

ALERT

"Modernizing Defense Acquisition" EO Directs "Comprehensive Overhaul" of DOD Acquisition System

April 11, 2025

WHAT: The Trump Administration issued an Executive Order (EO) to kick off a "comprehensive overhaul" of the U.S. Department of Defense (DOD) acquisition system, aiming to "rapidly reform" acquisition processes with an emphasis on "speed, flexibility, and execution" as a means of accelerating procurement and revitalizing the defense industrial base. The EO also calls for modernization of the "duties and composition of the defense acquisition workforce" by incentivizing and rewarding "risk-taking and innovation from these personnel." Entitled "Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base," the EO outlines actions to reform the acquisition process and workforce; review internal regulations; and review major defense acquisition programs.

WHEN: President Trump issued the EO on April 9, 2025. Within 60 days of the EO (June 8, 2025), the Secretary of Defense is required to submit to the President a plan to reform DOD acquisition processes. Within 90 days of the EO (July 8, 2025), the Secretary of Defense is required to complete a review of all major defense acquisition programs (MDAPs) and provide a listing of all MDAP contracts and their "performance against original and approved Government cost estimates" to the Director of the Office of Management and Budget (OMB). Within 120 days of the EO (August 7, 2025), the Secretary is required to develop and submit to the President a plan to "reform, right-size, and train the acquisition workforce" to incentivize use of innovative acquisition authorities and measured and calculated risk-taking.

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WHAT IT MEANS FOR INDUSTRY: The EO is just the latest action by the Trump Administration seeking to eliminate perceived waste and inefficiency in federal procurement, accelerate the acquisition process, and draw upon commercial practices.

Reforming the Acquisition Process

The EO directs the Secretary of Defense to develop a plan to reform DOD's acquisition processes within 60 days. To the maximum extent possible, the plan must include the use of existing authorities to expedite acquisitions, notably to include a "first preference" for commercial solutions and a "general preference" for Other Transactions Authority, application of Rapid Capabilities Office policies, and other pathways to promote streamlined acquisitions under the Adaptive Acquisition Framework, described in DODI 5000.02. "Commercial solutions" refer generally to FAR Part 12, DFARS subparts 212.2 and 212.70, Commercial Solutions Openings, and "other industry solutions funded by private investment that meet military needs." The EO requires the Secretary, from the date of issuance of the EO, to prioritize the use of these authorities in all currently pending contract actions and to require their use when possible in all contract actions during the 60-day period for development of the Secretary's reform plan. The acquisition reform plan must also include a detailed process review of each functional support role within the acquisition workforce to "eliminate unnecessary tasks, reduce duplicative approvals, and centralize decision-making." These reviews should include "evaluations" of particular acquisition workforce professionals, such as program managers, contracting officers, engineering authorities, financial managers, cost estimators, and logisticians, and creation of a Configuration Steering Board for senior acquisition personnel to manage risk for all acquisitions.

The EO also directs the Secretary to review and propose revisions to DOD's acquisition guidance and regulations in order to "[e]liminate or revise any unnecessary supplemental regulations or any other internal guidance." The EO specifically calls out the Financial Management Regulation and DFARS for potential review and revision, noting that any new regulations and guidance will be subject to the "ten-for-one" rule described in EO 14192, "Unleashing Prosperity Through Deregulation" (January 31, 2025). The EO does not set a specific time frame for implementing these revisions to acquisition guidance and regulations, nor does it direct that any revisions to the DFARS be subject to notice-and-comment rulemaking. Of note, and also on April 9, the President issued two EOs aimed at further deregulation - "Directing Repeal of Unlawful Regulations" and "Reducing Anti-Competitive Regulatory Barriers" - which should also guide the Secretary's review.

Scrutinizing Major Defense Programs and Systems

The EO further directs the Secretary to lead a "comprehensive review of all major defense acquisition programs (MDAPs)" to determine whether those programs are consistent with the EO's policy objectives. Any MDAP that the review determines to be more than 15% behind schedule or over cost, "unable to meet any key performance parameters," or otherwise "unaligned with the Secretary of Defense's mission priorities" will be considered for potential cancellation. Additionally, the Secretary must provide OMB a list of all MDAP contracts and their "performance against original and approved Government cost estimates." Upon completion of the MDAP review, the Secretary is to provide the Director of OMB with another plan, this one for reviewing all "major systems" that are not MDAPs.

Reforming the Acquisition Workforce

The EO also directs reforms related to the acquisition workforce. To that end, DOD must submit a plan to the President "to reform, right-size, and train the acquisition workforce" by: (i) restructuring performance metrics to focus on first consideration of commercial solutions, adaptive acquisition pathways, and iterative requirements based on the perspective of the end user; (ii) analyzing staffing levels required to "develop, deliver, and sustain warfighting capabilities"; (iii) establishing "field training teams" with expertise in innovative acquisition authorities and commercial solutions to provide guidance, templates, case studies of successful approaches to innovative acquisitions, and other assistance to acquisition personnel; and (iv) developing and implementing policies and procedures to incentivize using innovative acquisition authorities and taking "measured and calculated risks."

Key Takeaways

Consistent with DOD's recent memo on software development procurements (which we covered here), this EO focuses heavily on commercial solutions and adaptive acquisition pathways such as Other Transaction Agreements (OTAs). Contractors should expect DOD to maximize its use of existing authorities for those types of procurements and to seek changes to regulations and internal guidance to expand their use even further. By coupling these efforts with acquisition workforce changes that tie performance evaluations to the use of innovative procurement processes, the EO is attempting to ensure rapid and comprehensive change in the way DOD conducts procurements and maximize reliance on commercial practices.

The full extent of the EO's impact on defense contractors remains to be determined, but a widespread redirection to FAR Part 12 and DFARS Part 212 commercial products and services contracts and OTAs could upend the current defense contracting landscape. Contractors should be prepared to adjust their own capture strategies, processes, and procedures accordingly. And as with all of the Administration's efforts to reduce and reform regulations, the DOD's regulatory review provides an opportunity for contractors to weigh in on what the "future state" of the DFARS should be. Although unrelated to this EO, there are breadcrumbs of an effort to "overhaul" the FAR as well, but the website announcing that overhaul is currently not accessible.

Wiley's Government Contracts Practice will continue to monitor these developments and update contractors as the Trump Administration moves forward with its acquisition reform and deregulation efforts.

To stay informed on all the directives and announcements from the Trump Administration, please visit our dedicated resource center below.

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