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ALERT

What Contractors and Grantees Need to Know About President Trump's Day 1 Executive Orders

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President Trump issued several Executive Orders (EOs) on January 20, his first day in office, that will impact pending, current, and future contracts and grants. Many of his initial EOs are generally applicable across government agencies, but they will have specific impacts on federal, state, and local awardees (contractors and grant recipients) that support government programs. Many are also reversals from the previous Administration's EOs, including several policy reversals that we have come to expect over the past few decades whenever the party that controls the White House changes. Below is a brief summary of the Day 1 EOs that contractors and grantees will need to closely analyze and watch over the coming weeks as agencies begin implementation.

President Trump is continuing to issue EOs at a rapid pace, and many of those will impact government contractors and grant recipients. For example, President Trump on January 21 (Day 2) issued an EO on "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," which among other actions rescinds EO 11246, "Equal Employment Opportunity" – a significant change to a procurement policy that has been in place for nearly 60 years. Wiley will provide additional analysis of that EO and others affecting contractors and grant recipients in the coming days and weeks.

- "Terminating The Green New Deal": The President's EO on "Unleashing American Energy" is intended to promote domestic energy and natural resource production and ultimately lower energy costs. Two sections of this EO expressly refer to expectations for contracts and other agreements. First,

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Practice Areas

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Section 4 rescinds 12 Biden Administration EOs related to climate policies and abolishes all entities or programs established under those EOs. It announces that "any contract or agreement" executed under the programs established by to those EOs "shall be terminated for convenience, or otherwise, as quickly as permissible under the law." Section 4 also announces that "all activities, programs, and operations associated with the American Climate Corps, including actions taken by any agency shall be terminated immediately." Second, Section 7, "Terminating the Green New Deal," pauses disbursement of all funds appropriated under the Inflation Reduction Act (IRA) and Infrastructure Investment and Jobs Act (IIJA) and directs agencies to "review their processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds." The impact on existing awards will likely involve a case-by-case review by the awarding agencies. On January 21, OMB issued a memorandum entitled "Guidance Regarding Section 7 of the Executive Order Unleashing American Energy" (M-25-11) clarifying that this "pause" is limited to "funds supporting programs, projects, or activities that may be implicated by the policy established in Section 2 of the order" (*i.e.,* clean energy-related projects), and should not apply to other types of infrastructure projects funded by the IRA or IIJA. The impact on affected projects will likely require a case-by-case review of the affected awards by the awarding agencies.

- "Establishing and Implementing the President's 'Department of Government Efficiency'": One of the more eagerly anticipated actions within the contracting community is the EO establishing the Department of Government Efficiency (DOGE). While earlier reports suggested that DOGE would be tasked with slashing some $2 trillion in federal spending, the EO establishing DOGE suggests a more modest goal of "modernizing Federal technology and software to maximize governmental efficiency and productivity." To carry out its mandate, Section 3 of the EO establishes DOGE by: renaming the United States Digital Service to the United States DOGE Service (USDS); creating the "U.S. DOGE Service Temporary Organization" within the USDS, which will terminate on July 4, 2026; creating the position of USDS Administrator within the Executive Office of the President; and requiring all Executive agencies to establish a "DOGE Team" of at least four employees or special government employees – typically made up of one DOGE Team Lead, one engineer, one human resources specialist, and one attorney – to "coordinate their work with USDS and advise their respective Agency Heads on implementing the President's DOGE Agenda." Section 4 also announces that the "USDS Administrator shall commence a Software Modernization Initiative" to "improve the quality and efficiency of government-wide software, network infrastructure, and information technology (IT) systems."
- "America First Trade Policy": This memorandum announces a new U.S. trade policy that "promotes investment and productivity, enhances our Nation's industrial and technological advantages, defends our economic and national security, and ... benefits American workers, manufacturers, farmers, ranchers, entrepreneurs, and businesses." Section 2(k) of the memorandum directs several agencies to undertake various reviews and investigations to implement the new trade policy. Of particular interest to the contractor community, this memorandum directs the U.S. Trade Representative to (1) "review the impact of all trade agreements ... on the volume of Federal procurement" covered by the Buy American and Hire American Executive Order (EO 13788) enacted during the first Trump Administration, (2) "make recommendations to ensure that such agreements are being implemented in a manner that favors

domestic workers and manufacturers, not foreign nations," and (3) specifically review the impact of the World Trade Organization Agreement on government procurement. The results of these reviews could impact preferences given to domestic entities in future procurements, as well as continued preferences for products and services covered by the Trade Agreements Act (TAA). More on this memorandum can be found here.

- "Ending Radical and Wasteful Government DEI Programs and Preferencing": This EO announces the termination of both "diversity, equity, and inclusion" (DEI) and "environmental justice" programs "to the maximum extent allowed by law." Section 2(b) of the EO directs agencies to terminate all "equity-related" grants or contracts, as well as DEI performance requirements for employees, contractors, or grantees. Section 2(b) also directs each agency to provide the Director of the Office of Management and Budget (OMB) with a list of all federal contractors that have provided DEI training or DEI training materials to agency or department employees and all federal grantees that received federal funding to provide or advance DEI or "environmental justice" programs. It also requires agencies to provide recommendations on actions to align "programs, activities, policies, regulations, guidance, employment practices, enforcement activities, contracts (including set-asides), grants, consent orders, and litigating positions with the policy." These changes may result in the termination of contracts or grants determined to be "equity-related" and could impact acquisition planning and solicitation evaluation criteria for future awards.
- "Gender Ideology": This EO announces that federal policies and language will recognize that there are only two sexes, male and female, and that sexes are not changeable. Section 3 of the EO updates several federal definitions related to sex and gender, and Section 7 rescinds prior EOs and guidance documents related to sex and gender that are inconsistent with the requirements of this EO. Section 7 also directs each agency head to submit an update to the OMB Director on the implementation of the EO within 90 days, and address "agency-imposed requirements on federally funded entities, including contractors, to achieve the policy of this order." Contractors will likely be expected to align their own policies with this EO for current and future procurements.
- "Hiring Freeze": This EO freezes all hiring of federal civilian employees throughout the Executive branch departments and agencies "regardless of their sources of operational and programmatic funding." It expressly prohibits using contractors to circumvent the hiring freeze. Within 90 days of the EO, the OMB Director "shall submit a plan to reduce the size of the Federal Government's workforce through efficiency improvements and attrition." After the plan is submitted, the freeze shall expire for all agencies except for the IRS. The IRS freeze shall remain in effect until the Treasury Secretary "determines that it is in the national interest to lift the freeze."
- "Return to In-Person Work": This EO directs the heads "of all departments and agencies in the executive branch of Government" to "take all necessary steps to terminate remote work arrangements and require employees to return to work in-person at their respective duty stations on a full-time basis." It is unclear at this time whether this EO applies to contractors and their employees, or what future impact this will have on the performance of ongoing contracts.

IMPACT: The true impact of these EOs will not be immediately known until agencies begin implementing their mandates and issuing new rules, especially those that require the agency to study an issue. Wiley is continuing to monitor these EOs and agency implementation actions, and stands ready to advise contractors and grant recipients on any necessary steps.

Jack Raineri, a Law Clerk in the Government Contracts practice, contributed to this alert.

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Wiley's Trump Administration Resource Center