

Aerial Legal Experts with respect to necessary stenographic and other services by contract.

(e) ARCHITECT OF THE CAPITOL.—The purchase of supplies and equipment and the procurement of services for all branches under the Architect of the Capitol may be made in the open market according to common business practice, without compliance with section 6101 of this title, when the aggregate amount of the purchase or the service does not exceed \$25,000 in any instance.

(f) FOREST PRODUCTS FROM INDIAN RESERVATIONS.—Lumber and other forest products produced by Indian enterprises from forests on Indian reservations may be sold under regulations the Secretary of the Interior prescribes, without compliance with section 6101 of this title.

(g) HOUSE OF REPRESENTATIVES.—Section 6101 of this title does not apply to purchases and contracts for supplies or services for any office of the House of Representatives.

(h) CONGRESSIONAL BUDGET OFFICE.—The Director of the Congressional Budget Office may enter into agreements or contracts without regard to section 6101 of this title.

(i) SENATE.—Section 6101 of this title does not apply to agreements, contracts or purchases by any office of the Senate.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3802; Pub. L. 115-141, div. I, title I, §102, Mar. 23, 2018, 132 Stat. 772.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 6102(a) through 6102(h) with corresponding legal references.

In subsections (a)–(d), the words “under any appropriation Act” are omitted as unnecessary.

In subsection (e), the words “On and after July 27, 1965” are omitted as unnecessary. The words “according to common business practice” are substituted for “in the manner common among businessmen” for consistency in the revised title.

In subsection (g), the words “in any fiscal year” are omitted as unnecessary.

In subsection (h), the text of 41:6a-4(b) is omitted as unnecessary.

Editorial Notes

AMENDMENTS

2018—Subsec. (i). Pub. L. 115-141 added subsec. (i).

§ 6103. Opening of bids

Whenever proposals for supplies have been solicited, the parties responding to the solicitation shall be notified of the time and place of the opening of the bids, and be permitted to be

present either in person or by attorney. A record of each bid shall be made at the time and place of the opening of the bids.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3803.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row includes 6103 with source 41:8 and R.S. §3710.

CHAPTER 63—GENERAL CONTRACT PROVISIONS

- Sec. 6301. Authorization requirement.
6302. Contracts for fuel made by Secretary of the Army.
6303. Certain contracts limited to appropriated amounts.
6304. Certain contracts limited to one-year term.
6305. Prohibition on transfer of contract and certain allowable assignments.
6306. Prohibition on Members of Congress making contracts with Federal Government.
6307. Contracts with Federal Government-owned establishments and availability of appropriations.
6308. Contracts for transportation of Federal Government securities.
6309. Honorable discharge certificate in lieu of birth certificate.

Statutory Notes and Related Subsidiaries

FEDERAL CONTRACTOR AUTHORITY

Pub. L. 116-136, div. A, title III, §3610, Mar. 27, 2020, 134 Stat. 414, as amended by Pub. L. 117-2, title IV, §4015, Mar. 11, 2021, 135 Stat. 80, provided that: “Notwithstanding any other provision of law, and subject to the availability of appropriations, funds made available to an agency by this Act [div. A of Pub. L. 116-136, see Tables for classification] or any other Act may be used by such agency to modify the terms and conditions of a contract, or other agreement, without consideration, to reimburse at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of Government and contractor personnel, but in no event beyond September 30, 2021. Such authority shall apply only to a contractor whose employees or subcontractors cannot perform work on a site that has been approved by the Federal Government, including a federally-owned or leased facility or site, due to facility closures or other restrictions, and who cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID-19: Provided, That the maximum reimbursement authorized by this section shall be reduced by the amount of credit a contractor is allowed pursuant to division G [ §§7001-7005] of Public Law 116-127 [set out as notes under sections 1401 and 3111 of Title 26, Internal Revenue Code] and any applicable credits a contractor is allowed under this Act.”

[Pub. L. 116-260, div. N, title X, §1002, Dec. 27, 2020, 134 Stat. 2145, provided that: “Section 3610 of division A of the CARES Act (Public Law 116-136) [set out above] shall be applied by substituting ‘March 31, 2021’ for ‘September 30, 2020’.”]

