographic area. Here, the President has ordered the Secretary of Labor to raise the minimum wage for all covered workers, regardless of what type of work is being done or where it is being performed.

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