

Executive Order Ups Minimum Wage for Federal Contracts

Following up on a promise made in the latest State of the Union address, on February 12, 2014 President Obama signed an Executive Order raising the minimum wage to \$10.10 per hour for all persons working on federal contracts. The increase goes into effect on January 1, 2015. The increase applies to all federal contractors and subcontractors working on federal contracts for which the solicitation was issued on or after January 1, 2015.

The Executive Order applies to federal contracts but, apparently, not to federal grants. The confusion arises from the wording of the Executive Order, which only mentions federal contracts, and the authority given by the Executive Order to the Secretary of the Department of Labor to implement regulations implanting the Executive Order. The Executive Order requires the Secretary to issue these regulations by October 1, 2014. The Executive Order also gives the Secretary authority to increase the minimum wage in accordance with the Consumer Price Index.

Some exemptions are listed in the Executive Order, such an exemption for contracts with Indian tribes, but there is no exemption listed for student workers, such as research assistants, who are paid pursuant to a federal contract. Although a final determination will have to wait on the regulations from the Secretary of Labor, it appears that student workers working on a federal contract will have to be paid the minimum wage for hours spent working on that particular federal contract.

The power to enforce the Executive Order is granted to the Secretary of Labor. The Executive Order expressly states that its violation will not give rise to a claim under the Contract Disputes Act. The Executive Order applies to all Executive department agencies and states that “independent agencies are strongly encouraged to comply with the requirements of this order.” The National Aeronautics and Space Administration (NASA) is probably the independent federal agency of most interest to UAH researchers and administrators.

The relationship of the Executive Order to the Fair Labor Standards Act (FLSA), which currently sets a federal minimum wage of \$7.25, is not clear. It is possible that a court challenge may arise to resolve any differences between the Executive Order and the FLSA. Persons interested in learning more about the new Executive Order can find the order at <http://www.whitehouse.gov/the-press-office/2014/02/12/executive-order-minimum-wage-contractors>.