



The First 100 Days: Impacts of the Administration's EOs on Government Contractors

Presented by:
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Today's Speakers



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Important Links

- [The BR International Trade Report: April 2025 | Blank Rome LLP](#)
- [Trump Administration Resource Hub | Blank Rome LLP](#)
- [Government Contracts Navigator -](#)

Agenda

- **Diversity, Equity, and Inclusion (DEI) Executive Orders and Related Litigation**
- **Recent Changes to Federal Procurement**
- **Terminations for Convenience**
- **Tariffs**

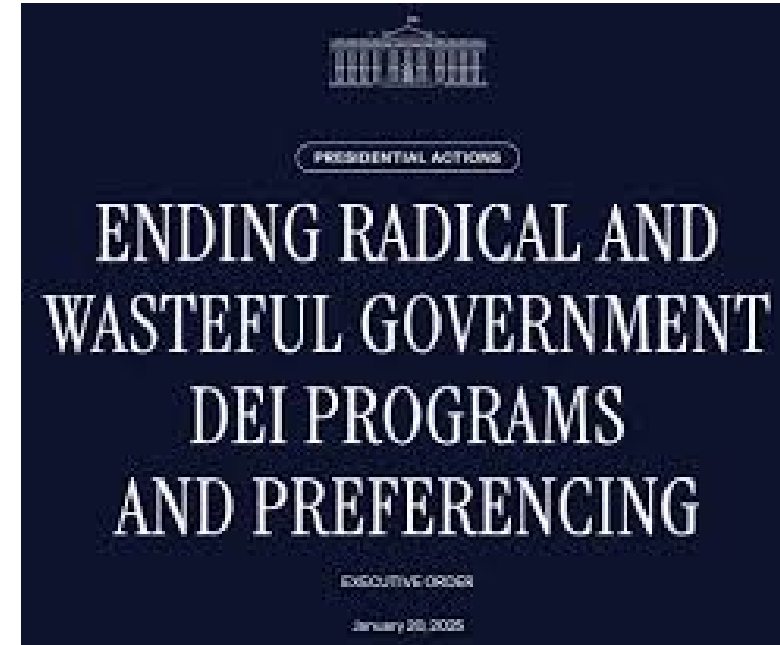
Litigation Update: Executive Orders Related to DEI and Gender Identity

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EO 14151: *Ending Radical And Wasteful Government DEI Programs & Preferencing*

- **Effective: January 20, 2025**
- **Applies To: Federal Agencies**
- Mandates the termination of all DEI programs and DEI-related positions within federal agencies.
- Federal agencies must provide the Office of Management & Budget director with lists of federal contractors who provide DEI training to federal employees and federal grantees who received federal funding to advance DEI or environmental justice programs.



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EO 14173: *Ending Illegal DEI and Restoring Merit Based Opportunity*

- **Effective: January 21, 2025**
- **Applies To: Government Contractors & Private Sector Employers**
- Ended 60 Years Of Affirmative Action Plans For Government Contractors Revoking EO 11246
 - Requires Government Contractors & Award Recipients Comply With New Certifications
 - Directs Federal Agencies, by May 21, 2025, to submit reports identifying companies that have “egregious and discriminatory programs” and to, among other things, identify nine companies to be the subject of potential civil compliance investigations



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Pending Litigation Related to DEI Executive Orders



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EO 14168: *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*

- Effective date: January 20, 2025
- Applies to: Federal agencies and employees (implications for contractors)
- Establishes as US policy that there are two sexes: male and female, determined “at conception” and states that “sexes are not changeable...”



- Federal agencies must use “sex” not “gender;” must take action to comply with the EO’s two-sex only policy
- Sex-segregated spaces such as restrooms, locker rooms, etc. are to be based on biological sex rather than gender identity in federal facilities and the Attorney General is directed to issue guidance on single sex spaces in workplaces more broadly
- Federal systems and identification documents (including passports) are to recognize only “male” and “female” designations

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What Should Contractors Do?