Executive Documents

EX. ORD. NO. 13658. ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS

Ex. Ord. No. 13658, Feb. 12, 2014, 79 F.R. 9851, as amended by Ex. Ord. 13838, §2, May 25, 2018, 83 F.R. 25341, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in procurement by contracting with sources who adequately compensate their workers, it is hereby ordered as follows:

**SECTION 1. Policy.** This order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$10.10 the hourly minimum wage paid by those contractors. Raising the pay of low-wage workers increases their morale and the productivity and quality of their work, lowers turnover and its accompanying costs, and reduces supervisory costs. These savings and quality improvements will lead to improved economy and efficiency in Government procurement.

**SEC. 2. Establishing a minimum wage for Federal contractors and subcontractors.** (a) Executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as “contracts”), as described in section 7 of this order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that the minimum wage to be paid to workers, including workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c), in the performance of the contract or any subcontract thereunder, shall be at least:

- (i) \$10.10 per hour beginning January 1, 2015; and
- (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). The amount shall be published by the Secretary at least 90 days before such new minimum wage is to take effect and shall be:

(A) not less than the amount in effect on the date of such determination;

(B) increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and

(C) rounded to the nearest multiple of \$0.05.

(b) In calculating the annual percentage increase in the Consumer Price Index for purposes of subsection (a)(ii)(B) of this section, the Secretary shall compare such Consumer Price Index 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 pursuant to subsection (a)(ii)(B)) with the Consumer Price Index for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively.

(c) Nothing in this order shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this order.

**SEC. 3. Application to tipped workers.** (a) For workers covered by section 2 of this order who are tipped employees pursuant to 29 U.S.C. 203(t), the hourly cash wage that must be paid by an employer to such workers shall be at least:

- (i) \$4.90 an hour, beginning on January 1, 2015;
- (ii) for each succeeding 1-year period until the hourly cash wage under this section equals 70 percent of the wage in effect under section 2 of this order for such period, an hourly cash wage equal to the amount determined under this section for the preceding year, increased by the lesser of:

(A) \$0.95; or

(B) the amount necessary for the hourly cash wage under this section to equal 70 percent of the wage under section 2 of this order; and

(iii) for each subsequent year, 70 percent of the wage in effect under section 2 for such year rounded to the nearest multiple of \$0.05.

(b) Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of this order, the cash wage paid by the employer, as set forth in this section for those workers, shall be increased such that their wages equal the minimum wage under section 2 of this order. Consistent with applicable law, if the wage required to be paid under the Service Contract Act [of 1965], 41 U.S.C. 6701 *et seq.*, or any other applicable law or regulation is higher than the wage required by section 2, the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

**SEC. 4. Regulations and Implementation.** (a) The Secretary shall issue regulations by October 1, 2014, to the extent permitted by law and consistent with the requirements of the Federal Property and Administrative Services Act, to implement the requirements of this order, including providing exclusions from the requirements set forth in this order where appropriate. To the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council shall issue regulations in the Federal Acquisition Regulation to provide for inclusion of the contract clause in Federal procurement solicitations and contracts subject to this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts as described in section 7(d)(i)(C) and (D) of this order, entered into after January 1, 2015, consistent with the effective date of such agency action, comply with the requirements set forth in sections 2 and 3 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable and consistent with section 8 of this order, incorporate existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act [of 1938], 29 U.S.C. 201 *et seq.*; the Service Contract Act, 41 U.S.C. 6701 *et seq.*; and the Davis-Bacon Act, 40 U.S.C. 3141 *et seq.*

**SEC. 5. Enforcement.** (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], and disputes regarding whether a contractor has paid the wages prescribed by this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

**SEC. 6. Severability.** If any provision of this order, or applying such provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SEC. 7. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) This order shall apply only to a new contract or contract-like instrument, as defined by the Secretary in the regulations issued pursuant to section 4(a) of this order, if:

(i)(A) it is a procurement contract for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 C.F.R. 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of workers under such contract or contract-like instrument are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.

(e) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. For procurement contracts where workers' wages are governed by the Fair Labor Standards Act, this order shall apply only to contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 4 of this order.

(f) This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 4(a) of this order. This order shall not apply 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, but this exemption shall not apply to lodging and food services associated with seasonal recreational services. Seasonal recreational services include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

(g) Independent agencies are strongly encouraged to comply with the requirements of this order.

SEC. 8. *Effective Date.* (a) This order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued on or after:

(i) January 1, 2015, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 4(a) of this order; or

(ii) for contracts where an agency action is taken pursuant to section 4(b) of this order, January 1, 2015, consistent with the effective date for such action.

