



Essential **Workers** Essential **Protections**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Disclaimer

This presentation is intended as general information only and does not carry the force of legal opinion.

The Department of Labor is providing this information as a public service. This information and related materials are presented to give the public access to information on Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Wage and Hour Division



Who we are



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Wage and Hour Division



What we do



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Achieving Compliance

- Investigations
- Outreach to workers
- Education for employers
- Partnerships



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Essential Protections



- Payment of minimum wages and overtime
- Youth employment standards
- Job protections for time taken for the birth of a child or caring for sick family members
- Housing and transportation standards for farm workers
- Payment of prevailing wage rates for federally funded construction and service contract work
- Standards for hiring and paying workers temporarily in the U.S under H-2A, H-1B and H-2B visas



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Fair Labor Standards Act (FLSA)



Essential Protections:

- Minimum wage: \$7.25 per hour
- Overtime at “time and one-half” for hours worked over forty in a workweek
- Recordkeeping requirements
- Prohibited youth employment
- Anti-retaliation provisions



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

Hours Worked



An employee must be paid for all of the time considered to be “hours worked” under the FLSA. This may include time spent engaged to wait, on-call, in training, or traveling. Work not requested but **“suffered or permitted”** is work time.

[View Fact Sheet# 22: Hours Worked](#)



PREVAILING WAGE SEMINARS



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

SCA Coverage

- The Service Contract Act applies “any contract” that (1) “is made by the Federal Government or District of Columbia,” (2) “involves an amount exceeding \$2,500,” and (3) “has as its principal purpose the furnishing of services in the United States” (4) “through the use of service employees.” 41 U.S.C. 6702(a).

“Any Contract” –

29 CFR 4.110 and 29 CFR 4.111

- The SCA was intended to apply to “a wide variety of contracts,” and “the nomenclature, type, or particular form of contract used by procurement agencies is not determinative of coverage.” 29 CFR 4.111(a)
- “It makes no difference in the coverage of a contract whether the contract services are procured through negotiation or through advertising for bids.” 29 CFR 4.110
- The contract does not have to be of direct benefit to the federal public, but can benefit the general public (such as a concessionaire contract) – 29 CFR 4.133(a)

Requirements of SCA (29 C.F.R. § 4.6)

- Contracts in excess of **\$2,500** must contain labor standards clauses and:
 - Minimum monetary wages and fringe benefits determined by Department of Labor (DOL)
 - Recordkeeping - Posting requirements
 - Safety and health provisions
 - Statement of rates paid to federal employees

Contracts to Furnish Services

(29 C.F.R. § 4.111 & 4.130)

- The SCA does not define or limit the types of services that may be contracted for.
- Examples of service contracts:
 - Security and guard services
 - Janitorial services
 - Cafeteria and food services
 - Support services at Government installations

Use of “service employees” (29 C.F.R. § 4.113)

- Section 8(b) of SCA defines service employee as:
 - Any person engaged in performance of contract, **except**
 - Employees who qualify for exemption as ***bona fide*** executive, administrative or professional employees under the FLSA (29 C.F.R. Part 541)
- **Employee coverage** does not depend on contractual relationship (29 C.F.R. § 4.155)

Contracts Not SCA Covered

(29 C.F.R. § 4.134)

- Contracts primarily for something other than services, *e.g.*, construction
- Contracts for leasing of space
- Contracts for professional services
- Federally-assisted contracts for services entered into by state governments, *e.g.*, Medicaid and Medicare programs



SCA Compliance Principles

SCA Compliance Principles

- Payment of wages
- Payment of fringe benefits
- Vacation Fringe Benefits
- Holiday Fringe Benefits
- Deductions
- Recordkeeping
- Notice to employees

Payment of Wages

- The SCA requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.
- For contracts equal to or less than \$2,500, contractors are required to pay the federal minimum wage as provided in Section 6(a)(1) of the Fair Labor Standards Act.

