

President Trump's executive orders may impact federal contractors, grant recipients

By Kayleigh Scalzo, Esq., Jay Carey, Esq., Peter Terenzio, Esq., and Ethan Syster, Esq.,
Covington & Burling LLP*

FEBRUARY 6, 2025

In his first few days in office, President Trump issued several executive orders ("EOs") and memoranda, many of which may have implications for federal contractors and grant recipients, including the following:

General policy and regulatory reversal

Initial Recissions of Harmful Executive Orders and Actions EO (<https://bit.ly/4aQYaL2>)

Revokes dozens of Biden administration EOs, including, among others:

- EO 14057 (Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, <https://bit.ly/4gloT3f>), which directed various changes to federal procurement to promote green technology.
- EO 14110 (Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, <https://bit.ly/4himYOn>), which established a comprehensive strategy to support the development of safe and secure artificial intelligence (AI) and has been covered extensively on the Inside Government Contracts blog (<https://bit.ly/4hKmD6Z>).
- EO 14055 (Nondisplacement of Qualified Workers Under Service Contracts, <https://bit.ly/3Q0402W>), which required federal contractors on Service Contract Act (SCA)-covered successor contracts to offer jobs to qualified employees employed under the predecessor contract.
- EO 14008 (Tackling the Climate Crisis at Home and Abroad, <https://bit.ly/3WJLSOC>), which directed agencies to pursue environmental goals through procurement policies.
- EO 14030 (Climate-Related Financial Risk, <https://bit.ly/3uPcgYT>), which directed the FAR Council to consider amending the FAR to require disclosure of greenhouse gas emissions and climate-related financial risk.
- EO 14052 (Implementation of the Infrastructure Investment and Jobs Act, <https://bit.ly/3Q2TaJC>), which established an Infrastructure Implementation Task Force to implement the Infrastructure Investment and Jobs Act (IIJA).

- EO 13985 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, <https://bit.ly/3Q0NAHt>), which directed agency heads to review and report on potential barriers to full and equal participation in agency procurement and contracting opportunities.
- EO 14069 (Advancing Economy, Efficiency, and Effectiveness in Federal Contracting by Promoting Pay Equity and Transparency, <https://bit.ly/3EgfmNB>), which directed the FAR Council to consider issuing proposed rules regarding pay transparency for federal contractors.
- EO 14082 (Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022, <https://bit.ly/4hDy6ol>), which established implementation priorities and interagency coordination for the energy and infrastructure provisions of the Inflation Reduction Act (IRA).
- EO 14091 (Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, <https://bit.ly/4hk6lFT>), which established a government-wide goal of 15 percent of federal procurement dollars awarded to small business concerns owned and controlled by socially and economically disadvantaged individuals in Fiscal Year 2025.
- EO 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, <https://bit.ly/4hjP4sp>), which directed agencies to ensure all programs or activities receiving Federal financial assistance "that potentially affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, policies, practices, or methods of administration that discriminate on the basis of race, color, or national origin."

Regulatory Freeze Pending Review EO (<https://bit.ly/4gf2zlx>)

Orders all executive departments and agencies to not propose or issue any rules until a department or agency head appointed or designated by the President after Noon on January 20, 2025 reviews and approves the rule.

Further orders immediate withdrawal of any rules that have been sent to the Office of the Federal Register (OFR) but have not

been published in the Federal Register so that such rules may be reviewed pursuant to the EO.

DEI

Ending Radical And Wasteful Government DEI Programs And Preferencing EO (<https://bit.ly/4hHBuiA>)

Orders Director of Office of Management and Budget (OMB), Attorney General (AG), and Director of Office of Personnel Management (OPM) to “coordinate the termination of all discriminatory programs, including ‘illegal DEI’ and ‘diversity, equity, inclusion, and accessibility’ (DEIA) mandates, policies, programs, preferences, and activities in the Federal Government, under whatever name they appear.”

One of President Trump’s executive orders requires agencies to immediately pause new obligations and disbursements of development assistance funds to foreign countries.