- **Conduct a privileged review of existing policies and procedures.**
 - Evaluate compliance through the lens of the EOs and EEOC guidelines
 - Renew training efforts
- **Centralize requests for contract modification.**
 - Seek to make modification language consistent across contracts
 - Identify point of contact to prepare/review correspondence, questions regarding any ambiguous language
- **Document efforts and understanding**
- **Renew and recommit to compliance procedures**
 - E.g., Hotline
 - Anti-retaliation policies

Federal Procurement Updates

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EO 14265, *Modernizing Defense Acquisitions & Spurring Innovation in the Defense Industrial Base*

- **Effective: April 9, 2025**
- Accelerate defense procurement and modernize acquisition workforce to enhance U.S. military capabilities.
- Overhaul outdated acquisition processes for greater speed, flexibility, and innovation.
- Promote risk-taking.



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What Changes Should Contractors Anticipate?

- More flexibility in contract terms
- Changes in competitions – PWS vs. Objectives
- Fewer barriers to entry for nontraditional contractors
- Fewer cost type contracts, more fixed price
- Protests?

What Should Contractors Do?

- **Engage with innovative acquisition authorities**
 - Familiarize your team with OTAs, etc.
- **Streamline internal processes**
 - Reduce approval layers and centralize decision-making to match gov't expectations
- **Prepare for increased scrutiny**
 - Track performance against cost, schedule, and key performance parameters.
 - Be ready for program reviews and demonstrate alignment with DOD mission priorities.
- **Leverage commercial solutions**
 - Highlight commercial products and services

EO 14271, *Ensuring Commercial, Cost-Effective Solutions in Federal Contracts*



- **Effective: April 16, 2025**
- Enhance efficiency and cost-effectiveness in federal procurement.
- Prioritize use of commercially available products/services.
- Reduce unnecessary gov't spending and avoid custom solutions when commercial options suffice.

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What Should Contractors Do?

- **Increased opportunities for commercial solutions**
 - Highlight how your commercial solution meets gov't needs
- **Emphasis on market research and price analysis**
 - Be prepared by provide detailed information on commercial availability, pricing, and adaptability
- **Heightened scrutiny for custom or non-commercial offerings**
 - Non-commercial proposals will require strong justification and may face additional review.
 - If offering a custom solution, document why commercial alternatives are insufficient and provide robust supporting data.

EO 14275, *Restoring Common Sense to Federal Procurement*

- **Effective April 15, 2025**
- Streamline and simplify to enhance efficiency and reduce regulatory burdens.
- Ensure FAR contains only provisions required by statute or essential for sound procurement, economic, or national security interests.



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What Should Contractors Do?