(b) This order shall not apply to contracts or contract-like instruments entered into pursuant to solicitations issued on or before the effective date for the relevant action taken pursuant to section 4 of this order.

(c) For all new contracts and contract-like instruments negotiated between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged to take all steps that are reasonable and legally permissible to ensure that individuals working pursuant to those contracts and contract-like instruments are paid an hourly wage of at least \$10.10 (as set forth under sections 2 and 3 of this order) as of the effective dates set forth in this section.

[Ex. Ord. No. 13658, set out above, superseded, as of Jan. 30, 2022, to the extent inconsistent with Ex. Ord. No. 14026, see section 6 of Ex. Ord. No. 14026, set out below.]

EX. ORD. NO. 13706. ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS

Ex. Ord. No. 13706, Sept. 7, 2015, 80 F.R. 54697, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 121, and in order to promote economy and efficiency in procurement by contracting with sources that allow their employees to earn paid sick leave, it is hereby ordered as follows:

SECTION 1. *Policy.* This order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that employees on those contracts can earn up to 7 days or more of paid sick leave annually, including paid leave allowing for family care. Providing access to paid sick leave will improve the health and performance of employees of Federal contractors and bring benefits packages at Federal contractors in line with model employers, ensuring that they remain competitive employers in the search for dedicated and talented employees. These savings and quality improvements will lead to improved economy and efficiency in Government procurement.

SEC. 2. *Establishing paid sick leave for Federal contractors and subcontractors.* (a) Executive departments and agencies (agencies) shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations (collectively referred to as "contracts"), as described in section 6 of this order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying, as a condition of payment, that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than 1 hour of paid sick leave for every 30 hours worked.

(b) A contractor may not set a limit on the total accrual of paid sick leave per year, or at any point in time, at less than 56 hours.

(c) Paid sick leave earned under this order may be used by an employee for an absence resulting from:

(i) physical or mental illness, injury, or medical condition;

(ii) obtaining diagnosis, care, or preventive care from a health care provider;

(iii) caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described in paragraphs (i) or (ii) of this subsection or is otherwise in need of care; or

(iv) domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described in paragraphs (i) and (ii) of this subsection, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described in paragraph (iii) of this subsection in engaging in any of these activities.

(d) Paid sick leave accrued under this order shall carry over from 1 year to the next and shall be reinstated for employees rehired by a covered contractor within 12 months after a job separation.

(e) The use of paid sick leave cannot be made contingent on the requesting employee finding a replacement to cover any work time to be missed.

(f) The paid sick leave required by this order is in addition to a contractor's obligations under 41 U.S.C. chapter 67 (Service Contract Act [of 1965]) and 40 U.S.C. chapter 31, subchapter IV (Davis-Bacon Act), and contractors may not receive credit toward their prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of this order.

(g) A contractor's existing paid leave policy provided in addition to the fulfillment of Service Contract Act or Davis-Bacon Act obligations, if applicable, and made available to all covered employees will satisfy the requirements of this order if the amount of paid leave is sufficient to meet the requirements of this section and if it may be used for the same purposes and under the same conditions described herein.

(h) Paid sick leave shall be provided upon the oral or written request of an employee that includes the expected duration of the leave, and is made at least 7 calendar days in advance where the need for the leave is foreseeable, and in other cases as soon as is practicable.

## (i) Certification.

(i) A contractor may only require certification issued by a health care provider for paid sick leave used for the purposes listed in subsections (c)(i), (c)(ii), or (c)(iii) of this section for employee absences of 3 or more consecutive workdays, to be provided no later than 30 days from the first day of the leave.

(ii) If 3 or more consecutive days of paid sick leave is used for the purposes listed in subsection (c)(iv) of this section, documentation may be required to be provided from an appropriate individual or organization with the minimum necessary information establishing a need for the employee to be absent from work. The contractor shall not disclose any verification information and shall maintain confidentiality about the domestic violence, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(j) Nothing in this order shall require a covered contractor to make a financial payment to an employee upon a separation from employment for accrued sick leave that has not been used, but unused leave is subject to reinstatement as prescribed in subsection (d) of this section.

(k) A covered contractor may not interfere with or in any other manner discriminate against an employee for taking, or attempting to take, paid sick leave as provided for under this order or in any manner asserting, or assisting any other employee in asserting, any right or claim related to this order.

