I. Executive Order 14026 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, “Increasing the Minimum Wage for Federal Contractors.” 86 FR 22835. In relevant part, Executive Order 14026 raised the hourly minimum wage paid by federal contractors to workers performing work on or in connection with certain covered Federal contracts to $15.00 per hour, beginning January 30, 2022, with annual adjustments for inflation thereafter in amounts determined by the Secretary of Labor. Id.

Executive Order 14026 directed the Secretary to issue regulations to implement the order’s requirements. See 86 FR 22836. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a final rule on November 24, 2021, implementing Executive Order 14026. See 86 FR 67126. The final regulations, set forth at 29 CFR part 23, established standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026.1

Executive Order 14026 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2023. See 86 FR 22835–36; see also 29 CFR 23.10(b)(2), 23.50(a)(2), 23.120(a). Sections 2(a) and (b) of Executive Order 14026 establish the methodology that the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. See 86 FR 22835–36. These provisions, which are implemented in 29 CFR 23.50(b)(2), explain that the applicable minimum wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of $0.05.

Section 2(b) of Executive Order 14026 further provides that, in calculating the annual percentage increase in the CPI–W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI–W for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI–W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. See 86 FR 22835–36. To calculate the annual percentage increase in the CPI–W, the Department elected in its final rule implementing Executive Order 14026 to compare such CPI–W for the most recent year available with the CPI–W for the preceding year. See 29 CFR 23.50(b)(2)(iii). Consistent with the regulations implementing Executive Order 13658, see 29 CFR 10.5, the Department explained that it decided to compare the CPI–W for the most recent year available (instead of using the most recent month or quarter, as allowed by the order) with the CPI–W for the preceding year, “to minimize the impact of seasonal fluctuations on the Executive order minimum wage rate.” 86 FR 67167.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 14026 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. See 86 FR 22835; 29 CFR 23.50(a)(2), 23.120(c)(1). The regulations explain that the Administrator of the Department’s Wage and Hour Division (the Administrator) will publish an annual notice in the Federal Register stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. See 29 CFR 23.120(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on https://sam.gov/content/wage-determinations, or any successor site; on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 et seq., and the Service Contract Act (SCA), 41 U.S.C. 6701 et seq.; and by other means the Administrator deems appropriate. See 29 CFR 23.120(c)(2)(ii)-(iv).

Section 3 of Executive Order 14026 explains the application of the order to tipped workers. 86 FR 22836. It
and $13.75 per hour, respectively. The tipped employees are currently $16.20 wage and the cash wage required for wages sufficient to meet the highest employer must pay additional cash required by section 2 of the order, the regulation is higher than the wage et seq., or any other applicable law or applicable law, if the wage required to be paid under the SCA, 41 U.S.C. 6701 et seq., or any other applicable law or regulation is higher than the wage required by section 2 of the order, the employer must pay additional cash wages sufficient to meet the highest wage required to be paid. 86 FR 22836.

The Executive Order 14026 minimum wage and the cash wage required for tipped employees are currently $16.20 and $13.75 per hour, respectively. The Department announced these rates on September 30, 2022, and the rates took effect on January 1, 2023. 87 FR 59464.

II. The 2024 Executive Order 14026 Minimum Wage Rate

Using the methodology set forth in Executive Order 14026 and summarized above, the Department must first determine the annual percentage increase in the CPI–W (United States city average, all items, not seasonally adjusted), as published by BLS, to determine the new Executive Order 14026 minimum wage rate. In calculating the annual percentage increase in the CPI–W, the Department must compare the CPI–W for the most recent year available with the CPI–W for the preceding year. The Department therefore compares the percentage change in the CPI–W between the most recent year (i.e., the most recent four quarters) and the prior year (i.e., the four quarters preceding the most recent year). The Department then increases the current Executive Order minimum wage rate by the resulting annual percentage change and rounds to the nearest multiple of $0.05.

To determine the Executive Order 14026 minimum wage rate beginning January 1, 2024, the Department therefore calculated the CPI–W for the most recent year by averaging the CPI–W for the four most recent quarters, which consist of the first two quarters of 2023 and the last two quarters of 2022 (i.e., July 2022 through June 2023). This produced an average index level of 294.367. The Department then compared that data to the average CPI–W for the preceding year—277.278—which consists of the first two quarters of 2022 and the last two quarters of 2021 (i.e., July 2021 through June 2022). Based on this methodology, the Department determined that the annual percentage increase in the CPI–W (United States city average, all items, not seasonally adjusted) was 6.163 percent ((294.367 ÷ 277.278) − 1). The Department then applied that annual percentage increase of 6.163 percent to the current Executive Order 14026 minimum wage ($16.20 per hour), which resulted in an hourly wage rate of $17.198 ($16.20 × 0.06163) + $16.20); however, pursuant to Executive Order 14026, the updated minimum wage rate must be rounded to the nearest multiple of $0.05.

Accordingly, effective January 1, 2024, the new minimum wage rate that must generally be paid to workers performing on or in connection with contracts covered by Executive Order 14026 will be $17.20 per hour.

III. Phase-Out of the Minimum Cash Wage for Tipped Employees

As noted above, section 3 of Executive Order 14026 provides a methodology to determine the amount of the minimum hourly cash wage that must be paid to tipped employees performing on or in connection with covered contracts. In relevant part, section 3(a)(ii) of the Executive order specifies that, for calendar year 2024, the minimum hourly cash wage for tipped employees shall increase to 100 percent of the wage in effect under section 2 of the order. See 86 FR 22836; see also 29 CFR 23.280(a)(1)(iii). This means that, beginning on January 1, 2024, contractors may no longer credit employee tips toward the Executive Order 14026 minimum wage, and tipped employees covered by Executive Order 14026 will be entitled to a cash wage of at least $17.20 per hour.

IV. Appendices

Appendix A to this notice provides a chart of the CPI–W data published by BLS that the Department used to calculate the new Executive Order 14026 minimum wage rate based on the methodology explained herein. A poster reflecting the new Executive Order 14026 minimum wage rate will be publicly available on the WHD website on January 1, 2024.

Julie A. Su.
Acting Secretary of Labor.

Appendix A: Data Used to Determine Executive Order 14026 Minimum Wage Rate Effective January 1, 2024

Data Source: Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) (United States city average, all items, not seasonally adjusted)

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<th>Quarter 1</th>
<th>Quarter 2</th>
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NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATE: The Members of the National Council on Disability (NCD) will hold a two-day in-person Council Order 13658 minimum wage and the cash wage required for tipped employees are currently $12.15 and $8.50 per hour, respectively. See 87 FR 59468.

In 1968, the reference base for the CPI–W was changed from 1967 = 100 to 1982–84 = 100. The meeting on Thursday, November 16, 2023, 9 a.m.–4:30 p.m. Eastern Standard Time (EST) and Friday, November 17, 2023, 10 a.m.–1:15 p.m., EST.

PLACE: This meeting will take place at the Omni Hotel and Resort, One West 1982–84 period was chosen to coincide with the updated expenditure weights which were based on the Consumer Expenditure Surveys for the years 1982, 1983 and 1984.