

Executive Order Raises Minimum Wage for Federal Contractors to \$15.00 Per Hour

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On Tuesday, April 27, President Biden signed Executive Order 14025, raising the minimum wage for federal contractors to \$15 per hour by the end of March 2022. This marks a sharp 37% increase from the current \$10.95 minimum wage for federal contractors. Under the Executive Order, federal agencies are required to include the \$15 minimum wage in new contract offerings by January 30, 2022, and the new rate must be included in all federal contracts by March 30, 2022. The Executive Order also mandates that contractors and “covered subcontractors” incorporate a clause into lower-tier subcontracts ensuring that subcontractors guarantee the new \$15 minimum wage for all “workers employed in the performance of the contract”, indicating an intent that the new rate will apply to workers down the supply chain. (The Executive Order requires that regulations defining “covered subcontractors” be issued by November 24, 2021.) In addition, the Executive Order calls for elimination of the \$7.65 minimum wage for tipped federal contractors (the “sub-minimum wage”) by 2024, bringing that wage in line with the \$15 minimum wage applicable to other federal contractors-marking a staggering 96% increase in minimum wage for those workers.

Looking beyond 2022, the Executive Order calls for the Secretary of Labor to index the minimum wage for federal contractors to inflation according to the Consumer Price Index for Urban Wage Earners and Clerical Workers, to ensure that adjustments to the minimum wage are regularly imposed to reflect changes in the cost of living. New rates must be published by the Secretary of Labor at least 90 days before taking effect. These inflation increases begin on January 1, 2023. This indexing is simply a continuation of current practices, as the minimum wage for federal contractors has annually indexed the cost of living according to the Consumer Price Index since President Obama signed Executive Order 13658 containing identical indexing language in 2014. The last cost of living increase brought federal contractors’ minimum wage to \$10.95 on January 1, 2021.

The Executive Order reflects the Biden Administration’s aim to raise the federal minimum wage to \$15 for all workers, and comes at the heels of the Administration’s unsuccessful attempt to include a \$15 federal minimum wage in the recent \$1.9 trillion COVID-19 relief package, the American Rescue Plan Act of 2021, which was signed by President Biden in March. The battle for a \$15 federal minimum wage for all workers has since stalled out, and appears unlikely to make significant progress in the short-term because of the 60-vote threshold to overcome a Senate filibuster.

Reception to a federal \$15 minimum wage for all workers has been expectedly more mixed, with Senators Joe Manchin (D-WV) and Kyrsten Sinema (D-AZ) indicating interest in a more modest \$11 federal minimum wage. Ian MacLean, Chairman of the U.S. Chamber of Commerce Small Business Council, recently testified before the U.S. House of Representatives that while the U.S. Chamber of

Commerce “is not opposed to raising the minimum wage,” the fight for a \$15 minimum wage for all workers is not driven by “economically substantive arguments.”

Employers that contract directly with the federal government or are in the supply chain for federally contracted goods and services should consider whether their current wage structure complies with the Executive Order and plan accordingly. Outside of federal contracting, broad changes to the federal minimum wage appear unlikely in the current legislative climate. However, we will monitor for further developments and provide updates accordingly.

For more information, please contact a member of Benesch’s [Labor & Employment Practice Group](#).

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