(l) Nothing in this order shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under this order.

SEC. 3. *Regulations and Implementation.* (a) The Secretary of Labor (Secretary) shall issue such regulations by September 30, 2016, as are deemed necessary and appropriate to carry out this order, to the extent permitted by law and consistent with the requirements of 40 U.S.C. 121, including providing exclusions from the requirements set forth in this order where appropriate; defining terms used in this order; and requiring contractors to make, keep, and preserve such employee records as the Secretary deems necessary and appropriate for the enforcement of the provisions of this order or the regulations thereunder. To the extent permitted by law, within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council shall issue regulations in the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the contract clause described in section 2(a) of this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts as described in section 6(d)(i)(C) and (D) of this order, entered into after January 1, 2017, consistent with the effective date of such agency action, comply with the requirements set forth in section 2 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable and consistent with section 7 of this order, incorporate existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act [of 1938], 29 U.S.C. 201 *et seq.*; the Service Contract Act; the Davis-Bacon Act; the Family and Medical Leave Act [of 1993], 29 U.S.C. 2601 *et seq.*; the Violence Against Women Act of 1994, 42 U.S.C. 13925 *et seq.* [now 34 U.S.C. 12291 *et seq.*]; and Executive Order 13658 of February 12, 2014, Establishing a Minimum Wage for Contractors.

SEC. 4. *Enforcement.* (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order, including the prohibitions on interference and discrimination in section 2(k) of this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], and disputes regarding whether

a contractor has provided employees with paid sick leave prescribed by this order, to the extent permitted by law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

SEC. 5. *Severability.* If any provision of this order, or applying such provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) This order shall apply only to a new contract or contract-like instrument, as defined by the Secretary in the regulations issued pursuant to section 3(a) of this order, if:

(i)(A) it is a procurement contract for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of employees under such contract or contract-like instrument are governed by the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from its minimum wage and overtime provisions.

(e) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. For procurement contracts in which employees' wages are governed by the Fair Labor Standards Act, this order shall apply only to contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 3 of this order.

(f) This order shall not apply to grants; contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 3(a) of this order.

(g) Independent agencies are strongly encouraged to comply with the requirements of this order.

SEC. 7. *Effective Date.* (a) This order is effective immediately and shall apply to covered contracts where the solicitation for such contract has been issued, or the contract has been awarded outside the solicitation process, on or after:

(i) January 1, 2017, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 3(a) of this order; or

(ii) January 1, 2017, for contracts where an agency action is taken pursuant to section 3(b) of this order, consistent with the effective date for such action.

(b) This order shall not apply to contracts or contract-like instruments that are awarded, or entered

into pursuant to solicitations issued, on or before the effective date for the relevant action taken pursuant to section 3 of this order.

BARACK OBAMA.

EXECUTIVE ORDER NO. 13838

Ex. Ord. No. 13838, May 25, 2018, 83 F.R. 25341, which related to an exemption from the minimum wage requirements for contractors established by Ex. Ord. No. 13658 (set out above) for recreational services on Federal lands, was revoked, effective Jan. 30, 2022, by Ex. Ord. No. 14026, §6, Apr. 27, 2021, 86 F.R. 22836, set out below.

EX. ORD. NO. 14026. INCREASING THE MINIMUM WAGE FOR FEDERAL CONTRACTORS

Ex. Ord. No. 14026, Apr. 27, 2021, 86 F.R. 22835, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], [see] 40 U.S.C. 101 *et seq.*, and in order to promote economy and efficiency in procurement by contracting with sources that adequately compensate their workers, it is hereby ordered as follows:

**SECTION 1. Policy.** This order promotes economy and efficiency in Federal procurement by increasing the hourly minimum wage paid by the parties that contract with the Federal Government to \$15.00 for those workers working on or in connection with a Federal Government contract as described in section 8 of this order. Raising the minimum wage 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. Accordingly, ensuring that Federal contractors pay their workers an hourly wage of at least \$15.00 will bolster economy and efficiency in Federal procurement.