Payment of Wages (29 C.F.R. § 4.165)

- Wages established by wage determination, otherwise FLSA minimum wage (29 C.F.R. § 4.165(c))
- Monetary wages to be paid when promptly due (29 C.F.R. § 4.165(a)(1))
- No distinction between Full and Part Time Employees(29 C.F.R. § 4.165(a)(2))
- Calculated on fixed and regularly recurring workweek of 7 consecutive 24-hour workday periods (29 C.F.R. § 4.165(b))
 - Payroll records kept on this basis
 - Bi-weekly or semi-monthly pay periods if advance notice

Finding the Correct Wage Rate

- Workers ***must be paid*** the wage rate set forth in the wage determination **for the classification of work they perform.**
- To prevent misclassification, it is very important that a contractor fully utilize the applicable wage determination **and** the Directory of Occupations to find the classification that most closely matches the *workers' duties*.

Finding the Correct Wage Rate - Example

- Contractor X has been awarded a contract to provide refrigerated warehouse services. Contractor X is trying to determine the correct classification for the employees who receive goods to be stored, verify the goods against the incoming bills of lading, and record and route them for appropriate storage. When goods need to be shipped, the employee also verifies the goods against the incoming order and prepares the outgoing bills of lading.
- Contractor X begins to read through the applicable wage determination and decides that **Order Clerk** is the best **classification**.
- However, a further reading of the **wage determination** and **Directory of Occupations** indicates otherwise.

WD Sample – Order Clerk

- ****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		

01111 - General Clerk I		10.33
01112 - General Clerk II		11.52
01113 - General Clerk III		12.65
01120 - Housing Referral Assistant		17.13
01141 - Messenger Courier		10.12
01191 - Order Clerk I		<u>11.31</u>
01192 - Order Clerk II		12.34

Directory of Occupations – Order Clerk

- 01190 ORDER CLERK (Occupational Base)
- The Order Clerk receives written or verbal purchase orders. Work typically involves some combination of the following duties: quoting prices, determining availability of ordered items and suggesting substitutes when necessary, advising expected delivery date and method of delivery, recording order and customer information on order sheets. The Order Clerk is responsible for checking order sheets for accuracy and adequacy of information; ascertaining credit rating of customer; furnishing customer with confirmation of receipt of order; order follow up, or informing customer of a delay in delivery. The Order Clerk maintains order files and verifies shipping invoices against original orders.
- **01191 ORDER CLERK I**
- This position handles orders involving items that have readily identified uses and applications. The Order Clerk I may refer to a catalog, manufacturer's manual or similar document to insure that the proper item is supplied or to verify the price of order.

WD Sample – Shipping/Receiving Clerk

- 21000 - Materials Handling And Packing Occupations

- 21020 - Forklift Operator 13.53
- 21030 - Material Coordinator 19.21
- 21040 - Material Expediter 19.21
- 21050 - Material Handling Laborer 11.22
- 21071 - Order Filler
11.98
- 21080 - Production Line Worker (Food Processing) 13.53
- 21110 - Shipping Packer
12.87
- 21130 - Shipping/Receiving Clerk 12.87

Directory – Shipping/Receiving Clerk

- [21130 SHIPPING/RECEIVING CLERK](#)
- The Shipping/Receiving Clerk performs clerical and physical tasks in connection with shipping goods of the establishment in which employed and receiving incoming shipments. In performing day-to-day, routine tasks, this worker follows established guidelines. In handling unusual non-routine problems, this worker receives specific guidance from supervisor or other officials. This incumbent may direct and coordinate the activities of other workers engaged in handling goods to be shipped or being received. Shipping duties typically involve the following: verifying that orders are accurately filled by comparing items and quantities of goods gathered for shipment against documents; insuring that shipments are properly packaged, identified with shipping information, and loaded into transporting vehicles, and preparing and keeping records of goods shipped, e.g., manifests, bills of lading. Receiving duties typically involve the following: verifying the correctness of incoming shipments by comparing items and quantities unloaded against bills of lading, invoices, manifests, storage receipts, or other records, checking for damaged goods, insuring that goods are appropriately identified for routing to departments within the establishment, and preparing and keeping records of goods received.

Wage Payments for Work Subject to Different Rates

- Employee must be paid:
 - Highest rate for all hours worked; unless
 - Employer's payroll records or other affirmative proof show periods spent in **each** class of work.
- Applies when employee works part of workweek on SCA-covered **and** non-SCA-covered work.

Computation of Hours Worked

(29 C.F.R. §§ 4.178-4.179 & Part 785)

- Determined under the **FLSA** pursuant to 29 C.F.R. Part 785.
- Includes all periods in which employee is “**suffered or permitted**” to work.
- Hours worked that are subject to the SCA are those performed on covered (SCA) contracts.

