



DOL Publishes Proposed Rule Increasing Minimum Wage for Federal Contractors

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The Department of Labor (DOL) recently published a Proposed Rule “Increasing the Minimum Wage for Federal Contractors.” The Proposed Rule is intended to implement Executive Order 14026, signed by President Joe Biden on April 27, 2021.

The Proposed Rule would increase the hourly minimum wage paid by federal contractors to non-exempt workers performing work “on or in connection with” a covered federal contract. The minimum wage, currently \$10.95 per hour, would jump to \$15.00 per hour beginning January 30, 2022. The minimum wage for tipped employees using a tip credit would also increase from \$7.65 per hour to \$10.50 per hour. Thereafter, the minimum wage would be annually indexed and increased by the DOL, beginning January 1, 2023. The Proposed Rule also establishes that beginning January 1, 2024, there will be no distinction between the minimum wage for tipped employees in connection with a federal contract and non-tipped employees, thereby requiring at least \$15 per hour for tipped employees beginning in 2024.

The new hourly rate will apply to new contracts issued on or after January 30, 2022, and existing contracts renewed or extended on or after that date. Under the Proposed Rule, the minimum wage requirements apply to the following “new contracts”:

- procurement contracts for construction covered by the Davis-Bacon Act;
- contracts for services covered by the Service Contract Act;
- contracts for concessions, including any concessions contracts excluded by DOL regulations; or
- contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the public.

However, the minimum wage requirements will only apply **if** the wages of the workers under those contracts are governed by the Fair Labor Standards Act (FLSA), the Service Contract Act, or the Davis–Bacon Act. Additionally, the minimum wage requirements will also extend to workers with disabilities whose wages are calculated pursuant to special certificates issued under section 14(c) of the FLSA.

Pursuant to the Proposed Rule, the DOL Wage and Hour Division would have the authority to investigate potential violations of and obtain compliance with Executive Order 14026. Possible sanctions for failing to pay the increased minimum wage include suspension of contract payments, termination of contracts, and debarment from federal contracting.

The DOL is accepting public comments on the Proposed Rule until August 23, 2021. The regulations will not go into effect until after the DOL reviews the submitted comments and publishes a final rule. Pursuant to Executive Order 14026, the DOL must issue final regulations by November 24, 2021.

For more information, please contact [Neal Shah](#), Jessica Sexton, or any attorney in Frost Brown Todd's [Labor and Employment](#) practice group.

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