10 Issues To Watch In Aerospace And Defense Contracting

By **Joseph Berger, Chip Purcell and Amaiya Johnson** (February 21, 2025)

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Developments in defense and aerospace contracting law and policy are often driven by national security priorities, disruptive new technologies and competition with rival powers. This year, significant changes and disruptions are also being driven by the new presidential administration, with checks and balances from the courts, as well as acts of Congress including the annual National Defense Authorization Act.

During the first month of his second term in office, President Donald Trump ushered in a new era for the federal government by taking dramatic steps to reduce spending, decrease regulation and downsize the federal workforce. The enormous implications for federal contracting and grants can already be seen and felt, and related legal and policy developments will continue to evolve.

Here are 10 issues to watch in aerospace and defense contracting law this year.

1. Regulatory and Workforce Reductions

The new administration, with its newly created Department of Government Efficiency, or DOGE,[1] has vowed to undertake drastic reductions in government regulations, federal spending, and the federal workforce that manages those regulations and spending.

An early executive order prioritized deregulation and a newer one ordered regulations to be rescinded.[2] Deregulation will lead to changes to the Federal Acquisition Regulation and other regulations affecting federal contractors.

Many FAR and Defense Federal Acquisition Regulation Supplement, or DFARS, rules, as well as many pending regulations currently frozen by executive order, implement various statutory provisions that are already on the books.

But the FAR, agency supplements and related regulations are sure to undergo deregulatory amendments throughout the next few years, as the Trump administration implements its plans for drastic regulatory reduction.[3]

The new administration has also vowed to significantly reduce the size of the federal workforce,[4] and has ordered further large-scale downsizing after its buyout offers were accepted by tens of thousands of federal employees.[5]

But when it comes to administration of contracts and grants, a significant portion of the experienced contracting and grant-making workforce is already close to retirement.

Continuous recruitment and retention measures will remain critical for acquisition professionals like contracting officers, contract and grant specialists, and supporting personnel, to ensure adherence to lawful procedures and maintain fairness, accountability and efficiency in the administration of federal contracts and grants.

The administration should take steps to preserve and improve the capabilities of the acquisition workforce.

2. Spending Reviews, Stop-Work Orders and Terminations

The new administration quickly prioritized cuts in federal spending. Active litigation is ongoing over the freeze on financial assistance spending put in place by the U.S. Office of Management and Budget in January.[6]

On Feb. 18, a new executive order tasked agencies to make public the details of all canceled grants and contracts.[7]

In the meantime, for contractors and grantees, the spending, payment and program reviews by the administration and DOGE have already resulted in widespread stop-work orders and contract terminations.[8]

Waves of such orders have been issued at certain agencies, and similar agency actions will increasingly affect contractors and grantees across the government. Small businesses may be disproportionately affected.

On Feb. 19, it was reported that the Defense Secretary has ordered the U.S. Department of Defense to develop plans for major budget cuts,[9] and the Pentagon announced it would find $50 billion in cuts this year to reprogram to new administration priorities.[10]

While this article primarily concerns contract law, it is clear that both grants and contracts will be subject to increased spending scrutiny, program reviews and budget cuts.[11]

In response to inquiries concerning the first OMB grant directive, the U.S. Army stated that it was conducting a review of contract solicitations and awards. And the U.S. General Services Administration announced a more formal "acquisition pause," via a Jan. 24 memo for the GSA acquisition workforce.[12]

Similar reviews of contracts and grants could occur at any agency, and are expected at the DOD and NASA. It has been reported that DOGE representatives have met with DOD officials at the Pentagon, and that the DOD is preparing for layoffs and contract reviews.[13]

Contractors may expect acquisition-focused reviews across the government, as well as spending reductions, new budget constraints, increased auditing, stop-work orders, change orders, unexercised options and terminations for convenience.

Careful recordkeeping of related costs imposed on contractors and grantees can help contractors or grantees preserve options for any potential claims.

