

[FR Doc. 2023–21114 Filed 9–27–23; 8:45 am]

BILLING CODE 4510–27–P

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### Minimum Wage for Federal Contracts Covered by Executive Order 14026, Notice of Rate Change in Effect as of January 1, 2024

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with federal contracts covered by Executive Order 14026, Increasing the Minimum Wage for Federal Contractors (the Executive Order or the order). Beginning on January 1, 2024, the Executive Order 14026 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$17.20 per hour. This minimum wage rate will apply to non-tipped and tipped employees alike, as, beginning January 1, 2024, Executive Order 14026 eliminates the lower cash wage that contractors may pay tipped employees. Contracts similar to those covered by Executive Order 14026 that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to a lower minimum wage rate established by Executive Order 13658 of February 12, 2014, Establishing a Minimum Wage for Contractors.

**DATES:** These new Executive Order 14026 wage rates shall take effect on January 1, 2024.

**FOR FURTHER INFORMATION CONTACT:** Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

#### SUPPLEMENTARY INFORMATION:

#### 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.<sup>1</sup>

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,

<sup>1</sup> Based on an order issued by the U.S. Court of Appeals for the Tenth Circuit on February 17, 2022, the minimum wage requirements of the final rule implementing Executive Order 14026 are not currently being enforced as to “contracts or contract-like instruments entered into with the federal government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands.” The final rule’s requirements remain in effect for all other contracts subject to the rule.

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

provides that for workers covered by section 2 of the order who are tipped employees pursuant to section 3(t) of the FLSA, 29 U.S.C. 203(t), the cash wage that must be paid by an employer to such workers shall be at least: (i) \$10.50 an hour, beginning on January 30, 2022; (ii) beginning January 1, 2023, 85 percent of the wage in effect under section 2 of the order, rounded to the nearest multiple of \$0.05; and (iii) beginning January 1, 2024, and for each subsequent year, 100 percent of the wage in effect under section 2 of the order. 86 FR 22836. Consistent with 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.<sup>2</sup> 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.<sup>3</sup> 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  $((294.367 \div 277.278) - 1)$ . 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  $((\$16.20 \times 0.06163) + \$16.20)$ ; 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)

	Quarter 3			Quarter 4			Quarter 1			Quarter 2			Annual average
2021Q3 to 2022Q2	267.789	268.387	269.086	271.552	273.042	273.925	276.296	278.943	283.176	284.575	288.022	292.542	277.278
2022Q3 to 2023Q2	292.219	291.629	291.854	293.003	292.495	291.051	293.565	295.057	296.021	297.730	298.382	299.394	294.367
Annual Percentage Increase .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	6.163%

[FR Doc. 2023–21115 Filed 9–27–23; 8:45 am]

BILLING CODE 4510–27–P

## 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

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

<sup>2</sup> Contracts of the same kind as are covered by Executive Order 14026 and that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to Executive Order 13658 and its lower minimum wage requirements. The Executive

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.

<sup>3</sup> In 1988, the reference base for the CPI-W was changed from 1967 = 100 to 1982–84 = 100. The

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.