

United States Department of the Interior
NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

(2410)

Dec 22 2014

Memorandum

To: Regional Directors
Regional Commercial Services Chiefs

From: Associate Director, Business Services

Subject: Guidance for Implementing the Regulations that Establish a Minimum Wage for Federal Contractors

Executive Order 13658 established a minimum wage for federal contractors. The Department of Labor issued regulations to implement and enforce the Executive Order on October 1, 2014 in 29 CFR Part 10. 29 CFR Part 10 states that Executive Order 13658 applies to National Park Service (NPS) concession contracts, commercial use authorizations and leases that are publicly solicited on or after January 1, 2015 for services that will be provided in the 50 United States and the District of Columbia.

1. Mandatory Contract Clause

All applicable concession contracts, commercial use authorizations and leases must include the contract clause in Appendix A to 29 CFR Part 10 by reference using the following language:

Executive Order 13658 – Establishing a Minimum Wage for Contractors, and its implementing regulations, including the applicable contract clause, are incorporated by reference into this contract as if fully set forth in this contract. The applicable contract clause is available at <https://federalregister.gov/a/2014-23533>.

Appendix A to 29 CFR Part 10 is also attached to this memorandum for reference. A summary fact sheet for Executive Order 13658 and 29 CFR Part 10 is available at <http://www.dol.gov/whd/flsa/nprm-eo13658/factsheet.htm>.

Applicable concession contracts must include the contract clause reference in the Nondiscrimination Exhibit. Applicable commercial use authorizations must include the contract clause reference in the Conditions of the Permit. Applicable leases must include the contract clause reference in the Equal Opportunity Laws section. Executive Order 13658 and 29 CFR Part 10 apply to all applicable concession contracts, commercial use authorizations and leases, regardless of whether the contracts are with private entities, friends groups, cooperating associations or other non-profits.

2. Enforcement

Although the regulations provide that written or oral complaints should be filed with the Department of Labor, the regulations recognize that complaints may also be filed with the NPS. If an employee of a concessioner, CUA holder, or lessee or other individual files a written or oral complaint with the Service

regarding contract noncompliance with Executive Order 13658 or 29 CFR Part 10, the Service must provide the following information to the Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, within 14 days of receiving the complaint.

The identify of any individual who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the individual's identity, shall not be disclosed in any manner to anyone other than Federal officials without the prior consent of the individual, unless otherwise authorized by law.

The report must include the following items:

- (A) The complaint or description of the alleged violation of contractor noncompliance with Executive Order 13658 or 29 CFR Part 10;
- (B) Available statements, if any, by the worker, contractor, or any other person regarding the alleged violation;
- (C) Evidence that the Executive Order minimum wage contract clause was included in the contract;
- (D) Information concerning known settlement negotiations between the parties, if applicable; and
- (E) Any other relevant facts known to the NPS or other information requested by the Wage and Hour Division of the Department of Labor.

NPS staff must also notify the Regional Chief of Commercial Services and the WASO Contract Management Branch Chief of the complaint and forward a copy of the report.

After notifying the Department of Labor of available information, no additional investigative or enforcement action by the NPS is required or allowed; the Wage and Hour Division of the Department of Labor has sole authority for enforcement of Executive Order 13658 and 29 CFR Part 10.

3. Specific Implementation in Concession Contracts

Executive Order 13658 and 29 CFR Part 10 may increase labor expenses for some concession contracts, and the calculated minimum franchise fee must account for these potential or expected expense increases.

a. Business Opportunity

All concession contract prospectuses must contain the following section in the Business Opportunity and Summary of Business Opportunity:

Minimum Wage

The minimum wage for federal contractors established by Executive Order 13658 and 29 CFR Part 10 will apply to the draft contract and is included in the analysis of the minimum franchise fee. In estimating the minimum wage requirements of the draft contract and their impact on the minimum franchise fee, the Service estimated the Consumer Price Index for All Urban and Clerical Workers, U.S. City Average ("CPI-W") will increase annually by [X.X%] over the term of the draft contract. As stated in 29 CFR Part 10, the actual minimum wage for federal contractors during the term of the draft contract will be evaluated each year by the United States Department of Labor based on the annual change in the CPI-W.