

# New Trump Administration Executive Orders: Initial Thoughts

January 2025

Following the presidential inauguration this week, the White House released a myriad of new executive orders (EOs) on a host of issues. Many of these orders contain broad directives and it will take time for the practical implications of these actions to become clear. EOs are directed at the heads of federal agencies, who then use the broad instructions to inform how they implement and interpret existing legal frameworks. For now, the documents mostly establish the new administration's priorities and the approaches the federal government is likely to take in the coming months.

CAPLAW is focused on orders that specifically refer to federal grantees, the use of federal funds by non-federal entities, and private sector employers. Our current understanding of those EOs is as follows:

## Initial Rescissions of Harmful Executive Orders and Actions (1/20/25)

- Revokes a number of EOs from President Biden's administration on a range of issues, including the COVID-19 pandemic, promoting diversity, equity and inclusion (DEI) initiatives, immigration policies, and climate initiatives.
- **Initial Thoughts:** Historically, new presidential administrations have released new EOs and rescinded or amended EOs of the prior administration soon after taking office.

## Protecting the American People Against Invasion (1/20/25)

- Communicates the federal government's policy to faithfully execute the immigration laws against inadmissible and removable aliens, and totally and efficiently enforce those laws.
- Includes a directive to the U.S. Attorney General (AG) and Secretary of Homeland Security to review all federal grants to non-governmental organizations that provide services to undocumented individuals for waste, fraud, and abuse, and to ensure that those grants conform to existing laws and do not encourage violations of immigration laws. Based on the review, funding may be terminated and clawback procedures initiated.
- Directs the Office of Management and Budget (OMB) to ensure that all federal agencies identify and stop the provision of any public benefits to undocumented individuals who are not authorized to receive them.
- **Initial Thoughts:** The federal agency to which this EO is directed has [already taken action](#) that suggests how it plans to enforce immigration laws with respect to immigrants who are in the country illegally; it rescinded prior federal agency guidance that recognized "sensitive areas" where ICE would not conduct raids, such as schools and churches. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. §§ 1601, *et seq.* (PRWORA) introduced significant restrictions and complexity on the receipt of public benefits by immigrants and is the most impactful legislation to

date regarding immigrant eligibility for such benefits. This EO directs federal agencies to ensure that undocumented individuals who are not authorized to receive public benefits do not receive them.

We will be issuing a resource within the coming weeks that provides an overview of the different options, including clawbacks and recoupment, that a new administration has at its disposal with respect to a prior administration's federal agency regulations and appropriated (mostly unobligated) funds. Almost every option, especially those that potentially have the greatest impact, requires a level of process at either the congressional and/or executive level.

### Regulatory Freeze Pending Review (1/20/25)

- Directs all federal departments and agencies to: (1) not propose or issue any new regulatory rules until a President Trump appointee reviews and approves it; (2) withdraw any rules that have been sent to the Office of the Federal Register but have yet to be published, so that they may be reviewed by a Trump appointee; and (3) consider postponing the effective dates of any rules that have been published in the Federal Register or any rules that have been issued but have not taken effect until March 21, 2025, so that they can be reviewed to see if they raise questions of fact, law, or policy.
- The Director of OMB may exempt rules from this freeze that are deemed necessary to address emergency situations or other urgent circumstances.
- **Initial Thoughts:** This request to delay rulemaking is fairly common for new administrations (similar to revoking prior EOs). CAPLAW will be issuing a resource within the coming weeks that provides an overview of the different options a new administration has at its disposal for addressing the prior administration's regulatory actions. Almost every option, especially the ones that potentially have the greatest impact, requires some level of process at either the congressional and/or executive level. It is possible that some of the regulations issued in the latter half of the prior administration's tenure will be voided.

### Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government (1/20/25)

- Sets forth definitions for sex, women, men, female, male, gender ideology, and gender identity and directs the Secretary of Health and Human Services to provide guidance expanding on these definitions by February 19, 2025.
- Directs agencies to interpret and apply statutes, regulations, and guidance in accordance with the definitions including assessing "grant conditions and grantee preferences and ensure grant funds do not promote gender ideology."
- Requires agency heads to (1) provide an update by May 20, 2025 on implementation of the EO to the Director of OMB, including "agency-imposed requirements on federally funded entities" and (2) "promptly" rescind guidance documents inconsistent with the EO, including specifically the Equal Employment Opportunity Commission's (EEOC) *Enforcement Guidance on Harassment in the Workplace from April 2024*.

- **Initial Thoughts:** This EO states that it is based on a specific statute, 5 U.S.C. § 7301, that allows the president to “prescribe regulations for the conduct of employees in the executive branch.” However, many of the directives in the EO may impact organizations and individuals outside of the federal government due to potential revised guidance and enforcement policies by the Department of Labor, EEOC, and other agencies responsible for interpreting discrimination laws that apply to private employers. For example, the EO directs the AG to “immediately” issue guidance on the application of *Bostock v. Clayton County*, the Supreme Court case under which the prior administration’s guidance was issued. We will not know the full extent of this EO’s impact until further actions are taken with respect to it, although some of the language in this EO indicates that possible restrictions on the use of federal grant funds may be included in future awards. In the meanwhile, [this article from the national law firm Fisher Phillips](#) provides some takeaways related to this EO.