Contractor must keep affirmative proof of the time spent on covered and non-covered work in a workweek.

Payment of Fringe Benefits

- Cash payments in lieu of fringe benefits (FBs) must be paid on regular pay date (29 C.F.R. § 4.165(a)).
- Payments into *bona fide* FB plans must be made no less often than quarterly (29 C.F.R. § 4.175(d)).
- FB costs may not be credited toward wage requirements (29 C.F.R. § 4.167).

Discharging Minimum Wage & Fringe Benefit Obligations

Under the SCA, the contractor may not credit excess wage payments against the FB obligation:

Wage Determination:		Employee Paid:	
Wage	\$10.25	Wage	\$12.61
<u>FB</u>	<u>\$ 4.54</u>	<u>FB</u>	<u>\$ 2.12</u>
Total	\$14.79	Total	\$14.73

Bona Fide Fringe Benefits

(29 C.F.R. § 4.171(a))

- Constitute a legally enforceable obligation that:
 - **Is communicated in writing to employees;**
 - Provides payment of benefits to employees;
 - Contains a definite formula for determining the amount of contribution and benefits provided;
 - Is paid *irrevocably* to an independent trustee or third person pursuant to a fund, trust, or plan;
and
 - Meets criteria established by IRS and ERISA.

Fringe Benefits Plans

(29 C.F.R. § 4.171(a)(2))

- Provide benefits to employees on account of:
 - Death;
 - Disability;
 - Advanced age;
 - Retirement;
 - Illness;
 - Medical expenses;
 - Hospitalization; and/or
 - Supplemental unemployment benefits.

Health and Welfare (H&W)

Fringe Benefits

- Three types of FB requirements:
 - “Fixed cost” per employee benefits;
 - “Average cost” benefits; or
 - Collectively bargained (CBA) benefits.
- Types and amounts of benefits and eligibility requirements are contractor’s prerogative.

H&W Footnotes (Determine Compliance)

- Prevailing WDs provide a H&W footnote.
- All occupations listed on the WD receive benefits as specified.
- “Fixed cost” H&W footnote:
 - Single line specifying hourly, weekly, and monthly contribution amounts.
 - Specified on **odd** numbered WDs.

“\$4.54 an hour or \$181.60 a week or \$786.93 a month”

\$4.22 an hour if subject to EO 13706

H&W Footnotes (Cont'd)

- “Average Cost” H&W footnote – a brief paragraph listing types of benefits and the hourly contribution, and specified on even numbered WDs.

“HEALTH & WELFARE: Life, accident, and health insurance plans, sick leave, pension plans, civic and personal leave, severance pay, and savings and thrift plans. Minimum employer contributions must cost an average of \$4.54 per hour computed on the basis of all hours worked by service employees employed on the contract.”

Collectively Bargained Fringe Benefits

- Based on a CBA.
- **Required** to be paid by a successor contractor under section 4(c) of the SCA.
- A contractor not signatory to the CBA does not need to provide the specific FBs stipulated in the CBA. Equivalent benefits may be provided.
- Cash equivalent payments can be used to offset the FBs.

“Fixed Cost” Benefits (29 C.F.R. § 4.175(a))

- Increased to \$4.54 per hour July 5th, 2019.
 - Included in all “invitations for bids” opened; or
 - Other service contracts awarded on or after July 5th, 2019.
- Required to be paid on a “per employee” basis:
 - **For ALL HOURS PAID FOR up to 40 hours in a workweek, and 2,080 hours a year.**
 - **Includes paid leave and holidays.**

“Fixed Cost” H&W Contributions Bi-Weekly Payroll

<u>Employee</u>	<u>Hrs. paid</u>	<u>FB's</u>	<u>Cash</u>	<u>Total</u>
Libby	80	\$200.00	163.20	363.20
Jean	*100	\$163.20	200.00	363.20
Ann	20	0.00	90.80	90.80
Tim	80	\$363.20	0.00	363.20
Tom	60	\$200.00	72.40	272.40
Total	*340		\$1543.60	

* FBs and cash payments may vary so long as total equals
\$4.54 per hour. **20 hours of overtime excluded.**

“Average Cost” Benefits (29 C.F.R. § 4.175(b))

- Contributions may vary depending upon employee’s marital or employment status.
- Total contributions must **average** at least \$4.54 per hour per employee:
 - Excludes paid leave time and holidays.
 - For **all** “**HOURS WORKED.**”
- Compliance is determined on a group basis, not an individual basis.