OPM immediately issued a memo (<https://bit.ly/4hDCi7W>) to all federal agencies to provide initial guidance regarding this portion of the EO. This includes a directive that each agency terminate, to the maximum extent allowed by law, all “equity-related” grants or contracts and that each agency provide a list of “[f]ederal grantees who received Federal funding to provide or advance DEI, DEIA, or ‘environmental justice’ programs, services, or activities since January 20, 2021 to the Director of the OMB.”

Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government EO (<https://bit.ly/4hhmsjC>)

Defines sex as an “immutable biological classification.” All federal agencies “shall enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes.” Federal funds “shall not be used to promote gender ideology,” including pursuant to federal grants.

Ending Illegal Discrimination and Restoring Merit-Based Opportunity EO (<https://bit.ly/4gnerIB>)

Revokes several previous EOs, including EO 11246 (Equal Employment Opportunity), which prohibited contractors from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin and required contractors to take affirmative action to ensure equal opportunity in all aspects of employment.

Requires agency heads to include two terms in every contract or grant award: (1) “requiring the contractual counterparty or grant recipient to agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the

government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code;” and (2) “requiring such counterparty or recipient to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.”

Further, directs OMB, with the assistance of the AG to “[t]erminate all ‘diversity,’ ‘equity,’ ‘equitable decision-making,’ ‘equitable deployment of financial and technical assistance,’ ‘advancing equity,’ and like mandates, requirements, programs, or activities, as appropriate.” Covington has published a more detailed client alert (<https://bit.ly/3WMgdfn>) discussing this EO specifically.

Energy, trade and foreign aid

Unleashing American Energy EO (<https://bit.ly/3PZTGvR>)

Section 2 announces changes in federal energy policy, including with regards to energy exploration and electric vehicles (EVs).

Section 7 requires all agencies to immediately “pause” the “disbursement” of funds appropriated under the IRA and IJJA, pending a review by OMB and the National Economic Council (NEC) to determine whether the processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds are consistent with the revised policy advanced in Section 2.

OMB has since clarified (<https://bit.ly/4grr19Z>) that the immediate pause on disbursement of funds “only applies to funds supporting programs, projects, or activities that may be implicated by the policy established in Section 2 of the order.”

America First Trade Policy Memorandum (<https://bit.ly/4alpqv0>)

Instructs various agencies and officials to review, investigate, and take action with respect to specific trade issues, and to submit reports of their findings to the President by April 2025.

President Trump issued an executive order that requires the USDS Administrator to start a “Software Modernization Initiative” to improve government-wide software and information technology systems.

For example, the EO directs the U.S. Trade Representative (USTR), in consultation with Senior Counselor for Trade & Manufacturing to review the impact of government procurement commitments in trade agreements (including the World Trade Organization Government Procurement Agreement (WTO GPA)) on the volume of federal government procurement covered by EO 13788 (Buy American and Hire American, <https://bit.ly/4jKnGW2>) and issue recommendations on ensuring these agreements “are being implemented in a manner that favors domestic workers and manufacturers, not foreign nations.”

Also directs OMB to assess and propose guidance, regulations, or legislation to combat any distorting impact of foreign government financial contributions or foreign government subsidies on federal procurement programs.

Reevaluating and Realigning U.S. Foreign Aid EO (<https://bit.ly/4aR1gyE>)

Requires agency heads with responsibility for U.S. foreign development assistance programs to immediately pause new obligations and disbursements of development assistance funds to foreign countries and implementing non-governmental organizations, international organizations, and contractors.

During the same 90-day window, heads will review foreign development assistance programs for alignment with the foreign policy of the U.S. At the end of the 90-day review, agency heads will work with OMB to determine whether to continue, modify, or cease each assistance program.

President Trump's Hiring Freeze EO specifically prohibits "[c]ontracting outside the Federal Government to circumvent the intent of this memorandum."