3. Civil Rights Laws and Affirmative Action

On Jan. 21, his second day in office, Trump signed an executive order that revoked former President Lyndon Johnson's Executive Order No. 11246, a foundational authority for affirmative action requirements since it was issued in 1965.[14]

The implications of revocation are vast for contract and grant recipients — with the potential for policy, compliance, regulatory and enforcement changes that are beyond the scope of this article. Trump's executive order is subject to ongoing litigation in federal court, with an injunction issued by a Maryland federal judge on Feb. 21.

The clauses and regulations related to LBJ's revoked order are among the most long-standing and widespread in the federal contracting supply chain.

One consequence of Trump's order has been to end enforcement by the Office of Federal Contract Compliance Programs.[15] Following the order, the Acting Secretary of Labor Vince Micone halted all open or pending OFCCP compliance audits and enforcement proceedings.

Trump's order states that its purpose is to enforce long-standing federal civil rights laws that protect individuals from discrimination based on race, color, religion, sex or national origin.

It does not address separate statutory affirmative action obligations for individuals with disabilities and protected veterans.

This executive order sought to eliminate diversity programs in the government and private sector. It would require new recipients of grants and contracts to certify that they do not operate any programs promoting diversity that violate existing federal anti-discrimination laws.

The order leaves open many unanswered questions, including with respect to the new certification requirement and programs that companies might voluntarily undertake, and the effect of the recent injunction.

Contractors and grantees will need to monitor guidance from the executive branch, the courts, and further developments in enforcement, regulations and clauses in the coming months.[16]

4. Commercial Products and Services, and Other Transactions

Among the acquisition reform provisions in the 2025 NDAA, signed into law on Jan. 2, are further measures to endorse and promote the government's use of commercial products and services, including the determination of commerciality.

Given the new administration's position on regulatory reduction, it should be expected to embrace the preference for commercial products and services, which are subject to fewer regulations.

The 2025 NDAA also contained several sections concerning other transaction authority, intended to continue to support and expand other transaction, or OT, use by the DOD for prototypes and follow-on production contracts.

Such transactions have minimal regulatory requirements as compared to FAR-based contracts. It can also be expected that use of OTs will only continue to increase, especially with cutting-edge technologies in areas like space exploration and artificial intelligence.

5. Artificial Intelligence

The 2025 NDAA includes numerous provisions addressing cutting-edge AI issues, providing the DOD with further authority to develop AI and autonomous systems, manage procurement and associated risks, and adopt safety guidelines and best practices.

On Jan. 21, Trump announced a private sector investment project for AI infrastructure called Stargate, signaling the importance of new technology to the new administration.[17]

But within a week, the AI field was disrupted by the release of a low-cost competitive AI model by the Chinese company DeepSeek AI.[18]

The new administration issued an executive order on AI on Jan. 23 stating that it is the policy of the U.S. to sustain and enhance America's global AI dominance, and requiring several agencies to develop an action plan to achieve this goal.[19]

The DOD's technological advantage over strategic competitors continues to hinge on sustaining U.S. leadership in AI and related technologies. But securing U.S. leadership in AI and mitigating its risks depends in turn on cybersecurity, another major concern for the DOD.

6. Cybersecurity Rules

The Cybersecurity Maturity Model Certification program, proposed during the first Trump administration and modified during the Biden administration, was designed to enforce the protection of sensitive unclassified information that is shared by the DOD with its contractors and subcontractors.

But the timeline for implementation is now dependent on the finalization of the related, proposed DFARS acquisition rule, for which the comment period closed in October last year. That related rule was expected to be finalized in 2025, and would define the timelines for implementation with the introduction of comprehensive new DFARS clauses.

Given the new administration's focus on regulatory reduction, it is uncertain when — or if — the DFARS rule will become final, but the new administration's appreciation for cybersecurity threats, and its origination of this rule during Trump's first term, may keep the rule alive in modified form.

The key official in establishing the CMMC program has recently rejoined the DOD.[20] Several other proposed cybersecurity rules likewise require consideration by the new administration, which must balance its mandate for deregulation with the government's ongoing need for improved cybersecurity.