“Average Cost” Benefit Contributions

<u>Employee</u>	<u>Hours Worked</u>	<u>Contributions</u>
Libby	250	\$650
Jean	150	\$450
Ann	250	\$650
Tim	50	0
Tom	100	\$250
Total	800	\$2000

$\$2000/800 = \2.50 average FB contributions

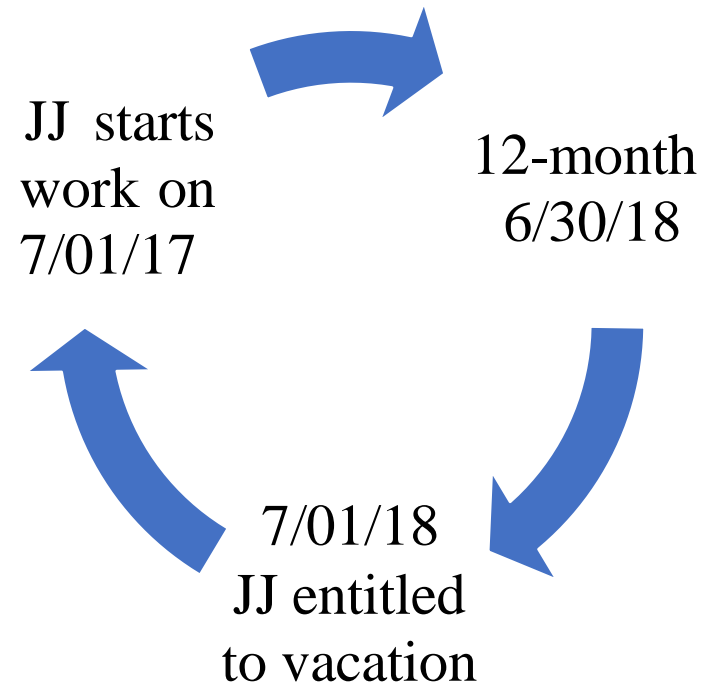
Vacation Fringe Benefits

(29 C.F.R. § 4.173(c)(1))

- Are vested and become due **after** the employee's **anniversary date**.
- Need not be paid immediately after the anniversary date, but must be discharged before (whichever occurs first):
 - The next anniversary date;
 - The completion of the contract; or
 - The employee terminates employment

Anniversary Date (12-months of Service)

- Employee eligible for vacation benefits
- Contractor who employs employee on anniversary date owes vacation
- Paid at hourly rate **in effect** in workweek vacation is taken
- H&W benefits due under “fixed cost” requirements



“Continuous Service”

(29 C.F.R. § 4.173(a)-(b))

- Determines employee’s eligibility for vacation benefits.
- Determined by **total length** of time employed by:
 - Present contractor in any capacity; and/or
 - Predecessor contractors in performance of similar contract functions at same facility.
- Contractor’s liability determined by WD.

Continuous Service Examples (WD – 1-week vacation after 1-year)

- Present contractor – employee employed “in any capacity”:
 - 6-months on SCA-contract.
 - 6-months on “commercial” work.
- Present and predecessor contractors:
 - 16-months for predecessor at same facility.
 - 8-months for present contractor.
- Employee eligible for vacation benefits.

Notification of Length of Service

29 CFR 4(1)(2)

- **Not less than 10 days prior to completion of the contract,** the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance.
- Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee.
- The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract.

Holiday Fringe Benefits

(29 C.F.R. § 4.174)

- An employee is entitled to holiday pay **if** he/she works in the holiday workweek.
- An employee **is not** entitled to holiday pay if the holiday is not named in the WD (*i.e.*, government closed by proclamation).
- Paid holidays can be traded for another day off if communicated to employees.

Part-time Employees

(29C.F.R. § 4.176)

- Entitled to proportionate amount of FBs.
- Maximum: $\text{Vacation/Holidays} = 40 \div 8$ hours.
- Part-time employee works 20 hours per week:
 - Entitled to $\frac{1}{2}$ week of vacation, or 20 hours;
 - Entitled to $\frac{1}{2}$ holiday pay, or 4 hours; and
 - Must receive full amount of H&W FBs.

