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Federal Contractor Minimum Wage Yo-Yo's Again

In 2014, President Obama raised the minimum wage applicable to federal contractors to \$10.00 per hour, indexed annually for inflation. In 2022, President Biden again raised the minimum wage for federal contractors to \$15.00 per hour, also indexed for inflation.

In March of last year, the Trump administration issued an Executive Order revoking the Biden minimum wage hike, but was silent on its impact on the Obama 2014 raise. Confusion ensued among federal contractors. Was the federal contractor minimum wage eliminated entirely or did the Obama hike (to \$10.00 per hour, indexed) survive?

On February 9th, the Department of Labor issued a Notice – announcing that the minimum wage for federal contractors would be \$13.65. This new minimum is set to take effect in 90 days.

More importantly, DOL clarified its position on the prior Executive Orders: “At this time, [the Obama raise] remains in effect and generally applies to contracts . . . awarded between January 1, 2015, and January 29, 2022, and not renewed or extended on or after January 30, 2022.” Therefore, under DOL’s view, the Obama minimum wage survived, but would not apply to contracts awarded or renewed after January 29, 2022.

Critically, DOL issued this interpretation as a Notice, not through formal agency rulemaking. If the courts later decide that the Department’s interpretation is incorrect, contractors which use a lower minimum wage for contracts awarded after January 29, 2022 may be on the hook for the difference.

If you have any questions or would like additional information, please contact Al Vreeland at (205) 323-9266 or avreeland@lehrmiddlebrooks.com.