7. Conflict of Interest

On Jan. 15, the FAR Council of the DOD, the GSA and NASA issued a proposed rule that would amend the FAR to implement the Preventing Organizational Conflicts of Interest in Federal Acquisition Act, passed in 2022.

The statute requires the FAR Council to establish definitions, guidance and examples related to organizational conflicts of interest, including the creation of solicitation provisions and contract clauses to avoid or mitigate OCIs. The statute also requires the FAR to permit contracting officers to consider professional standards and procedures to address OCIs to which an offeror or contractor may be subject.

The new administration will have control over the contours of the final rule. In the meantime, OCIs and other types of conflicts remain subject to scrutiny through existing laws, regulations, bid protests and contract administration procedures. Conflict of interest was also the subject of recent NDAAs, and the 2025 NDAA includes a provision on waiver authority for organizational and consultant conflicts.

The issue will continue to arise in connection with the role of DOGE.[21]

8. Accountability Through Bid Protests

Throughout changes, between administrations, the U.S. Government Accountability Office and the U.S. Court of Federal Claims fill the important role of providing checks and balances on the executive branch. This role becomes more important in times of spending and workforce reductions that affect acquisition.

Section 885 of the 2025 NDAA requires the GAO and the DOD to develop enhanced pleading standards for protests of DOD contracts, and to establish cost metrics to help Congress establish a pilot program for determining the effectiveness of requiring contractors to reimburse the DOD for costs incurred in processing DOD protests.

Should this loser-pays pilot program become law, it may discourage some GAO protests. It may also lead to more protests at the COFC, where the number of protests has already been rising.

In the meantime, the effectiveness rate of protests at the GAO continues to hover at about 50%, meaning protesters with meritorious cases have a good chance of corrective action, and that at least half of GAO protests may be viewed as meritorious by either the agency or the GAO.

In an environment of shrinking budgets, bid protests at the GAO and the COFC will remain integral to maintaining accountability and transparency in the procurement system. Congressional reforms should be careful not to undermine this important role.

9. False Claims Act Enforcement

The Trump administration and recently confirmed Attorney General Pam Bondi can be expected to continue rigorous enforcement against fraud through the False Claims Act. Bondi testified at her confirmation hearing that she will defend the constitutionality of the FCA's qui tam provisions and support enforcement efforts utilizing the FCA.

The DOJ has since telegraphed aggressive enforcement of the FCA, including in connection with potential trade and tariff issues.[22] Enforcement arising from government contracts may relate not only to tariffs and customs duties, but also to Made in America and Buy American laws having to do with domestic and allied sourcing, which were a priority under the first Trump administration.

During the first Trump administration, the DOJ implemented policies that limited litigation based on alleged violations of subregulatory guidance, but the administration continued FCA enforcement efforts, and there were more than $11 billion in FCA settlements and judgments.

Even if DOJ litigation is limited by certain policies, the number of qui tam cases will remain high. Last year saw the highest number of new qui tam actions ever.[23]

10. The Commercial Space Industry

While there are countless new technologies that the Trump administration may support and facilitate, it is clear that among its priorities will be U.S. leadership in space.

In his first term, Trump initiated the U.S. Space Force and embraced NASA's long-running space exploration programs, which became the Artemis program, and in 2017 announced via policy directive that the U.S. would lead the return of humans to the Moon, to be followed by human missions to Mars.

The next Artemis mission, which will fly humans around the Moon and back, is currently scheduled for April 2026.[24] The Artemis program is not only a vehicle to return humans to the Moon, but to maintain American leadership in science and technology. But like all government programs, Artemis may be reviewed by the new administration, as well as by Congress, so its future is somewhat uncertain.

Conclusion

Throughout the past eight years, both the Biden and Trump administrations promoted U.S. leadership in global technology amid fast-paced scientific developments and pacing challenges from competitor nations. The opportunities for scientific achievements, and related challenges to our nation's technology leadership, and to government contractors and grantees, have never been greater.

