

President Trump's EO Makes Fixed-Price Contracts the Default Procurement Method

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WHAT: On April 30, 2026, the Trump Administration issued an Executive Order (EO) establishing a firmer “default” preference for fixed-price contracts. The EO, titled “Promoting Efficiency, Accountability, and Performance in Federal Contracting,” declares it “the policy of [the] Administration that fixed-price contracts with performance-based considerations should serve as the default and preferred method of procurement.” The EO allows agencies to continue using “non-fixed-price contracts,” but if the value exceeds certain thresholds, the agency head, or a “non-career employee” designated by the agency head, must personally approve the contract type.

The EO defines fixed-price contracts as either (a) “fixed-price contracts as defined in Part 16 of the Federal Acquisition Regulation, codified at title 48, Code of Federal Regulations,” or (b) “contracts that tie profit to performance-based metrics when appropriate.” This first definition would exclude popular contract types that have fixed rates, such as time-and-materials and labor-hour contracts. See FAR 16.201(b). But the latter definition is more interesting because it could be read as including some forms of cost-reimbursement contracts if they include a performance-based incentive, such as an award fee. FAR 16.305.

The EO includes only two exceptions: (1) contracts that “support response to an emergency, major disaster, or contingency operation as defined in Part 2 of the Federal Acquisition Regulation,” and (2) contracts that “involve research and development or pre-production development for major systems acquisition, as governed by Parts 34-35 of the Federal Acquisition Regulation.”

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WHEN: The EO takes aim at both existing contracts and future contract awards. For existing contracts, the EO requires each agency head, within 90 days, to “review and, to the maximum extent practicable and consistent with law, seek to modify, restructure, or renegotiate its 10 largest non-fixed-price contracts by dollar value ... to facilitate use of fixed prices and performance-based incentives for contract deliverables to the maximum extent practicable.” The EO does not preview how agencies might attempt to persuade contractors to agree to change the contract type.

For future contracts, the EO contemplates class deviations (immediately), implementation guidance from OMB (within 45 days), proposed regulations from the FAR Council (within 120 days), and training developed jointly by the Administrator for Federal Procurement Policy, Defense Acquisition University, and the Federal Acquisition Institute.

WHAT IT MEANS FOR INDUSTRY: The basic principle behind this EO is well-settled: The Government should strive to use fixed-price contracts where it reasonably can. The challenge, however, has long lain in where to draw the line because many government procurements do not lend themselves to fixed prices. And forcing a fixed price can ultimately lead to higher costs as some suppliers price ever-expanding contingencies and others avoid the risks altogether, which reduces competition.

The new twist here is that this EO divests career acquisition professionals from the ability to make these judgment calls. Instead, the EO requires “non-career employees” identified by each agency head to personally approve any non-fixed-price contract. That strong default preference, paired with the restricted approval authority, will likely, at least in some cases, lead to agencies insisting on fixed-price contracts even when a different contract type would be in both parties’ best interests.

Wiley’s Government Contracts Practice will continue to track implementation of the EO and related regulatory developments.