

Alert | Government Contracts



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Biden Administration Revocation of Executive Order 13950 Eliminates Workforce Training Restrictions for Federal Contractors and Grant Recipients

On Sept. 22, 2020, President Trump issued Executive Order 13950, Combatting Race and Sex Stereotyping (E.O. 13950), purporting “to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating.” In a previous [GT Alert](#) we discussed the requirements and restrictions imposed by E.O. 13950 on workplace training provided by federal contractors and grant recipients. Section 4 of E.O. 13950 required agencies to include a new clause in contracts awarded after Nov. 21, 2020, that imposed a series of restrictions on workplace training and required federal contractors and grant recipients to include the new clause in all subcontracts and purchase orders unless exempted. E.O. 13950 also outlined potentially significant consequences for federal contractors and grant recipients that violated the prohibitions contained therein.

On Dec. 22, 2020, the United States District Court for the Northern District of California issued a preliminary injunction prohibiting the Office of Federal Contract Compliance Programs (OFCCP) from implementing, enforcing, or effectuating Section 4 of E.O. 13950 “in any manner against any recipient of federal funding by way of contract [or] subcontract....” This preliminary injunction took effect immediately. OFCCP subsequently published a [notice](#) regarding compliance with the preliminary injunction. The notice explained that OFCCP:

1. will cease using any hotline to collect information regarding contractors' alleged noncompliance with E.O. 13950;
2. will cease investigation of any alleged noncompliance with E.O. 13950 received through the hotline or any other means;
3. will not take any enforcement action or seek remedial relief as a result of such alleged noncompliance with E.O. 13950;
4. will hold existing complaints in abeyance and not engage in any further investigation per the court's order;
5. will not publish any additional Requests for Information seeking information from any individual or entity regarding the training, workshops, or programming provided to employees of government contractors or subcontractors with regard to compliance or noncompliance with E.O. 13950; and
6. will not enforce any of the provisions required by Section 4(a) of E.O. 13950 contained in government contracts or subcontracts to the extent those provisions have already been included.

On Jan. 20, 2021, President Biden issued "Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government." Section 10 of the Jan. 20, 2021, E.O. revokes E.O. 13950, and directs all agencies covered by E.O. 13950 to identify proposed and existing agency actions related to or arising from E.O. 13950, and consider suspending, revising, or rescinding any such actions.

OFCCP has yet to issue guidance addressing the revocation of E.O. 13950. Federal contractors and grant recipients potentially subject to the requirements and restrictions imposed by E.O. 13950 should monitor information published by OFCCP and the Department of Labor regarding these latest developments. In addition, federal contractors and grant recipients that received awards that included the new clause mandated by E.O. 13950 should seek guidance and clarification from cognizant contracting officers regarding the removal of the clause and the workforce training restrictions contained therein.

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