**SEC. 2. Increasing the Minimum Wage for Federal Contractors and Subcontractors.** (a) Executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A), (5) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments (as defined in regulations issued pursuant to section 4(a) of this order and as described in section 8(a) of this order) include a clause that the contractor and any covered subcontractors (as defined in regulations issued pursuant to section 4(a) of this order) shall incorporate into lower-tier subcontracts. This clause shall specify that, as a condition of payment, the minimum wage to be paid to workers employed in the performance of the contract or any covered subcontract thereunder, including workers whose wages are calculated pursuant to special certificates issued under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)), shall be at least:

(i) \$15.00 per hour, beginning January 30, 2022; and  
(ii) beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). The amount shall be published by the Secretary at least 90 days before such new minimum wage is to take effect and shall be:

(A) not less than the amount in effect on the date of such determination;

(B) increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics; and

(C) rounded to the nearest multiple of \$0.05.

(b) In calculating the annual percentage increase in the Consumer Price Index for purposes of subsection (a)(ii)(B) of this section, the Secretary shall compare such Consumer Price Index 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 pursuant to subsection (a)(ii)(B) of this section) with the Consumer Price Index for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively.

(c) Nothing in this order shall excuse noncompliance with any applicable Federal or State prevailing wage law, or any applicable law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this order.

**SEC. 3. Application to Tipped Workers.** (a) For workers covered under section 2 of this order who are tipped employees pursuant to section 3(t) of the Fair Labor Standards Act of 1938 (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 per hour, beginning January 30, 2022;

(ii) beginning January 1, 2023, 85 percent of the wage in effect under section 2 of this 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 this order.

(b) Where workers do not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer, such that their wages are equal to the minimum wage under section 2 of this order, the cash wage paid by the employer, as set forth in this section for those workers, shall be increased such that their wages equal the minimum wage under section 2 of this order. Consistent with applicable law, if the wage required to be paid under the Service Contract Act [of 1965], [see] 41 U.S.C. 6701 *et seq.*, or any other applicable law or regulation is higher than the wage required under section 2 of this order, the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

**SEC. 4. Regulations and Implementation.** (a) The Secretary shall, consistent with applicable law, issue regulations by November 24, 2021, to implement the requirements of this order. Such regulations shall include both definitions of relevant terms and, as appropriate, exclusions from the requirements of this order. Within 60 days of the Secretary issuing such regulations, the Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations, contracts, and contract-like instruments subject to this order the clause described in section 2(a) of this order.

(b) Within 60 days of the Secretary issuing regulations pursuant to subsection (a) of this section, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts and contract-like instruments as described in sections 8(a)(i)(C) and (D) of this order, entered into on or after January 30, 2022, consistent with the effective date of such agency action, comply with the requirements set forth in sections 2 and 3 of this order.

(c) Any regulations issued pursuant to this section should, to the extent practicable, incorporate existing definitions, principles, procedures, remedies, and enforcement processes under the Fair Labor Standards Act of 1938, 29 U.S.C. 201 *et seq.*; the Service Contract Act, 41 U.S.C. 6701 *et seq.*; the Davis-Bacon Act, [see] 40 U.S.C. 3141 *et seq.*; Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors) [41 U.S.C. 6301 note prec.]; and regulations issued to implement that order.

**SEC. 5. Enforcement.** (a) The Secretary shall have the authority for investigating potential violations of and obtaining compliance with this order.

(b) This order creates no rights under the Contract Disputes Act [of 1978], [see] 41 U.S.C. 7101 *et seq.*, and disputes regarding whether a contractor has paid the wages prescribed by this order, as appropriate and consistent with applicable law, shall be disposed of only as provided by the Secretary in regulations issued pursuant to this order.

SEC. 6. *Revocation of Certain Presidential Actions.* Executive Order 13838 of May 25, 2018 (Exemption From Executive Order 13658 for Recreational Services on Federal Lands) [set out above], is revoked as of January 30, 2022. Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors) [set out above], is superseded, as of January 30, 2022, to the extent it is inconsistent with this order.

SEC. 7. *Severability.* If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

SEC. 8. *Applicability.* (a) This order shall apply 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, if (i): [sic]

(A) it is a procurement contract or contract-like instrument for services or construction;

(B) it is a contract or contract-like instrument for services covered by the Service Contract Act;

(C) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(D) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(ii) the wages of workers under such contract or contract-like instrument are governed by the Fair Labor Standards Act, the Service Contract Act, or the Davis-Bacon Act.

(b) For contracts or contract-like instruments covered by the Service Contract Act or the Davis-Bacon Act, this order shall apply only to contracts or contract-like instruments at the thresholds specified in those statutes. Where workers' wages are governed by the Fair Labor Standards Act of 1938, this order shall apply only to procurement contracts or contract-like instruments that exceed the micro-purchase threshold, as defined in 41 U.S.C. 1902(a), unless expressly made subject to this order pursuant to regulations or actions taken under section 4 of this order.

