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Government Contracts Update

June 2026

Federal Government Reaffirms Fixed-Price Contracting as the Default

Key Notes:

- An April 30 Executive Order makes fixed-price contracts the default contracting method for federal procurement and requires written justification and, in some cases, agency head approval, for any non-fixed-price contract.
- Agencies must review and attempt to renegotiate their 10 largest cost-type contracts within 90 days, and OMB must soon issue implementation guidance and FAR amendments.

On April 30, President Trump signed an Executive Order (EO) titled "Promoting Efficiency, Accountability, and Performance in Federal Contracting," establishing fixed-price contracts as the default contracting method across executive branch departments and all agencies. The EO is the latest action in the administration's broader effort to reform federal procurement, which includes the ongoing Revolutionary FAR Overhaul (RFO). Citing approximately $120 billion obligated on cost-reimbursement consulting contracts in fiscal year 2024, the administration reasons that cost-type contracts have led to unpredictable costs, bloated overhead, and weak performance incentives.

EO Requirements

The EO directs agencies to use fixed-price contracts, including firm-fixed-price and fixed-price incentive contracts under FAR Part 16, "to the maximum extent consistent with law." Any use of a non-fixed-price contract type, such as cost-reimbursement, time-and-materials, or labor-hour, must be justified in writing by the contracting officer. Notably, none of this is new. FAR 16.103 states that firm-fixed-price contracts "shall be used when the risk involved is minimal or can be predicted with an acceptable degree of certainty" and requires the contract file to include documentation about why firm-fixed-price or any other contracting method was selected. This language was maintained in the RFO.

Where the EO differs is in requiring further justification for larger contracts. If the value of the non-fixed-price contract exceeds specified thresholds, the agency head (or an authorized, non-career employee delegate) must approve it in writing: $100 million for Department of War contracts, $35 million for NASA, $25 million for DHS, and $10 million for all other agencies. The EO also exempts two categories from these approval requirements: contracts supporting emergency, major disaster, or contingency operations under FAR Part 2, and contracts involving research and development or pre-production development for major systems acquisition under FAR Parts 34 and 35.

Key Deadlines and Implementation Status

As with many of the federal procurement-focused orders, the EO sets an aggressive implementation timeline that is now unfolding in real time. OMB must issue implementation guidance to agencies by June 14. By July 29, each agency head must review and seek to modify, restructure, or renegotiate the agency's 10 largest non-fixed-price contracts by dollar value to incorporate fixed-price and performance-based incentives. Agencies must also submit their first semiannual report to OMB by the same date, detailing the number, value, and justification for all approved non-fixed-price contracts and identifying additional opportunities for conversion. By August 28, the

Administrator for Federal Procurement Policy must propose FAR amendments and develop a workforce training program on fixed-price contract management. In the interim, agencies are directed to use FAR class deviations to comply.

Potential Impact on Contractors

The most immediate effect is a shift of cost, schedule, and performance risk from the government to contractors. Under cost-reimbursement contracts, the government bears overrun risk while benefiting from underruns. Fixed-price contracts reverse that dynamic entirely. Contractors with uncertain or evolving scopes of work may face pressure to price in risk premiums, which could increase government costs, or they may underprice and struggle to perform.

Contractors holding large non-fixed-price contracts should expect agency outreach for renegotiation discussions and should carefully review any proposed modifications, including release and waiver language. Subcontractors should also be alert, as prime contractors may flow down any restructuring through subcontract modifications. On the other hand, the EO creates opportunities for contractors that can price risk clearly and demonstrate strong cost-control capabilities.

The EO does not amend the FAR or override existing statutory authorities, so its full practical impact will depend on how agencies apply the mandates and on the forthcoming OMB guidance and proposed FAR amendments. Our Government Contracts group will continue to provide updates and analysis as implementation progresses.

FOR MORE INFORMATION

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