Equivalent Fringe Benefits (29 C.F.R. § 4.177)

A contractor may dispose of FBs:

- By furnishing the benefits listed in WD;
- By furnishing equivalent combinations of *bona fide* FBs; or
- By making equivalent cash payments:
 - Equal in cost;
 - Separately stated in employer's record; **and**
 - Not used to offset wage requirements.

Deductions from Wages – 29 CFR 4.168

- “The wage requirements of the Act will **not** be met where unauthorized deductions, rebates, or refunds ***reduce*** the wage payment made to the employee below the minimum amounts required under the provisions of the Act and the regulations thereunder, or where the employee fails to receive such amounts free and clear because he “kicks back” directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to him.”

Deductions from Wages – 29 CFR 4.168

- Authorized deductions are limited to:
 - deductions required by law, such as taxes or court-ordered garnishments
 - deductions for the reasonable cost of board, lodging, or other facilities as set forth in 29 CFR 4.167
 - deductions authorized to be paid to third persons for the worker's benefit pursuant to his voluntary assignment or order or a bona fide collective bargaining agreement

Deductions which cut into the wages required under the SCA **may not** be made if they are contrary to law, the contractor, sub-contractor or any affiliated person profits by them directly or indirectly, or the deductions are being made to a third party and the worker did not authorize them.

Recordkeeping – 29 CFR 4.6(g)

- Contractors shall make and maintain for 3 years from the completion of the work records containing the following information:
 - Name and address and social security number of each employee
 - The **correct** work classification **or** classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee
 - The number of daily and weekly hours so worked by each employee

Recordkeeping – 29 CFR 4.6(g)

- Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.
- A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been conformed.
- Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to §4.6(1)(2).

Notice to Employees – 29 CFR 4.183 and 29 CFR 4.184

- Contractors must notify each employee commencing work on a SCA contract of the wage rates and fringe benefits required to be paid for work performed on the contract. A notice form (WH Publication 1313 and any applicable wage determination) provided by the Wage and Hour Division is to be used for this purpose. It may be delivered to the employee or posted as stated in §4.184.
- Posting of the notice provided by the Wage and Hour Division shall be in a **prominent** and accessible place at the worksite.

Obtaining an SCA WD

(29 C.F.R. § 4.4)

<https://sam.gov/content/home> is the new DOL online presence to obtain WDs.

- Agencies can download a WD directly from the website
- Submit an e98 request via the web site.

SAM.GOV



The Official U.S. Government System for:

Contract Opportunities

(was fbo.gov)

Contract Data

(Reports ONLY from fpds.gov)

Wage Determinations

(was wdol.gov)

Federal Hierarchy

Departments and Subtiers

Assistance Listings

(was cfda.gov)

Entity Information

Entities, Disaster Response Registry,
and Exclusions

Entity Reporting

SCR and Bio-Preferred Reporting

Available Information on Website

- Directory of Occupations
- *E98*
- Agency Labor Advisors
- DOL and FAR regulation cites
- Users guide
- AAMs.

Executive Order 13658

Executive Order 13658, Establishing a Minimum Wage for Contractors: Annual Update

Davis-Bacon and Related Acts

Final Rule: Increasing the Minimum Wage for Federal Contractors (Executive Order 14026)

Notice of Proposed Rule: Nondisplacement of Qualified Workers under Service Contracts

On September 15, 2021, the Department of Labor announced a Notice in the Federal Register to announce that, beginning January 1, 2022, the Executive Order 13658 minimum wage rate is increased to \$11.25 per hour ([86 FR 51683](#)). This Executive Order minimum wage rate generally must be paid to workers performing work on or in connection with covered contracts. Additionally, beginning January 1, 2022, tipped employees performing work on or in connection with covered contracts generally must be paid a minimum cash wage of \$7.90 per hour. Covered contracts that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an option or otherwise) on or after January 30, 2022, will be generally subject to a higher \$15.00 minimum wage rate established by [Executive Order 14026](#) of April 27, 2021, Increasing the Minimum Wage for Federal Contractors. Questions relating to the Executive Order and/or these wage rates may be directed to the Government Contracts Division at (202) 693-0064.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Executive Order 14026

Final Rule: Increasing the Minimum Wage for Federal Contractors (Executive Order 14026)