(c) This order shall not apply to grants; contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 5301 et seq.], as amended; or any contracts or contract-like instruments expressly excluded by the regulations issued pursuant to section 4(a) of this order.

SEC. 9. *Effective Date.* (a) This order is effective immediately and shall apply to new contracts; new contract-like instruments; new solicitations; extensions or renewals of existing contracts or contract-like instruments; and exercises of options on existing contracts or contract-like instruments, as described in section 8(a) in this order, where the relevant contract or contract-like instrument will be entered into, the relevant contract or contract-like instrument will be extended or renewed, or the relevant option will be exercised, on or after:

(i) January 30, 2022, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 4(a) of this order; or

(ii) for contracts where an agency action is taken pursuant to section 4(b) of this order, January 30, 2022, consistent with the effective date for such action.

(b) As an exception to subsection (a) of this section, where agencies have issued a solicitation before the effective date for the relevant action taken pursuant to section 4 of this order and entered into a new contract or contract-like instrument resulting from such solicitation within 60 days of such effective date, such agencies are strongly encouraged but not required to ensure that the minimum wages specified in sections 2 and 3 of this order are paid in the new contract or contract-

like instrument. But if that contract or contract-like instrument is subsequently extended or renewed, or an option is subsequently exercised under that contract or contract-like instrument, the minimum wages specified in sections 2 and 3 of this order shall apply to that extension, renewal, or option.

(c) For all existing contracts and contract-like instruments, solicitations issued between the date of this order and the effective dates set forth in this section, and contracts and contract-like instruments entered into between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged, to the extent permitted by law, to ensure that the hourly wages paid under such contracts or contract-like instruments are consistent with the minimum wages specified in sections 2 and 3 of this order.

SEC. 10. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

EX. ORD. NO. 14042. ENSURING ADEQUATE COVID SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS

Ex. Ord. No. 14042, Sept. 9, 2021, 86 F.R. 50985, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 *et seq.*, and section 301 of title 3, United States Code, and in order to promote economy and efficiency in procurement by contracting with sources that provide adequate COVID-19 safeguards for their workforce, it is hereby ordered as follows:

SECTION 1. *Policy.* This order promotes economy and efficiency in Federal procurement by ensuring that the parties that contract with the Federal Government provide adequate COVID-19 safeguards to their workers performing on or in connection with a Federal Government contract or contract-like instrument as described in section 5(a) of this order. These safeguards will decrease the spread of COVID-19, which will decrease worker absence, reduce labor costs, and improve the efficiency of contractors and subcontractors at sites where they are performing work for the Federal Government. Accordingly, ensuring that Federal contractors and subcontractors are adequately protected from COVID-19 will bolster economy and efficiency in Federal procurement.

SEC. 2. *Providing for Adequate COVID-19 Safety Protocols for Federal Contractors and Subcontractors.* (a) Executive departments and agencies, including independent establishments subject to the Federal Property and Administrative Services Act, 40 U.S.C. 102(4)(A) (agencies), shall, to the extent permitted by law, ensure that contracts and contract-like instruments (as described in section 5(a) of this order) include a clause that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance or Guidance), provided that the Director of the Office of Management and Budget (Director) approves the Task Force Guidance and determines that the Guidance, if adhered to by con-

tractors or subcontractors, will promote economy and efficiency in Federal contracting. This clause shall apply to any workplace locations (as specified by the Task Force Guidance) in which an individual is working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(b) By September 24, 2021, the Safer Federal Workforce Task Force (Task Force) shall, as part of its issuance of Task Force Guidance, provide definitions of relevant terms for contractors and subcontractors, explanations of protocols required of contractors and subcontractors to comply with workplace safety guidance, and any exceptions to Task Force Guidance that apply to contractor and subcontractor workplace locations and individuals in those locations working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order).