### Unleashing American Energy (1/20/25)

- Establishes policy to encourage energy and mineral exploration and production, eliminate electric vehicle mandates and preferences, and promote consumer choice for goods such as appliances.
- Directs federal agencies to pause disbursements of funds supporting the Green New Deal that were appropriated through the Inflation Reduction Act of 2022 and Infrastructure Investment and Jobs Act, such as funds for electric vehicle charging stations made available through the National Electric Vehicle Infrastructure Formula Program and the Charging and Fueling Infrastructure Discretionary Grant Program.
- **Initial Thoughts:** The White House issued a [memorandum](#) the day after releasing this EO to clarify that the pause in disbursement did not apply to all the funds appropriated under the Inflation Reduction Act of 2022 and Infrastructure Investment and Jobs Act. Rather the pause seems to apply to funds that specifically interfere with the current administration’s new policy focused on ramping up energy production via natural resources. CAPLAW will be issuing a resource within the coming weeks that provides an overview of the different options that a new administration has at its disposal with respect to appropriated (mostly unobligated) funds. Almost every option, especially the ones that potentially have the greatest impact, require some level of process at either the congressional and/or executive level.

### Ending Radical and Wasteful DEI Programs and Preferencing (1/20/25)

- Revokes Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.”
- Directs the OMB, the AG, and the Office of Personnel management (OPM) to end DEI and diversity, equity, inclusion, and accessibility (DEIA) mandates, policies, programs, preference, and activities in the federal government.
- Directs each federal agency to, by March 21, 2025: (1) terminate all “equity related” grants and all DEI or DEIA performance requirements for grantees; (2) provide to OMB a list of all grantees who received federal funding to provide or advance DEI, DEIA, or “environmental justice” programs,

services, or activities since January 20, 2021; (3) assess the operational impact and cost of DEI, DEIA, and environmental justice programs and policies; and (4) recommend actions to align policies, grants, employment actions, and litigation positions with the policy of “equal dignity and respect.”

- **Initial Thoughts:** This EO, like the other DEI and DEIA EO, does not specifically set forth what activities are considered “illegal” but rather emphasizes “serving every person with equal dignity and respect.” We will thus not know the full extent of the EO’s impact until further actions are taken with respect to it. The impact will most likely be felt by federal grantees if the current administration attempts to redirect unobligated funds for purposes that further the new priorities. As previously noted, CAPLAW will be issuing a resource within the coming weeks that provides an overview of the different options that a new administration has at its disposal with respect to appropriated (mostly unobligated) funds. Almost every option, especially the ones that potentially have the greatest impact, require some level of process at either the congressional and/or executive level. In the meanwhile, this [FAQ from the national law firm Feldesman](#) addresses some questions related to this EO.

#### **Ending Illegal Discrimination and Restoring Merit-Based Opportunity (1/21/25)**

- Revokes Executive Order 11246, “Equal Employment Opportunity,” and amendments thereto, all of which address affirmative action for federal contractors.
- Focuses on “illegal DEI and DEIA policies” and enforcing “civil rights laws,” specifically those that address race and sex, but provides no specific definition as to what actions rise to the level of “illegal” in these contexts. Rather, the emphasis is on eliminating “illegal preferences and discrimination.”
- Directs federal agencies to: (1) terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements; (2) require a grantee to certify that it does not operate programs promoting DEI that violate applicable Federal anti-discrimination laws; and (3) tie that certification to the False Claims Act, meaning that failure to comply with anti-discrimination law could support a claim that the recipient knowingly presented or made use of a false record or statement to receive payment.
- Directs federal agencies and the AG to, by May 21, 2025, issue a report focused on the private sector that: (1) identifies the most “egregious and discriminatory” DEI practitioners; (2) establishes a plan to “deter DEI programs or principles (whether specifically denominated “DEI” or otherwise) that constitute illegal discrimination or preferences;” (3) includes the identification of up to 9 potential civil compliance investigations per federal agency of publicly traded corporations, large non-profits or associations, foundations with assets of \$500 million or more, state and local bar and medical associations, and institutes of higher education with endowments over \$1 billion; and (4) identifies potential regulatory action and sub-regulatory guidance.
- **Initial Thoughts:** The language in this EO seems to indicate that not all efforts in the DEI/DEIA space are necessarily “illegal,” but until we receive clearer definitions and grant-specific directives, we will not know the full extent of the impact of this EO. Focus should continue to be on the economic status

of populations being served and employment decisions should continue to be based on legitimate business purposes rather than protected classes. The Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, or national origin when taking employment actions (Title VII) and based on race, color, or national original when providing assistance with federal funds (Title VI).

This EO also establishes that federal contractors will only need to continue to comply with EO 11246 regarding affirmative action until April 21, 2025. The revocation of the EOs will likely result in amendments to state contracts that have historically incorporated affirmative action requirements.

A few additional overarching takeaways to keep in mind with respect to these and other forthcoming EOs:

- An EO is an official written document used by the president to manage the operations of the federal government and direct the heads of federal agencies. EOs are not statutes, which are created through the legislative process and require approval by Congress, or regulations, which are developed by federal agencies via the rulemaking process. Instead, an EO is a form of presidential document or executive action that is meant to have the same force and effect as a law.
- Much of the impact of these EOs will depend on subsequent actions taken by the federal agencies carrying out these directives. Federal agency heads and staff are currently in transition, so it may be a month or more before we can truly understand what many of these EOs will mean for federal grantees and the private sector.
- EOs are often subject to litigation which results in their being temporarily or permanently halted. Suits brought by state attorneys general and others have already begun and CAPLAW will be monitoring their progress closely to keep our Network informed as to its compliance obligations.
- Keep in the forefront the purposes of the federal CSBG Act: reducing poverty, revitalizing low-income communities, and empowering low-income families and individuals to become fully self-sufficient, 42 U.S.C. § 9901. Recent guidance from the White House indicates that some of the new administration's goals include eliminating economic burdens on individuals and families.

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