The role of contractors and grantees remains essential, and the U.S. government can only reach its mission goals with the help of contracting, grants and U.S. industry, expertise, technology and innovation.

Update: This article has been updated to reflect an injunction issued against two Trump orders relating to DEI.

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[1] For legal background on the initial creation of DOGE, see Congressional Research Service, [DOGE] Executive Order: Early Implementation, updated Feb. 6, available at https://crsreports.congress.gov/product/pdf/IN/IN12493. The Jan. 20, 2025, executive order reorganized and renamed the former U.S. Digital Service as the U.S. DOGE Service, to be led by an administrator who reports to the White House chief of staff. Id. at 1. DOGE has been the subject of further EO provisions expanding its authority, related actions by Congress including the House DOGE Caucus, and several lawsuits challenging its authority. In addition, DOGE recently launched a website at www.doge.gov. See Hailey Konnath, "Trump Taps Elon Musk to Head New 'Gov't Efficiency' Dept.," Law360, Nov. 12, 2024; Courtney Buble, "Gov't Efficiency Push Is A 'New Day'," House Speaker Says," Law360, Dec.

5, 2024; Mark Ruge et al., "How DOGE's Bite Can Live Up To Its Bark," Law360, Jan. 16, 2025.

[2] Jan. 31 executive order, "Unleashing Prosperity Through Deregulation" (requiring 10 existing regulations to be identified for repeal whenever an agency proposes a new regulation). See Feb. 19 executive order, "Ensuring Lawful Governance and Implementing the President's [DOGE] Deregulatory Initiative" (ordering the "Rescinding [of] Unlawful Regulations and Regulations That Undermine the National Interest." Id. at Sec. 2).

[3] The administration has invoked last year's Supreme Court decision Loper Bright Enterprises et al. v. Raimondo as one basis to identify regulations without statutory justification that it may seek to eliminate.

[4] See Feb. 19 Executive Order, "Commencing the Reduction of the Federal Bureaucracy" ("It is the policy of my Administration to dramatically reduce the size of the Federal Government[.]" Id. at Sec. 1.).

[5] See Tom Lotshaw, "VA Fires More Than 1,000 As Part of Trump Cuts," Law360, Feb. 14, 2025 ("part of wave of layoffs sweeping across federal agencies as the Trump administration pursues 'large-scale' cuts to the government workforce.").

[6] On Jan. 27, the OMB imposed a temporary freeze on federal grants, loans and aid, heavily affecting states, nonprofits and non-governmental organizations, but the freeze was suspended the next day by an administrative order issued by a federal judge. Litigation continued in two district courts, resulting in Temporary Restraining Orders concerning the freeze. See Ali Sullivan, "DC Judge Joins RI In Blocking Trump Funding Freeze," Law360, Feb. 3, 2025 (and other coverage by Law360). On Feb. 11, several contractors to USAID filed their own lawsuit over the freeze, arguing it violated separation-of-powers principles. In consolidated cases, on Feb. 13, the D.C. district court issued a TRO concerning the blanket suspension of foreign aid funding, as related to contracts, grants, cooperative agreements, loans and other funding. See Lauren Berg, "Trump is Defying Order to Unfreeze Foreign Aid, Groups Say," Law360, Feb.19, 2025; Lauren Berg, "Trump Admin Must Obey Order To Restore Aid, Judge Says," Law360, Feb. 20, 2025.

[7] See Feb. 18 Executive Order, "Radical Transparency About Wasteful Spending" (ordering agencies to make public "the complete details of every terminated program, canceled contract, terminated grant, or any other discontinued obligation of Federal funds.").

[8] On Feb. 19, a trade association representing personal services contractors filed a separate lawsuit in the D.C. district court. See Tom Lotshaw, "Contractor's Group Asks DC Judge to Halt Gutting of USAID," Law360, Feb. 19, 2025 (complaint alleges hundreds of contractors were "harmed in the wake of executive and stop-work orders that have caused 'havoc, turmoil and mayhem.'").