(c) Prior to the Task Force publishing new Guidance related to COVID-19 for contractor or subcontractor workplace locations, including the Guidance developed pursuant to subsection (b) of this section, the Director shall, as an exercise of the delegation of my authority under the Federal Property and Administrative Services Act, see 3 U.S.C. 301, determine whether such Guidance will promote economy and efficiency in Federal contracting if adhered to by Government contractors and subcontractors. Upon an affirmative determination by the Director, the Director's approval of the Guidance, and subsequent issuance of such Guidance by the Task Force, contractors and subcontractors working on or in connection with a Federal Government contract or contract-like instrument (as described in section 5(a) of this order), shall adhere to the requirements of the newly published Guidance, in accordance with the clause described in subsection (a) of this section. The Director shall publish such determination in the Federal Register.

(d) Nothing in this order shall excuse noncompliance with any applicable State law or municipal ordinance establishing more protective safety protocols than those established under this order or with any more protective Federal law, regulation, or agency instructions for contractor or subcontractor employees working at a Federal building or a federally controlled workplace.

(e) For purposes of this order, the term "contract or contract-like instrument" shall have the meaning set forth in the Department of Labor's proposed rule, "Increasing the Minimum Wage for Federal Contractors," 86 FR 38816, 38887 (July 22, 2021). If the Department of Labor issues a final rule relating to that proposed rule, that term shall have the meaning set forth in that final rule.

**SEC. 3. Regulations and Implementation.** (a) The Federal Acquisition Regulatory Council, to the extent permitted by law, shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitations and contracts subject to this order the clause described in section 2(a) of this order, and shall, by October 8, 2021, take initial steps to implement appropriate policy direction to acquisition offices for use of the clause by recommending that agencies exercise their authority under subpart 1.4 of the Federal Acquisition Regulation.

(b) By October 8, 2021, agencies shall take steps, to the extent permitted by law, to exercise any applicable authority to ensure that contracts and contract-like instruments as described in section 5(a) of this order that are not subject to the Federal Acquisition Regulation and that are entered into on or after October 15, 2021, consistent with the effective date of such agency action, include the clause described in section 2(a) of this order.

**SEC. 4. Severability.** If any provision of this order, or the application of any provision of this order to any person or circumstance, is held to be invalid, the remainder of this order and its application to any other person or circumstance shall not be affected thereby.

**SEC. 5. Applicability.** (a) This order shall apply to any new contract; new contract-like instrument; new solicitation for a contract or contract-like instrument; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument, if:

(i) it is a procurement contract or contract-like instrument for services, construction, or a leasehold interest in real property;

(ii) it is a contract or contract-like instrument for services covered by the Service Contract Act, 41 U.S.C. 6701 *et seq.*;

(iii) it is a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR 4.133(b); or

(iv) it is a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public;

(b) This order shall not apply to:

(i) grants;

(ii) contracts, contract-like instruments, or agreements with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 5301 *et seq.*], as amended;

(iii) contracts or subcontracts whose value is equal to or less than the simplified acquisition threshold, as that term is defined in section 2.101 of the Federal Acquisition Regulation;

(iv) employees who perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the Federal Acquisition Regulation; or

(v) subcontracts solely for the provision of products.

**SEC. 6. Effective Date.** (a) Except as provided in subsection (b) of this section, this order is effective immediately and shall apply to new contracts; new contract-like instruments; new solicitations for contracts or contract-like instruments; extensions or renewals of existing contracts or contract-like instruments; and exercises of options on existing contracts or contract-like instruments, as described in section 5(a) of this order, where the relevant contract or contract-like instrument will be entered into, the relevant contract or contract-like instrument will be extended or renewed, or the relevant option will be exercised, on or after:

(i) October 15, 2021, consistent with the effective date for the action taken by the Federal Acquisition Regulatory Council pursuant to section 3(a) of this order; or

(ii) for contracts and contract-like instruments that are not subject to the Federal Acquisition Regulation and where an agency action is taken pursuant to section 3(b) of this order, October 15, 2021, consistent with the effective date for such action.

(b) As an exception to subsection (a) of this section, where agencies have issued a solicitation before the effective date for the relevant action taken pursuant to section 3 of this order and entered into a new contract or contract-like instrument resulting from such solicitation within 30 days of such effective date, such agencies are strongly encouraged to ensure that the safety protocols specified in section 2 of this order are applied in the new contract or contract-like instrument. But if that contract or contract-like instrument term is subsequently extended or renewed, or an option is subsequently exercised under that contract or contract-like instrument, the safety protocols specified in section 2 of this order shall apply to that extension, renewal, or option.

