

Fact Sheet #83B – RAISING THE MINIMUM WAGE FOR CONTRACTORS UNDER EXECUTIVE ORDER 14026

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, raising the minimum wage for workers performing 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). Please see [Increasing the Minimum Wage for Federal Contractors \(Executive Order 14026\)](#) for an overview of the general provisions of the final rule implementing the Executive Order, including coverage requirements. Executive Order 14026 builds on the foundation established by Executive Order 13658, “Establishing a Minimum Wage for Contractors,” signed by President Barack Obama on February 12, 2014.

What wage rates must be paid to workers performing on or in connection with contracts subject to Executive Order 14026?

Every covered worker performing work on or in connection with a contract covered by Executive Order 14026 must be paid no less than \$15.00 per hour beginning January 30, 2022. Beginning January 1, 2023, and annually thereafter, this amount will increase to an amount determined by the Secretary based on inflation. Workers who are working on or in connection with a covered contract are entitled to any increase in the Executive Order minimum wage immediately on the effective date of the increase. This required wage rate is a monetary wage rate, and may not include credit for any fringe benefits provided by the contractor.

What contracts are covered by Executive Order 14026?

Executive Order 14026 applies to new contracts entered into on or after January 30, 2022, and also covers existing contracts that are renewed or extended (pursuant to an exercised option or otherwise) on or after January 30, 2022. This is a more expansive definition of a “new contract” than the definition under [Executive Order 13658](#), which did not cover the exercise of an option period on an existing contract. Executive Order 14026 covers work performed “on or in connection with” covered contracts. Executive Order 14026 applies to federal contracts performed within the fifty states, the District of Columbia, and specified U.S. territories, consistent with coverage of the [Service Contract Act](#).

The Executive Order minimum wage requirement applies to four major categories of contractual agreements:

- procurement contracts for construction covered by the Davis-Bacon (DBA);
- service contracts covered by the Service Contract Act (SCA);
- concessions contracts, including concessions contracts excluded from SCA coverage; and
- contracts entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.

What contracts are not covered by Executive Order 14026 and the final rule?

The Executive Order and the final rule contain certain narrow exclusions from coverage for the following types of contractual agreements:

- grants within the meaning of the Federal Grant and Cooperative Agreement Act;
- contracts or agreements with Indian Tribes under Public Law 93-638, as amended;
- any procurement contracts for construction that are not subject to the DBA (i.e., procurement contracts for construction under \$2,000);
- any contracts for services, except for those otherwise expressly covered by the final rule, that are exempted from coverage under the SCA or its implementing regulations; and
- contracts that result from a solicitation issued before January 30, 2022, and that are entered into on or between January 30, 2022 and March 30, 2022. (However, if such a contract is subsequently extended or renewed, or an option is subsequently exercised under that contract, Executive Order 14026 will apply to that extension, renewal, or option.)

The Department also notes that the Executive Order 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](#).

Executive Order 14026 revokes Executive Order 13838, as of January 30, 2022. This means that, as of January 30, 2022, contracts entered into with the Federal Government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands will generally be subject to the minimum wage requirements of either Executive Order 13658 or Executive Order 14026, depending on the date that the relevant contract was entered into, renewed, or extended and the appropriate steps taken by contracting agencies to insert the relevant Executive Order clause into such contracts.

What workers are entitled to the Executive Order 14026 minimum wage?

Workers performing on or in connection with covered Federal contracts whose wages are governed by the Fair Labor Standards Act (FLSA), the Service Contract Act (SCA), or the Davis Bacon Act (DBA) are generally entitled to receive the Executive Order minimum wage for all time spent performing on or in connection with covered Federal contracts. The Executive Order therefore generally applies to the following categories of workers performing on or in connection with covered Federal contracts:

- employees who are entitled to the FLSA minimum wage;
- service employees who are entitled to prevailing wages under the SCA; and
- laborers and mechanics who are entitled to prevailing wages under the DBA.

If a worker is entitled to a wage rate higher than the Executive Order minimum wage pursuant to another Federal, State, or local law (e.g., the SCA or DBA), the worker **must** be paid the higher wage rate.

Workers covered by Executive Order 14026 and due the full Executive Order minimum wage include workers with disabilities performing on or in connection with covered contracts whose wages are calculated pursuant to certificates issued under section 14(c) of the Fair Labor Standards Act (FLSA). See Fact Sheet # 29C: Minimum Wages for Workers with Disabilities Under Executive Orders 13658 and 14026.

What workers are not covered by Executive Order 14026 and the final rule?

The Executive Order and the final rule contain a few limited exclusions from coverage for certain workers. For example, workers who are employed in a bona fide executive, administrative, or professional capacity and who consequently are exempt from the FLSA's minimum wage and overtime requirements are not entitled to receive the Executive Order minimum wage ([Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act \(FLSA\)](#)). FLSA-covered workers performing "in connection with" covered contracts are also excluded from coverage of the Executive Order if they spend less than 20% of their work hours in a particular workweek performing in connection with covered contracts.

What are the notice requirements under Executive Order 14026?

The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. For service employees on contracts covered by the SCA and laborers and mechanics on contracts covered by the DBA, the contractor may meet the Executive Order notification requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination ([SAM.gov | Home](#)). With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the poster provided by the Department. Contractors that customarily post notices to workers electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor and customarily used for notices to workers about terms and conditions of employment.

How does Executive Order 14026 apply to tipped workers performing on or in connection with covered contracts?

Executive Order 14026 requires contractors to pay covered workers who qualify as tipped employees pursuant to section 3(t) of the FLSA a cash wage of at least i) \$10.50 an hour, beginning on January 30, 2022; ii) 85 percent of the Executive Order minimum wage rate, as annually adjusted, beginning January 1, 2023; and, 100 percent of the Executive Order minimum wage rate, as annually adjusted, beginning January 1, 2024, and for each subsequent year. When a contractor is using a tip credit to meet a portion of its wage obligations under the Executive Order, the amount of tips received by the employee must equal at least the difference between the required cash wage paid and the Executive Order minimum wage. If the employee does not receive sufficient tips, the contractor must increase the cash wage paid so that the cash wage in combination with the tips received equals the Executive Order minimum wage. As explained above, Executive Order 14026 gradually phases out a contractor's ability to claim a tip credit under the Executive Order for covered workers who receive tips.

What happens if a contractor violates Executive Order 14026?

If the Wage and Hour Division determines that a contractor has violated the Executive Order, the Order provides authority to withhold contract funds to reimburse underpaid workers, terminate the contract, hold the contractor liable for associated costs to the government, and debar a contractor from future government contracts for a period of three years.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

For more information about Executive Order 14026 and its implementing regulations, please visit <https://www.dol.gov/agencies/whd/government-contracts/eo14026>.

For more information about the provisions of the Service Contract Act (SCA), including fact sheets, regulations, and other resources, please visit [McNamara-O'Hara Service Contract Act \(SCA\) | U.S. Department of Labor \(dol.gov\)](#).

For more information about the provisions of the Davis-Bacon Act (DBA), including fact sheets, regulations, and other resources, please visit: [Davis-Bacon Act | U.S. Department of Labor \(dol.gov\)](#)

This publication is general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)