New obligations and disbursements of foreign development assistance funds may resume for a program prior to the end of the 90-day period if a review is conducted, and the Secretary of State or his designee, in consultation with the Director of OMB, decide to continue the program in the same or modified form.

Additionally, any other new foreign assistance programs and obligations must be approved by the Secretary of State or his designee, in consultation with the Director of OMB.

DOGE and federal workforce

Establishing and Implementing the President's 'Department of Government Efficiency' EO (<https://bit.ly/3E13hXA>)

Establishes Department of Government Efficiency (DOGE) to "moderniz[e] Federal technology and software to maximize governmental efficiency and productivity." Renames the U.S. Digital Service to the U.S. DOGE Service (USDS). Establishes a "temporary organization" known as the "U.S. DOGE Service Temporary Organization."

Requires agency heads, in consultation with the USDS Administrator, to establish a DOGE team of at least four employees. Requires the USDS Administrator to start a "Software Modernization Initiative" to improve government-wide software and information technology (IT) systems, the goal of which is to promote inter-operability between agency networks and systems, data integrity, and responsible data collection.

Restoring Accountability To Policy-Influencing Positions within the Federal Workforce EO (<https://bit.ly/4hHP1qd>)

Reinstates EO 13957 (Creating Schedule F in the Excepted Services, <https://bit.ly/4aOkG75>) with amendments. The original EO was intended to create a "greater degree of appointment flexibility with respect to" federal service employees "than is afforded by the existing competitive service process" by exempting "career positions in the Federal service of a confidential, policy-determining, policy-making, or policy-advocating character" from competitive hiring rules.

Covington's Global Policy Watch blog previously discussed (<https://bit.ly/40H9tkb>) updates on the Trump Administration's approach to civil service protections.

Hiring Freeze EO (<https://bit.ly/4goZrKb>)

Prohibits filling any Federal civilian position that was vacant at Noon on January 20, 2025 or creating new positions. The Order exempts military personnel of the armed forces and positions related to immigration enforcement, national security, or public safety.

Within 90 days, Director of OMB, in consultation with Director of OPM and Administrator of DOGE shall submit a plan to reduce the size of the Federal Government's workforce. Order specifically prohibits "[c]ontracting outside the Federal Government to circumvent the intent of this memorandum."

Return to In-Person Work EO (<https://bit.ly/4hkPO08>)

Directs agency heads to take all necessary steps to terminate remote work arrangements and require Federal executive branch employees to return to work in-person on a full-time basis.

Reforming the Federal Hiring Process and Restoring Merit to Government Service EO (<https://bit.ly/42GMJUa>)

The Assistant to the President for Domestic Policy, the Directors of OMB and OPM and the Administrator of DOGE will create a Federal Hiring Plan focused on government efficiency, preventing hiring based on "race, sex, or religion" and preventing "the hiring of individuals who are unwilling to defend the Constitution or to faithfully serve the Executive Branch."

About the authors



(L-R) **Kayleigh Scalzo**, a partner at **Covington & Burling LLP** and member of its government contracts practice group, represents clients in bid protests and other litigation with the government and private parties. She can be reached at kscalzo@cov.com. **Jay Carey**, a partner and co-chair of the firm's government contracts practice group, focuses on high-value government procurements.

He can be reached at jcarey@cov.com. **Peter Terenzio**, a special counsel and member of the firm's government contracts practice group, advises clients regarding the multiple regulatory regimes that apply to federal contractors. He can be reached at pterenzio@cov.com.

Ethan Syster, an associate and a member of the firm's government contracts practice group, assists clients with the public procurement process. He can be reached at esyster@cov.com. The authors are based in Washington, D.C. This article was originally published Jan. 22, 2025, on the firm's website. Republished with permission.

This article was published on Westlaw Today on February 6, 2025.

* © 2025 Kayleigh Scalzo, Esq., Jay Carey, Esq., Peter Terenzio, Esq., and Ethan Syster, Esq., Covington & Burling LLP

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered, however it may not necessarily have been prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional. For subscription information, please visit legalsolutions.thomsonreuters.com.