(c) For all existing contracts and contract-like instruments, solicitations issued between the date of this order [Sept. 9, 2021] and the effective dates set forth in this section, and contracts and contract-like instruments entered into between the date of this order and the effective dates set forth in this section, agencies are strongly encouraged, to the extent permitted by law, to ensure that the safety protocols required under those contracts and contract-like instruments are con-

sistent with the requirements specified in section 2 of this order.

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 6301. Authorization requirement

(a) IN GENERAL.—A contract or purchase on behalf of the Federal Government shall not be made unless the contract or purchase is authorized by law or is under an appropriation adequate to its fulfillment.

(b) EXCEPTION.—

(1) DEFINITION.—In this subsection, the term “defined Secretary” means—

(A) the Secretary of Defense; or

(B) the Secretary of Homeland Security with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(2) IN GENERAL.—Subsection (a) does not apply to a contract or purchase made by a defined Secretary for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies.

(3) CURRENT YEAR LIMITATION.—A contract or purchase made by a defined Secretary under this subsection may not exceed the necessities of the current year.

(4) REPORTS.—The defined Secretary shall immediately advise Congress when authority is exercised under this subsection. The defined Secretary shall report quarterly on the estimated obligations incurred pursuant to the authority granted in this subsection.

(c) SPECIAL RULE FOR PURCHASE OF LAND.—Land may not be purchased by the Federal Government unless the purchase is authorized by law.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3803; Pub. L. 111-281, title IX, §903(a)(4), Oct. 15, 2010, 124 Stat. 3010.)

AMENDMENT NOT SHOWN IN TEXT

*Subsecs. (a) and (b) of this section are derived from section 11 of former Title 41, Public Contracts, which was amended by Pub. L. 111-281, title IX, §903(a)(4), Oct. 15, 2010, 124 Stat. 3010, prior to being repealed and reenacted as subsecs. (a) and (b) of this section by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For applicability of that amendment to this section, see section 6(a) of Pub. L. 111-350, set out as a Transitional and Savings Provisions note preceding section 101 of this title. Section 903 of Pub. L. 111-281 provided that, effective with the enactment of Pub. L. 109-241, section 902(c) of Pub. L. 109-241, which amend-*

*ed section 3732 of the Revised Statutes, is amended by inserting in the directory language, “of the United States” after “Revised Statutes”, resulting in no change in text.*

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6301(a) .....	41:11(a) (words before 2nd comma).	R.S. §3732; Pub. L. 89-687, title VI, §612(e), Oct. 15, 1966, 80 Stat. 993; Pub. L. 98-557, §17(e)(1), (2), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 104-106, div. D, title XLIII, §4322(b)(4), Feb. 10, 1996, 110 Stat. 677; Pub. L. 109-241, title IX, §902(c), July 11, 2006, 120 Stat. 566.
6301(b) .....	41:11(a) (words after 2nd comma), (b).	
6301(c) .....	41:14.	R.S. §3736.

In subsection (b)(1)(A), the words “Secretary of Defense” are substituted for “Department of Defense” because of 10:113.

In subsection (b)(1)(B), the words “Secretary of Homeland Security” are substituted for “Department of Homeland Security” because of section 102(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)(2)).

§ 6302. Contracts for fuel made by Secretary of the Army

The Secretary of the Army, when the Secretary believes it is in the interest of the United States, may enter into contracts and incur obligations for fuel in sufficient quantities to meet the requirements for one year without regard to the current fiscal year. Amounts appropriated for the fiscal year in which the contract is made or amounts appropriated or which may be appropriated for the following fiscal year may be used to pay for supplies delivered under a contract made pursuant to this section.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6302 .....	41:11a.	June 30, 1921, ch. 33, §1 (last proviso on p. 78), 42 Stat. 78.

The words “Secretary of the Army” are substituted for “Secretary of War” because of section 205(a) of the National Security Act of 1947 (ch. 343, 61 Stat. 501). Section 205(a) was repealed by section 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 676). Section 1 of the Act of August 10, 1956 (70A Stat. 1) enacted Title 10, “Armed Forces”, and under sections 3011 to 3013 of title 10, the Department of the Army remains under the administrative supervision of the Secretary of the Army.

§ 6303. Certain contracts limited to appropriated amounts

A contract to erect, repair, or furnish a public building, or to make any public improvement, shall not be made on terms requiring the Federal Government to pay more than the amount specifically appropriated for the activity covered by the contract.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3804.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
6303 .....	41:12.	R.S. §3733.