Davis-Bacon and Related Acts

**Final Rule: Increasing the Minimum
Wage for Federal Contractors
(Executive Order 14026)**

Notice of Proposed Rule:
Nondisplacement of Qualified
Workers under Service Contracts
(Executive Order 14026)

On November 22, 2021, the Department announced publication of the final rule, “Increasing the Minimum Wage for Federal Contractors.” The Department has finalized regulations to implement Executive Order 14026, “Increasing the Minimum Wage for Federal Contractors,” which was signed by President Joseph R. Biden Jr. on April 27, 2021. Executive Order 14026 states that the Federal Government’s procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. The Executive Order raises the minimum wage paid by those contractors to workers performing work on or in connection with covered federal contracts to \$15.00 per hour, beginning January 30, 2022; and beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). This final rule establishes standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026, and is effective on January 30, 2022.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Executive Order 13706 Establishing Paid Sick Leave for Federal Contractors



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Overview of Executive Order 13706: Paid Sick Leave for Federal Contract Workers

- EO 13706 was signed on September 7, 2015.
 - It requires covered contractors to allow employees to accrue **1 hour** of paid sick leave for every **30 hours** worked on or in connection with a covered contract, up to **56 hours** (7 days) per year, and to use accrued leave for certain purposes.
- Regulations for the EO were published on September 30, 2016 (**29 CFR Part 13**).
 - The regulations provide details about coverage, exclusions, the accrual and use of paid sick leave, requirements for contractors and contracting agencies, and enforcement.

Overview of Executive Order 13706: Paid Sick Leave for Federal Contract Workers

- Requirements are effective as of January 1, 2017.
 - The requirements of the EO and regulations are effective as of January 1, 2017, though they only apply to “new contracts” on or after that date.



Coverage:

Which contracts are covered by EO 13706?

EO 13706 applies to **four types of contracts** entered into by the federal government (29 CFR 13.3(a)(1):

- Procurement contracts for construction covered by the Davis-Bacon Act (DBA).
 - This includes prime contracts at the \$2,000 threshold and DBA-covered lower-tier contracts of any monetary value.
- Service contracts covered by the Service Contract Act (SCA).
 - This includes prime contracts at the \$2,500 threshold and SCA-covered lower-tier contracts of any monetary value.

Coverage:

Which contracts are covered by EO 13706?

- Concessions contracts, including concessions contracts excluded from the SCA by 29 CFR 4.133(b).
 - These include contracts principally for furnishing food, lodging, auto fuel, souvenirs, newspaper stands and recreational equipment to the general public. 23 CFR 13.2.

Coverage:

Which contracts are covered by EO 13706?

Contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.

- These include leases of space in a federal building to operate a child care center, credit union, gift shop, barber shop, coffee shop or fitness center to serve federal employees and/or the general public.
- Contracts in this category may also fit into the second and/or third covered categories.

Coverage:

Which contracts are covered by EO 13706?

EO 13706 applies to **“new contracts”** beginning January 1, 2017.
29 CFR 13.3(a)(1).

A “new contract” is (29 CFR 13.2):

- A contract solicited or awarded without solicitation on or after January 1, 2017.
- The term also includes a contract that existed before January 1, 2017 but that is renewed, extended (other than short-term limited extensions), or subject to a modification that is outside the scope of the contract after that date.
- It does not include the unilateral exercise of a pre-negotiated option to renew an existing contract by the Federal Government.

Coverage:

Which contracts are not covered by the EO?

EO 13706 **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 (29 CFR 13.3(d));
- Contracts that are subject only to the Davis-Bacon Related Acts (81 FR 67613);
- Grants within the meaning of the Federal Grant and Cooperative Agreement Act. (29 CFR 13.4(a))
- Contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (29 CFR 13.4(b));
or

Coverage:

Which employees does EO 13706 apply to?

EO 13706 covers employees (29 CFR 13.3(a)(2)):

1. Working “on” or “in connection with” a covered contract
2. Whose wages are governed by the DBA, SCA, or FLSA, including employees who qualify for an exemption from the FLSA’s minimum wage and overtime provisions.



Compliance Assistance

Northern New England District Office

PHONE: 603-666-7716

Web: www.dol.gov/agencies/whd

Brian Cleasby, CORPS

Phone: 603-606-3116

Email: cleasby.brian@dol.gov