Latest Impact of Trump Administration on Government Contracts

This White Paper analyzes the current impact of the Trump Administration on government contracts, the changes the administration has implemented since President Trump was sworn into office, and potential targets for future actions that would impact government contracting.

Since being sworn in as the nation’s forty-fifth president, Donald Trump and his administration have been active in a number of areas that will likely have a significant impact on government contracting. In fact, the president is following through on many of the items he campaigned on, including a government-wide effort to reduce federal regulations, a reduction in the size of the federal workforce, a significant increase in defense spending, and simplification of the contracting process. Additional actions in other areas are also likely to impact government procurement. These include the renegotiation of trade agreements, reduced focus on, and funding cuts related to, climate change research and climate-related energy restrictions, and shifts in labor preferences and enforcement of labor laws.

In terms of congressional activity, it’s no surprise that the amount of legislation passed since Trump’s inauguration on January 20 has been relatively modest. There are many reasons for this, but the main ones are precisely what was expected. The House is primarily focused on the complicated issue of repealing and replacing the Affordable Care Act (aka Obamacare), and in the Senate, the Democrats’ strong opposition to many controversial Trump cabinet nominees has significantly increased the amount of time devoted to the confirmation process and extended the time frame for confirmation of a number of individuals for cabinet-level and other positions. With budget-related issues and changes to the Internal Revenue Code next up on the agenda, the pace of legislative activity isn’t likely to increase any time soon.

EXECUTIVE AND CONGRESSIONAL ACTIONS

Despite the slow pace, there has been some congressional action to roll back government contract-related regulations and additional changes have been implemented through executive actions. A few items worth noting are:

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, January 30, 2017 — Requires that whenever an executive agency proposes or issues a new regulation, it must identify at least two existing...
regulations to be repealed. Additionally, the total incremental cost of all new regulations, including repealed regulations, cannot be greater than zero, unless otherwise required by law. Also, any new incremental costs associated with new regulations must be offset by the elimination of existing costs associated with at least two prior regulations.

**Executive Order 13777, Enforcing the Regulatory Reform Agenda, February 24, 2017** — Requires each agency head to designate a Regulatory Reform Officer and create a Regulatory Reform Task Force to oversee the implementation of reform initiatives and policies intended to ensure that agencies effectively carry out regulatory reforms. Each task force must evaluate existing regulations and make recommendations to the agency head regarding repeal, replacement, or modification. Also, each task force must provide a report detailing the agency’s progress within 90 days of the date of the E.O. and then on a schedule determined by the agency head.

**House of Representatives Joint Resolution 37, Disapproving FAR Rule on Fair Pay and Safe Workplaces, March 6, 2017** — The joint resolution voided a final rule (FAR Case 2014-025) issued in Federal Acquisition Circular 2005-90 (81 FR 58562), amending FAR Part 22 to implement Executive Order 13673, which was intended to improve contractor compliance with basic labor standards. The resolution, which exercised Congress’s authority under the Congressional Review Act (5 USC 801 et seq.) to nullify regulations, declares the rule “shall have no force or effect.” On March 27, President Trump signed the resolution into law (PL 115-11) and issued E.O. 13782, which revoke E.O. 13673.

**AGENCY-LEVEL ACTIONS**

In addition to congressional and executive actions, other actions have been implemented, proposed, or are actively being worked on at the agency level. Specific areas related to labor, trade, and energy policy that are potential targets for future action include:

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**Labor**

- FAR Part 22 — Application of Labor Laws to Government Acquisitions
- E.O. 13495 — Nondisplacement of Qualified Workers Under Service Contracts
- E.O. 13496 — Notification of Employee Rights Under Federal Labor Laws
- E.O. 13502 — Use of Project Labor Agreements for Federal Construction Projects
- E.O. 13627 — Strengthening Protections Against Trafficking in Persons in Federal Government
- E.O. 13658 — Establishing a Minimum Wage for Contractors
- E.O. 13665 — Non-Retaliation for Disclosure of Compensation Information
- E.O. 13673 — Fair Pay and Safe Workplaces
- E.O. 13706 — Establishing Paid Sick Leave for Federal Contractors

**Trade**

- FAR Part 25 and DFARS Part 225 — Foreign Acquisition
- 22 CFR Part 120 et seq. — International Traffic in Arms Regulations
- 15 CFR Part 730 et seq. — Export Administration Regulations
- E.O. 12260 — Agreement on Government Procurement

**Climate and Energy**

- FAR Part 23 — Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
- E.O. 13603 — National Defense Resources Preparedness
- E.O. 13693 — Planning for Federal Sustainability in the Next Decade

The Trump Administration and congressional Republicans have already made a number of important changes impacting government contracts. We expect these efforts to continue at a steady pace. In addition, with the recent confirmation of various agency heads, the process for making regulatory changes is ramping up, and we expect many important changes from DOD, DOE, GSA and others in the coming months.

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