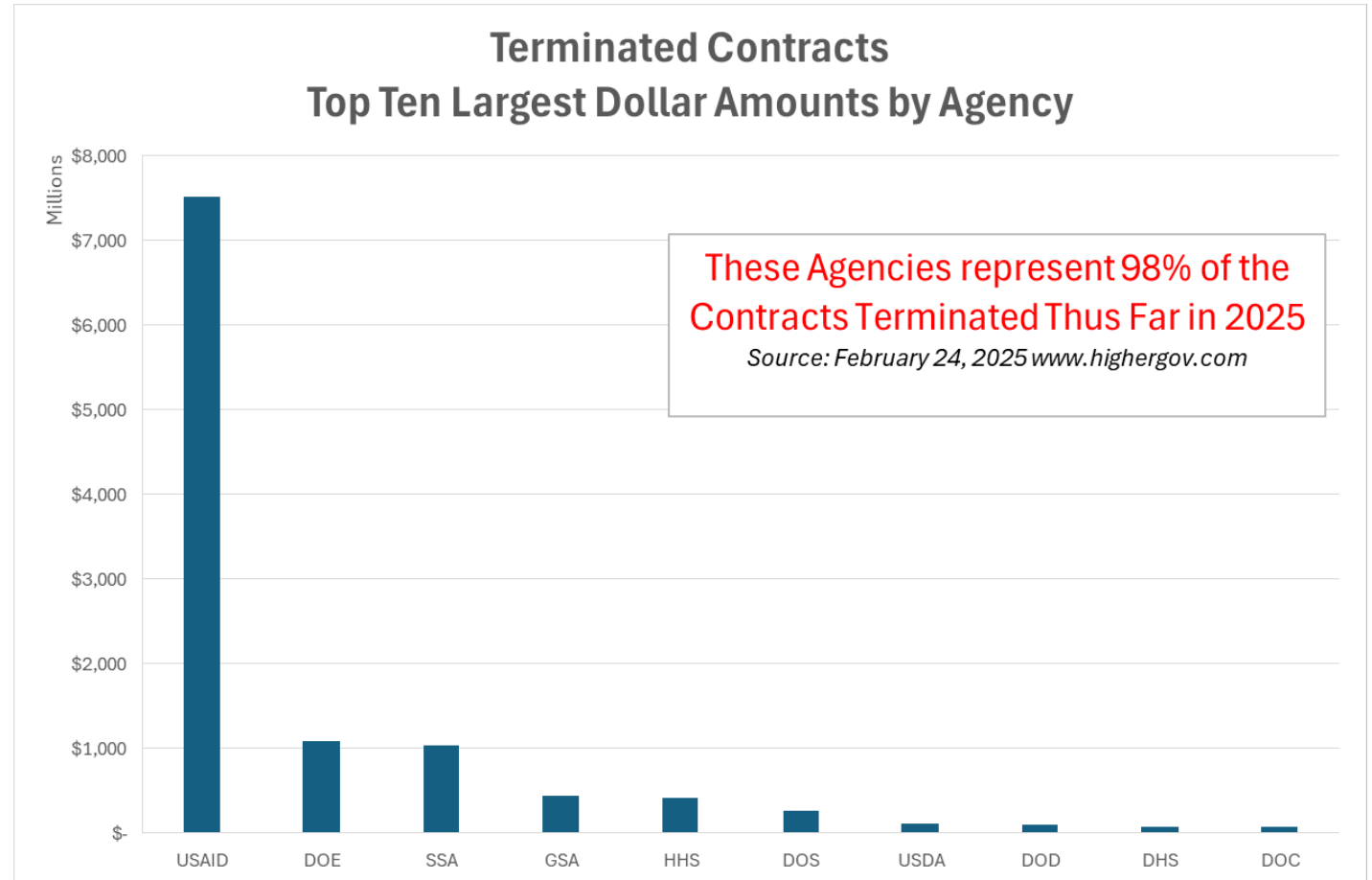
- **Expect changes in procurement processes**
 - Anticipate a leaner, more agile FAR with fewer non-essential requirements.
 - Potentially reduced administrative burdens and compliance costs.
- **Stay informed and engaged**
 - Monitor agency communications and interim guidance
 - Participate in public comments.
- **Potential for increased competition**
 - Simplified rules may lower barriers to entry, increasing competition for contracts.
- **Review your contracts**
 - Identify any non-statutory clauses that could be impacted by the FAR re-write.

Terminations for Convenience

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Terminations as a Result of EOs and DOGE

- Government contracts and grants have been terminated on an unprecedented scale thus far in 2025.
- Pace of spending retrenchment is not anticipated to slow in the near term.
- Thus far, USAID contract terminations dwarf those of other agencies. USAID represents 2/3 of terminations to date.
- Other top agencies impacted by the retrenchment include:
 - Department of Energy
 - Social Security Administration
 - General Services Administration
 - Department of Health & Human Services



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What Should Contractors Do?

- **Determine What's Mission Critical**

- Proactively review award portfolios to identify awards at risk of termination.
 - Perform risk assessment based on EOs and current DOGE cost cutting activities.
 - Update frequently as cost cutting efforts are fast moving and unpredictable.
- “DOGE YOURSELF” - Look for cost optimization areas.
- Forego planned capital outlays or capital investment projects based on risk assessment.

