

Trump's First 100 Days: Government Contracts

Analysis of New Administration

12.09.2024

The anticipated Department of Government Efficiency (DOGE) is expected to reexamine all federal projects to determine which are truly in the federal government's interest and jurisdiction. At the same time, Trump campaigned on national security and is expected to spend strategically to achieve these goals.

AT A GLANCE

- Defense spending will likely increase, as Trump has promised greater military support for allies, including Israel.
- Infrastructure Investment and Jobs Act (IIJA), Inflation Reduction Act (IRA) and the CHIPS and Science ACT spending may be reined in, particularly for projects that have not yet broken ground. The new administration may seek public-private partnerships or other means to supplement government funding to achieve key initiatives.

National security will be a paramount concern under the new Trump administration. We can expect a lot of attention to be paid to this area to secure borders, secure the cyber realm and rebuild stockpiles of energy, aircraft, armaments and other equipment and supplies.

In addition, the role of government—its metes and bounds—will also be an issue of great concern to the new administration. It will impact what the government buys and from whom. The anticipated new DOGE can be expected to compete with the Office of Management and Budget (OMB) and individual agencies for the ear of the President and access to the federal purse. There is likely to be a reexamination of all federal projects to determine which are truly in the federal government's interest and jurisdiction. Projects that are lower priority and/or not deemed to be in the federal government's purview may be reduced or eliminated. States and local governments, and possibly private entities, may be asked to pick up or significantly increase their funding and responsibility for these types of projects.

Trump's First 100 Days: Government Contracts

While this may mean that duplicative or unnecessary government contracts and grants may be targeted for elimination by DOGE, we expect that contracts, grants and agreements that promote clear priorities of the Trump administration will be propelled forward, even in the short term.

Regulations, which increased greatly during the Biden administration, will be a clear target of the new administration. We expect duplicative and burdensome regulations, as well as those in areas not favored by the new administration, to be cut.

Trump recently indicated the possibility of using tariffs as a means for greater security initiatives. These efforts may impact which goods and services can be bought and from which suppliers throughout the global supply chain, ultimately affecting what can be used or delivered under federally-funded contracts, grants and agreements.

Further, [Federal Acquisition Supply Chain Security Act](#) decisions may be coming down the pike to prohibit acquisitions from covered entities. Appeals of these decisions are possible, but they will require prompt action.

Protests of procurement actions and attempts to target competitors for disqualification from such actions can also be expected. The use of claims and litigation to contest government cutbacks or terminations of current contracts are likely as well. Understanding your rights related to these procurement actions will be critical for determining the best strategy to address issues arising under these types of situations.

However, it is important to understand not only those areas where you may have risks, but those which may provide opportunities. For example, the question of earmarks will likely come up in considering the role that they will play in funding different interests and initiatives.

Below is a short set of some of the most likely areas to develop within the first 100 days of the Trump administration:

- Defense spending will likely increase.
 - With actual or potential international threats and conflicts on the rise, the new administration will likely, and quickly, assess its current resources and needs. It will then prioritize and procure necessary products and services.
 - The Biden administration engaged in significant drawdowns of the National Petroleum Reserve and sent billions of dollars in defense products and supplies to assist its allies and other countries, including Ukraine. The president-elect has advocated for greater support of other allies, including Israel.
 - We can expect the new administration to work with Congress to quickly appropriate and contract to obtain replenishment and sustainment of its supply chain, while also seeking development of new defense products. Innovation will be needed to identify the next offset strategy; contracts and other

Trump's First 100 Days: Government Contracts

transactions will be used to implement such innovative solutions.

- Infrastructure construction projects are expected to continue and may increase.
 - We can expect quick movement in a Republican-led Congress to appropriate funds and for the Trump administration to find, transfer and allot available funds to procure contracts to finish the border wall. In addition to procurements of construction materials and border wall contracts, contracts for electronic and other means of surveillance and security may become a focus.
 - The new administration may also seek to transfer or engage with state and local governments and private entities in pursuing public private partnerships or other means to quickly supplement federal government funding and build these security features.
 - The new administration can be expected to also look for products and services to aid in achieving security through other means. This may mean that contracts for innovative products and services to facilitate monitoring and improve security may be procured through quicker contracting vehicles, such as "Other Transactions" and "Rapid Prototyping."
- Cybersecurity will be a continuing focus.
 - We can expect the new administration to continue to roll out cyber initiatives to secure our domestic and defense infrastructure, as well as our upstream supply chain, from the risks of asymmetric warfare by foreign adversaries, terrorists and criminal elements. This means that cyber initiatives, such as the basic assessment of contractors' cyber compliance with NIST SP 800-171, preparation for implementation of the Cybersecurity Maturity Model Certification, Software Bill of Material attestations, and Section 889 report, rip and replace requirements to eliminate covered telecommunications and video surveillance products, components and services, are not likely to go away. Efforts to ensure compliance should be pursued promptly by contractors and their supply chains to address these types of requirements and achieve better cyber security.
- IIJA, IRA and the CHIPS ACT spending may be impacted.
 - During the past four years, trillions of dollars have been allotted to pursue and enter into projects under the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA) and the CHIPS and Science Act. Many grants and agreements were awarded to state, local and other entities targeted by the Biden Administration, rather than being issued through competitive procurements. The administration of these programs has been complicated by various factors, including late-issued regulations, a series of executive orders, OMB and agency guidance and changing exemptions/exceptions applicable to particular time periods or discrete activities.
 - While DOGE may consider cancelling or scaling back projects that have not yet broken ground as part of its cost-cutting recommendations, we expect essential infrastructure and innovation projects will continue in some form, as these projects are necessary to fulfill the national and defense security promises made by President-elect Trump during his campaign.

Trump's First 100 Days: Government Contracts

- In lieu of canceling programs wholesale and incurring potential liabilities from those acts, the new administration may refashion domestic preference rules into a more streamlined and easier-to-administer program. This may result in fewer exceptions to domestic preference for products and supplies coming from foreign sources; however, we anticipate exceptions will be made for U.S. allies, such suppliers in Australia, Canada, New Zealand and the United Kingdom.
- There will be opportunities related to artificial intelligence and new technologies.
 - President-elect Trump has identified a proposed artificial intelligence czar. Many states have implemented laws and regulations in this area. Collaboration between the new administration and state governments is anticipated with initiatives likely to be funded through contracts, grants and agreements. There is a clear need to continue efforts to assess the roles and risks of artificial intelligence and to procure needed assistance.

This article is part of a broader analysis examining the anticipated challenges and opportunities created by an administration change. Attorneys from several different practice areas contributed to this series of articles across multiple legal areas.

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