



Federal Contractor Employees to See Minimum Wage Increase to \$15

Insights

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President Biden signed an Executive Order yesterday that will increase the minimum wage for federal contractor employees to \$15 per hour beginning in 2022 – providing a big boost in wages for many workers across the country and increasing labor costs for those employers doing business with the federal government. On January 1, 2023, and annually thereafter, the Secretary of Labor will determine a new minimum wage rate that cannot be less than the then-existing minimum wage rate and will be increased to reflect changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the nearest \$0.05. What do you need to know about this development?

An Overview of the Minimum Wage Boost

The minimum wage for workers performing work on covered federal contracts is currently \$10.95/hour and the tipped minimum wage is \$7.65. Starting January 30, 2022, all executive branch agencies must incorporate a \$15 minimum wage in new contract solicitations, and by March 30, 2022, all agencies will need to implement the minimum wage in new contracts. This means that federal contractors entering into those contracts will need to agree to pay employees doing work performed under those contracts the applicable minimum wage established by the Executive Order. This wage increase is also expected to be implemented into existing contracts when the parties exercise their options to extend such contracts.

The Executive Order also phases out the tip credit wage for workers. As of January 30, 2022, tipped workers must earn a minimum cash wage of \$10.50 per hour. By January 1, 2023, the cash wage must be 85% of the federal contractor minimum wage at that time, rounded to the nearest \$0.05 – and by January 1, 2024, the cash wage must equal the federal contractor minimum wage in effect at that time.

The Biden administration stated that the Executive Order “will improve the economic security of families and make progress toward reversing decades of economic inequality.” The administration also hopes this wage increase will have an impact more far-reaching than just with federal contractors – “competitors in the same labor markets as federal contractors may increase wages, too, as they seek to compete with workers.” Stated differently, the Executive Order hopes that private employers might increase their wages as a ripple effect to the federal contractor wage increase. Importantly, however, the Executive Order does not impact employers who are not federal

contractors. If an employer that is not a federal contractor decides to increase their wages as a response, it will be doing so voluntarily.

How Did We Get Here?

In 2014, President Obama signed Executive Order 13658, which required federal contractors to pay employees working on federal contracts \$10.10 per hour, to be subsequently indexed for inflation. The Biden administration has stated that the new Executive Order seeks to build on President Obama's 2014 Executive Order. Thus, the Biden Executive Order revokes Executive Order 13658 to the extent it is inconsistent. The Biden Executive Order also revoked former President Trump's Executive Order 13838, which exempted from President Obama's minimum wage increase those contracts or contract-like instruments that were entered into in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on public lands.

What Should Federal Contractors Do?

With a little less than a year to prepare, federal contractors should review their current contracts to determine when and if they will be subject to the wage increase. If their existing contracts will not be extended through January 30, 2022, then they may not need to increase the wages. The Executive Order specifically applies to new contracts, new contract-like instruments, new solicitations, extensions, or renewals of existing contracts or contract-like instruments, and the exercise of an option on an existing contract or contract-like instrument.

Companies that plan to enter into new federal contracts on or after January 30, 2022 should incorporate into their planning and forecasting minimum wage rates for the employees working on the federal contract to be at least \$15 per hour. Companies that are considering becoming federal contractors should be aware that in 2022, their employees will need to be paid at least \$15 per hour. Companies that plan to enter into qualifying contracts with the federal government before 2022 should also note that the Executive Order "strongly encourages" that the hourly wages paid under the contracts comply with the Executive Order. Federal contractors who pay employees a tipped wage should also prepare to phase out the tipped wage, eventually paying employees who were formally earning a tip credit wage the full required minimum wage.

The Department of Labor is expected to issue regulations consistent with this Executive Order on or before November 24. We will continue to monitor developments regarding this issue and provide updates when necessary. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have questions about how this development impacts your organization, please reach out to your Fisher Phillips attorney or any member of our [Affirmative Action and Federal Contract Compliance Practice Group](#).

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