

Side by Side: Minimum Wage Executive Orders

	Obama Executive Order 13658	Biden Executive Order 14026
Date Issued	February 12, 2014	April 27, 2021
Guidance Docs	DOL Final Rule (Oct 7, 2014) FAR (Dec 4, 2015)	TBD
Legal Authority	40 USC 101 et seq	TBD
Policy	Increases to \$10.10/hr the min wage paid by parties who contract with the Federal Government	Increases to \$15/hr the min wage for those workers working on or in connection with a Federal Government contract as described in Section 8
Benefits	Increases worker morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs	Enhances worker productivity and generates higher-quality work by boosting workers' health , morale, and effort ; reducing absenteeism and turnover; and lowering supervisory and training costs
Implementation	Executive departments/agencies will ensure new contracts, contract-like instruments, and solicitations include a clause (which contractors and subs will include in lower-tier subcontracts) paying workers in the performance of the contract or any subcontract thereunder at least: <ul style="list-style-type: none"> - \$10.10/hr beginning Jan 1, 2015 - annually thereafter an amount determined by Labor Sec, which will be posted at least 90 days before new min wage will take effect and is: <ul style="list-style-type: none"> - not less than the previous amount - increased by increase in CPI-U or successor - rounded to nearest \$0.05 	Executive departments/agencies will ensure contracts and contract-like instruments include a clause that the contractors and any covered subs will incorporate into lower-tier subcontracts. Min wage to be paid to workers employed in the performance of the contract or any subcontract, including workers whose wages are calculated pursuant to special certificates under FLSA, shall be at least: <ul style="list-style-type: none"> - \$15/hr beginning Jan 30, 2022 - annually thereafter an amount determined by Labor Sec, which will be posted at least 90 days before new min wage will take effect and is: <ul style="list-style-type: none"> - not less than the previous amount - increased by increase in CPI-U or successor - rounded to nearest \$0.05

CPI Calculation	Sec compares CPI for most recent month, quarter, or year available for the same preceding month, quarter, or year	"
Prevailing Wages	Does not excuse noncompliance with any applicable Fed or state prevailing wage law	"
Tipped Workers	<p>Covered workers receiving tipped wage must receive:</p> <ul style="list-style-type: none"> - \$4.90 beginning Jan 1, 2015 - for each successive year until the wage equals 70% of the min wage, the preceding tipped wage plus the lesser of: <ul style="list-style-type: none"> - \$0.95 - amount necessary to reach 70% to nearest multiple of \$0.05 - amount necessary to remain at 70% of min wage to nearest multiple of \$0.05 	<p>Covered workers receiving tipped wage must receive at least:</p> <ul style="list-style-type: none"> - \$10.50/hr beginning Jan 30, 2022 - beginning Jan 1, 2023, 85% of the min wage, rounded to nearest multiple of \$0.05 - beginning Jan 1, 2024, 100% of the min wage, rounded <p>Required to top up if they don't receive enough tips to meet min wage or wage required under SCA if applicable</p>
Regulations	<p>DOL given 7.5 months to issue regs</p> <ul style="list-style-type: none"> - must include exclusions as appropriate - FARC given 60 days thereafter to issue regs for the FAR - agencies given 60 days to take steps to exercise authority to implement for contracts entered into after Jan 1, 2015 - regs should incorporate existing definitions, procedures, remedies, and enforcement processes under FLSA, SCA, DBA 	<p>DOL has until Nov 24, 2021, to issue regs (7 months)</p> <ul style="list-style-type: none"> - must include definitions and exclusions as appropriate - FARC given 60 days thereafter to issue regs for the FAR - agencies given 60 days to take steps to exercise authority to implement for contracts entered into on or after Jan 30, 2022 - regs should incorporate existing defs, procedures, remedies, & enforcement processes under FLSA, SCA, DBA, EO 13658, & regs
Enforcement	<p>Labor Sec given authority to investigate potential violations of and obtaining compliance with order</p> <p>No rights provided under Contract Disputes Act</p>	"
Past EOs	Not mentioned	<p>Revoked - EO 13838, Exemption from Executive Order 13658 for Recreational Services on Federal Lands</p> <p>Superseded - EO 13658, Establishing a Minimum Wage for Contractors</p>

Severability	Remainder of order shall not be affected if provision is invalid	“
Appropriations	Subject to availability of approps	Not mentioned
Applicability	<p>New contracts and contract-like instruments, if:</p> <ul style="list-style-type: none"> - it's a contract: <ul style="list-style-type: none"> - for services or construction - for services covered by SCA - for concessions, including those excluded by DOL regs related to beneficiaries of contract services - entered into with Fed Govt in connection with Fed property or lands and related to offering services for Fed employees, dependents, or general public - wages under the contract are governed by FLSA, SCA, or DBA <p>For those under SCA and DBA – threshold applies</p> <p>For FLSA – micro-purchase threshold applies, unless expressly made subject to the EO</p> <p>Not applicable to grants, contracts/agreements with Indian Tribes under Indian Self-Determination and Education Assistance Act, or contracts expressly excluded in implementing regs</p>	<p>New contracts, contract-like instruments, or solicitations, extensions or renewals of an existing contract or contract-like instrument, and exercise of an option on an existing contract or contract-like instrument, if:</p> <ul style="list-style-type: none"> - it's a contract: <ul style="list-style-type: none"> - for services or construction - for services covered by SCA - for concessions, including those excluded by DOL regs related to beneficiaries of contract services - entered into with Fed Govt in connection with Fed property or lands and related to offering services for Fed employees, dependents, or general public - wages under the contract are governed by FLSA, SCA, or DBA <p>For those under SCA and DBA – threshold applies</p> <p>For FLSA – micro-purchase threshold applies, unless expressly made subject to the EO</p> <p>Not applicable to grants, contracts/agreements with Indian Tribes under Indian Self-Determination and Education Assistance Act, or contracts expressly excluded in implementing regs</p>
Effective Date	Covered contracts solicited on or after Jan 1, 2015	<p>New contracts, etc. entered into on or after Jan 30, 2022</p> <p>Agencies not required to include raised min wage in contracts solicited within 60 days of the effective date of the EO</p> <ul style="list-style-type: none"> - will apply to subsequent extensions or renewals
Ind. Agencies	Strongly encouraged to comply	Not mentioned