



## **CLASS DEVIATION FROM THE FEDERAL ACQUISITION REGULATION**

### **Determination and Findings**

In accordance with Civilian Agency Acquisition Council (CAAC) Letter 2024-01, "CAAC Consultation to Issue a Class Deviation From the Federal Acquisition Regulation (FAR) Regarding Legal Challenges to Executive Order 14026, Increasing the Minimum Wage for Federal Contractors," the Department of Commerce is authorizing a class deviation regarding a September 26, 2023 court order in litigation challenging Executive Order (E.O.) 14026, Increasing the Minimum Wage for Federal Contractors.

### **Findings**

- On April 27, 2021, President Biden signed E.O. 14026, Increasing the Minimum Wage for Federal Contractors. See 86 FR 22835 (Apr. 30, 2021). This E.O. directed federal agencies to enter into or renew covered contracts only with entities paying their employees at or above a specified minimum wage. On January 1, 2023, that wage was increased from \$15 to \$16.20 through an inflation adjustment. See 87 FR 59464 (Sept. 30, 2022).
- On November 24, 2021, the Department of Labor (DOL) Wage and Hour Division published a final rule implementing E.O. 14026, which added a new 29 CFR part 23. See 86 FR 67126 (Nov. 24, 2021).
- On January 26, 2022, DoD, GSA, and NASA published an interim rule amending the Federal Acquisition Regulation (FAR) to implement E.O. 14026 and the DOL implementing regulations through FAR clause 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026. See 87 FR 4117 (Jan. 26, 2022).
- On September 26, 2023, the U.S. District Court for the Southern District of Texas enjoined President Biden and the DOL from enforcing E.O. 14026 or the DOL Final Rule against the States of Texas, Louisiana, and Mississippi and their agencies. The injunction does not apply geographically to all contractors or contracts within those three states; rather, it applies only to these three states and their agencies as parties to federal contracts, regardless of the place of performance. The injunction became effective on October 4, 2023.
- Contracting officers are provided deviated language for FAR clause 52.222-55 (Oct 2023) to implement the court order.

### **Determination**

In accordance with FAR 1.404, I hereby authorize this class deviation. The areas of the FAR that are affected by this class deviation are FAR 52.222-55.

This class deviation will remain in effect until rescinded or incorporated into the FAR.

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Approved:  
Olivia J. Bradley  
Senior Procurement Executive and  
Director for Acquisition Management

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Date: