



DCUC
DEFENSE CREDIT UNION COUNCIL

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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

Re: Comments on Proposed Rule on Establishing a Minimum Wage for Contractors
86 FR 38816
Docket Number: WHD-2021-0004

On behalf of America's 181 Defense Credit Unions and over 30 million members, I am writing to express our concerns regarding the proposed rule on establishing a minimum wage for contractors which was signed by President Biden via Executive Order 14026. While we applaud the intent behind the rule, we remain concerned with the unintended consequences that are often overlooked. The Defense Credit Union Council advocates for all defense credit unions located on every United States military installation around the world and champions the financial safety and inclusion of our military members as our top advocacy goal.

Credit unions fulfill a vital role in the military community. In fact, their focus on the servicemember is evident throughout the military lifecycle. Whether it involves opening a checking account, obtaining low-interest credit, or learning how to properly save for retirement—defense credit unions proudly serve their communities while protecting against financial predators outside the gate.

In addition to member support, defense credit unions also manage the Department of Defense's (DoD) substantial cash requirements without charge, enabling immediate expeditionary support. Defense credit unions are also asked to assume responsibilities for the government's daily deposits into the Treasury General Account, such as commissary, post exchange and MWR activities. This cannot be done via a mobile device. Plus, unlike other financial institutions, defense credit unions do this on a not-for-profit basis so they can focus on member service versus increasing shareholder wealth.

Unlike federal defense contractors, credit unions provide their services free of charge as part of their operating agreement with the installation commander. This means credit unions cannot factor in government mandated costs into their pricing model. Credit unions are also required to provide free financial readiness training, additional ATMs, and manning at deployment lines free of charge. There is no "fixed fee" or "cost plus fixed fee" model where government mandated costs are subsidized by the taxpayer. Instead, credit unions must find other ways to cover any cost increases. This could lead to unintended consequences, such as cuts in service to their communities or not being able to provide their members better rates on loans and savings.

Another concern is rising costs of hiring and retaining regulatory and compliance staff. This affects all credit unions as the cost of doing business remains exorbitantly high. Yet, when lawmakers and regulators add new rules it disproportionately impacts smaller credit unions. In fact, regulatory burden is

accelerating at small credit unions faster than the rest of the industry. Between 2016 and 2018, the cost of regulations for small credit unions climbed 5% to \$814 million, according to Cornerstone Advisors. For the rest of the credit union industry, the cost rose by roughly 2%.

Regulatory costs as a percentage of average assets at small credit unions totaled 73 basis points in 2018, compared with 47 basis points for the rest of the industry. Additionally, in 2018 return on assets (ROA) for small credit unions came in at 60 basis points. In other words, regulatory costs were 25% higher than their ROA.

Plus, defense credit unions, apart from the rest of the industry, must also comply with highly restrictive DoD regulations along with added Servicemembers Civil Relief Act (SCRA) and Military Lending Act (MLA) restrictions since a larger percentage of their members are covered by these regulations. Adding a federal minimum wage regulation is another burden that alters the level and type of service provided to our military.

Finally, defense credit unions do not meet the legal definition of a federal contractor. Operating agreements are not contracts and are not subject to Federal Acquisition Regulations or any other external laws or regulations affecting the procurement of goods and services. Defense credit unions are also not concessionaires for purposes of the proposed rule. They are not-for-profit entities operating on the installation and provide cash for expeditionary operations and management of the Treasury General Account for free while serving the financial needs of the servicemembers and their families.

Our recommendation for the proposed rule is to offer an exception for defense credit unions located on military installations since they are not legally federal contractors and must balance their business expenses, unlike contractors who will simply bill the government for these increased expenses. Credit unions offer competitive wages in order to maintain a level of service within our not-for-profit ethos. Our member credit unions take great pride in the services and programs offered to our military. It is a vital role and one credit unions have cherished for over 100 years.

Thank you for your consideration into these matters. If there is anything more we can do to provide additional information on this proposed rule, please let us know. My office can be reached at (202) 734-5007 or at ahernandez@dcuc.org.

Sincerely,



Anthony R. Hernandez