

Federal Contractor Hourly Minimum Wage Increased to \$17.20 Starting January 1, 2024

On January 1, 2024, the hourly minimum wage for certain federal contractor employees will increase to \$17.20, according to a Notice issued by the Wage and Hour Division of the United States Department of Labor (DOL) and published in the Federal Register on September 28, 2023. The wage increase for federal contractor employees extends the previous increase from January 1, 2023, to \$16.20, which utilized Executive Order 14026 as a basis for the increase. The new rate will apply to any contract entered into, renewed, or extended on or after January 30, 2022. Further, under this Notice, the DOL noted that it was phasing out the lower wage rate that previously applied to tipped employees working under federal contracts.

It is important to note that the new rule applies to all federal contracts and subcontracts and allows for contractors to request a price adjustment. “Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual [Executive Order] minimum wage, and for associated labor costs (including those for subcontractors).”¹ These associated labor costs should include changes in social security and unemployment taxes and workers’ compensation insurance.² Subcontractors may also be entitled to adjustments, and contractors should include such requests – contractors should consider these requests when making their claims for increased associated labor costs.³ That said, all parties should review the payment provisions in their existing construction contracts, as well as those being negotiated and entered into after January 1, 2024, for compliance with the rule’s new requirements.

A federal minimum wage rate is less than 10 years old. Through Executive Order 13658, signed by President Obama in 2014, the first minimum wage for federal contract workers was created – then \$10.10 per hour. The secretary of the Department of Labor sets the hourly wage increase annually using guidance provided in Executive Order 13658. In 2021, President Biden extended the Obama-era order with Executive Order 14026, adjusting the minimum wage for contractors to \$15.00. Thereafter, Executive Order 14026 also allowed the DOL to make annual adjustments each calendar year – with the adjustments taking effect on January 1 of the next calendar year. The DOL relied on Executive Order 14026 as its basis for the January 1, 2023, increase to \$16.20.

The new increase that takes effect on January 1, 2024, applies to any employee performing work “on or in connection with” the following federal contracts:

1. Procurement contracts for construction covered by the Davis-Bacon Act.
2. Service contracts covered by the Service Contract Act.
3. Concessions contracts, including those that may be excluded from the Service Contract Act.
4. Federal property or lands contracts related to offering services for federal employees, their dependents, or the general public.

This wage increase applies to all federal contracts except those in Texas, Louisiana, and Mississippi. On September 26, 2023, a U.S. District Court Judge in the Southern District of Texas blocked the minimum wage requirements of the final rule implementing Executive Order 14026 in those states. In issuing its order, the court determined that President Biden exceeded his constitutional authority in issuing the Executive Order and that the Federal Property and Administrative Services Act, commonly known as the “Procurement Act,” failed to provide President Biden the authority necessary to execute the order to increase the minimum wage pay of federal workers. As a result, the minimum wage requirements are not being enforced as to contracts or subcontracts to which Texas, Louisiana, or Mississippi – and their agencies – are a party.



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¹ FAR 52.222-55(b)(3)(i).

² *Id.*

³ FAR 52.222-55(b)(3)(ii).
