

Advocacy Recommends DOL Adopt Alternatives to Minimize Economic Impact of Proposed Rule Increasing Minimum Wage for Federal Contractors

On August 27, 2021, the Office of Advocacy sent a public comment letter to the U.S. Department of Labor Wage and Hour Division (DOL) asserting that the agency improperly certified the proposed rule, Increasing the Minimum Wage for Federal Contractors.

1. On April 27, 2021, President Biden issued Executive Order 14026, which increases the hourly minimum wage paid to employees of federal contractors and subcontractors to \$15.00 per hour beginning January 30, 2022. The order applies to any new contract, new contract-like instrument, new solicitation, extension or renewal of an existing contract or contract-like instrument, and exercise of an option on an existing contract or contract-like instrument. This includes (A) procurement contracts; (B) contracts for services covered by the Services Contract Act (SCA); (C) contracts for concessions; (D) contracts entered into with the Federal Government in connection with Federal property or lands and related to offering of services for Federal employees, their dependents, or the general public; and (E) wages for workers under contracts governed by the Fair Labor Standards Act (FLSA), the SCA, or the Davis-Bacon Act (DBA). DOL released a proposed rule implementing this Executive Order on July 22, 2021.
2. Advocacy is concerned that this proposed rule will result in extreme financial hardship for affected small businesses that are not normally considered government contractors, such as concessionaries, lease holders, and seasonal recreational businesses who have contracts and permits on Federal property or lands. Many of these small businesses will be unable to pass on these increased wage costs to the federal government like traditional federal contractors.
3. DOL has improperly certified that this rule will not have a significant economic impact on a substantial number of small entities. DOL's certification is invalid because DOL's own analysis shows that this rule will have such an impact. Advocacy recommends that DOL prepare and make available for public comment a supplemental initial regulatory flexibility analysis (IRFA) that adequately assesses the small business compliance costs from this regulation and consider significant alternatives that would accomplish the objectives of the statute while minimizing the economic impacts to small entities.

A complete copy of Advocacy's letter to DOL is available [here](#). For more information, please contact Janis Reyes, Assistant Chief Counsel, at Janis.Reyes@sba.gov.