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Termination for Convenience – Recoverable Costs

Indirect and Other Direct Costs	Personnel & Products Costs	Facilities & Equipment	Termination Settlement Costs
Overhead costs. G&A costs. Indirect costs that are charged as direct costs (i.e., supervisory personnel, freight charges, equipment repairs, small tools, travel, telephone, office expenses, quality assurance, engineering, manufacturing management, production control, material control, purchasing, etc.).	Employee compensation that cannot be reasonably discontinued. Severance payments when reasonably required. Costs for items the contractor cannot use or hold without incurring a loss.	Idle facility or idle capacity costs despite unsuccessful efforts to discontinue them, up to a reasonable period of time. Facilities capital cost of money. Unexpired lease costs if a reasonably necessary lease for performance cannot be terminated. Any alterations to leased property.	Reasonable settlement costs. Such costs may include costs incurred internally by the contractor as part of the settlement process and costs of counsel, and costs of outside consultants. In-house personnel should keep time sheets tracking settlement related efforts.
Pre-contract costs, if necessary under the circumstances and Subcontractor claims		Loss of useful value of special tools, machinery, and equipment.	

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Government Audits of TSPs

What the contractor should expect will be audited in a negotiated contract TSP.

- Prime contractor settlement proposals over \$2 million are required to be submitted for audit.
- Agency staff reductions will likely impact the timeliness audits.
- Audits of FAR 15 settlement proposals includes an evaluation of the contractor's accounting and termination policies, practices, and internal controls.

Contract data and supporting files that will be examined as part of a TSP audit:

Price Proposal	Cost Estimates	Bills of Material	Production schedules and Records	Shipping Documents	Purchase Orders
Cost and Profit Forecasts	Audited Financial Statements	Tax Returns	Contract Reporting	Communication with Govt Tech Resources	Managerial Information

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TSP Preparation Best Practices

- Ensure Costs Are Reasonable
- Reject Impractical Proof Requirements
- Claim All Allowable Costs
- Charge Indirect Costs Directly
- Avoid Loss Adjustments
- Submit A Timely Proposal
- Obtain Professional Assistance

Tariffs

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“America First” Trade Policy – Tariffs

- Address “unfair and unbalanced trade”
- Reduce the trade deficit
- Bring back manufacturing and manufacturing jobs to the US
- Address national security concerns
- Raise tax revenue
- Foreign policy (*e.g.*, Venezuela oil tariff)



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Targeted Countries – So Far



- China
- Mexico
- Canada
- April 2, “Liberation Day”:
 - Universal baseline tariffs of 10% effective April 5;
 - Reciprocal tariffs targeting 56 countries + EU;
 - Paused for 90 days as of April 9...
 - Except for China

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Section 232 Tariffs

- Led by the Department of Commerce's Bureau of Industry and Security ("BIS")
- Evaluates national security risks
- President may "adjust imports" (*e.g.*, tariffs or quotas)

Investigated Products	Date Initiated
Copper	March 10, 2025
Timber and Lumber	March 10, 2025
Semiconductors and Semiconductor Manufacturing Equipment	April 1, 2025
Pharmaceuticals and Pharmaceutical Ingredients	April 1, 2025
Trucks	April 22, 2025
Processed Critical Minerals and Derivative Products	April 22, 2025

Tariff Scorecard – Where Are We Today?

China – Section 301 of the Trade Act of 1974, duties now range from 25% to 100%

China – 20% IEEPA tariffs (*i.e.*, fentanyl EOs) + 125% IEEPA (reciprocal) tariffs on all products

Canada – 25% IEEPA tariffs on non-USMCA products (energy 10%, potash 10%)

Mexico – 25% IEEPA tariffs on non-USMCA products (potash 10%)

All countries – 25% Section 232 of the Trade Expansion Act of 1962's Steel and Aluminum tariffs and “derivative” products. Exception to Section 232 duties if derivative made abroad from steel that was “melted and poured” in the U.S. or aluminum that was “smelted and cast” in the U.S.

Most duties are cumulative (stacked), except for those duties carved out in Executive Order 14289. Most products from China are now subject to whopping 145% baseline tariff—with increased costs if products are subject to Section 301 tariffs.

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What Should Contractors Do?

- Get your paperwork in order (compliance)
 - Whistleblower opportunities?
- Prepare for higher tariffs (in particular) and higher costs (generally)
 - E.g., Increased shipping costs; constraints on new construction
- Review supply chain vulnerabilities and pressure points
 - E.g. Impact of immigration policies on labor/services from overseas sources
- Determine options for waivers/exemptions
 - Burden-sharing between primes/subs/vendors?

Today's Speakers



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