[9] Dan Lamothe et al., "Trump administration orders Pentagon to plan for sweeping budget cuts," The Washington Post, Feb. 19, 2025.

[10] The Pentagon announced via press release that "The Department will develop a list of potential offsets that could be used to fund [Trump administration] priorities, as well as to refocus the Department on its core mission of deterring and winning wars. The offsets are targeted at 8% of the Biden Administration's FY26 budget, totaling around $50 billion, which will then be spent on programs aligned with President Trump's priorities." Statement by [Deputy Secretary of Defense] Robert G. Salesses, Feb. 19, 2025.

[11] Grants are governed by separate regulations including the Uniform Administrative Requirements at 2 C.F.R. Part 200 and related agency regulations.

[12] The GSA instructed contract officers to suspend the execution of any new GSA-funded obligations, with certain exceptions including awards through the GSA Schedules. The short-term pause would "permit the new leadership to understand key acquisition actions . . . and help direct any needed course corrections." See January 24, 2025 GSA Memorandum Re: Acquisition Pause.

[13] Dan Lamoth et al., "Defense Department firings expected to start soon, officials say," The Washington Post, Feb. 18, 2025; Cybele Mayes-Osterman, "Pentagon is next in DOGE layoff sights as probationary hires are tallied," USA Today, Feb. 19, 2025; Brandi Vincent, "DOD to review all consulting contracts[,]" DefenseScoop, Feb. 20, 2025. On Feb. 21, the DOD announced that it anticipated reducing its civilian workforce by 5-8%, beginning next week.

[14] Jan. 21, 2025, Executive Order, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" (ordering agencies to include in new contract and grant awards a term requiring the recipient to agree "that its compliance . . . with all applicable Federal anti-discrimination laws is material to the government's payment decisions" and to certify "that it does not operate any programs promoting [diversity] that violate any applicable Federal anti-discrimination laws." Id. at Sec. 3).

[15] Following this EO, the Acting Secretary of Labor halted all open or pending OFCCP compliance audits and enforcement proceedings under EO 11246.

[16] See Denise Barnes et al., "What Trump Admin's Anti-DEI Push Means For FCA Claims," Law360, Feb. 12, 2025.

[17] Steve Holland, "Trump announces private-sector $500 billion investment in AI infrastructure," Reuters, Jan. 21, 2025 ("aiming to outpace rival nations in the business-critical technology").

[18] This was dubbed AI's "Sputnik moment" by many, including Fareed Zakaria in the Washington Post; "DeepSeek has created a 21st-century Sputnik moment," The Washington Post, Jan. 31, 2025 ("Is this a Sputnik moment? The world has reacted with astonishment to the release of a disruptive AI model from Chinese company DeepSeek[.]"). The launch of Sputnik by the Soviet Union in 1957 led the U.S. Congress to create NASA in 1958 — as well as the original other transaction authority to help NASA win the space race. As noted above, other transaction authority is still critical in today's technology race.

[19] Jan. 23, 2025 Executive Order, "Removing Barriers to American Leadership in Artificial Intelligence" (requiring agency action plan within 180 days).

[20] See Daniel Wilson, "Cybersecurity Official Rejoins DOD After Contentious Exit," Law360, Feb. 19, 2025.

[21] See Hailey Konnath, "Judiciary Dems Want Ethics Probe Into Musk's DOGE Work," Law360, Feb. 7, 2025.

[22] Daniel Wilson, "DOJ Official Flags 'Aggressive' FCA Approach Under Trump," Law360, Feb. 20, 2025.

[23] DOJ Press Release, "[FCA] Settlements and Judgments Exceed $2.9B in Fiscal Year 2024," Jan. 15, 2025 (reporting 979 new qui tam lawsuits in FY 2024, "highest number of qui tam actions filed in history.").

[24] See Congressional Research Service, Artemis: NASA's Program to Return Humans to the Moon, updated Dec. 5, 2024, available at https://crsreports.congress.gov/product/pdf/IF/IF11643.