

# Construction Bills

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## Out With The Old, In With the New: A Flurry of Recent Executive Orders May Greatly Affect the Construction Industry

New presidential administrations inevitably bring change. But the scale of change brought about by the flurry of Executive Orders issued by the Trump administration in its first days is unprecedented in recent memory. While not law, Executive Orders have significant influence on how the federal government operates as they express the policy of the president. 1 Many of the recently issued Executive Orders express a desire by the new administration to break from past practices in significant ways, many of which could affect government contracting and funding practices. 2 How long these changes will last and the form they will ultimately take are uncertain, but the immediate reality is that they represent a rapidly developing environment for the construction industry, particularly for those performing federally funded construction contracts. The following is a summary of several Executive Orders issued in the first days of the new Trump administration in January 2025 and how they might affect the construction industry.

- **Executive Order 14153: Unleashing Alaska's Extraordinary Resource Potential.** 3 Citing Alaska's "abundant and largely untapped supply of natural resources," this Order establishes a policy aimed at "efficiently and effectively maximiz[ing] the development and production of the natural resources located on both Federal and State lands within Alaska." This policy includes, among other things, expediting permitting and leasing of energy and natural resource projects in Alaska and prioritizing the development of Alaska's liquified natural gas (LNG) potential. To do so, the Order directs, among other things, the rescission of regulations inconsistent with this policy and the prioritization of permitting for LNG pipelines and infrastructure projects. The Order emphasizes the importance of Alaskan development to national security and directs the Assistant Secretary of the Army for Civil Works, under the direction of the Secretary of the Army, to "immediately review, revise, or rescind any agency action that may in any way hinder, slow or otherwise delay any critical project in the State of Alaska." This Order indicates a significant shift in policy regarding Alaskan development and may present opportunities for the construction industry in developing LNG infrastructure and other public works projects in Alaska.
- **Executive Order 14154: Unleashing American Energy.** 4 This Executive Order is focused on promoting domestic energy production and development of available

natural resources throughout the country. Several sections of this Executive Order could impact the construction industry significantly:

- Section 4 provides that any contract awarded under any of 12 specifically enumerated climate change initiatives from the Biden administration “shall be terminated for convenience, or otherwise, as quickly as permissible under the law.”
- Section 5 orders that agencies use “all possible authorities, including emergency authorities, to expedite the adjudication of Federal permits” for projects an agency head deems “essential for the Nation’s economy or national security.” Moreover, the Order directs that “agencies shall work closely with project sponsors to realize the ultimate construction or development of permitted projects.”
- Section 7 instructs all agencies to immediately pause disbursement of funds appropriated under the Inflation Reduction Act of 2022 5 and the Infrastructure Investment and Jobs Act of 2021 6 to conduct a review of the agencies’ “processes, policies, and programs for issuing grants, loans, contracts, or any other financial disbursements of such appropriated funds” for consistency with the law and the energy policy expressed in the Order.
- Section 8 directs the Secretary of Energy to “restart reviews of applications for approvals of liquified natural gas export projects as expeditiously as possible” and, in assessing the public interest, to “consider the economic and employment impacts to the United States and the impact to the security of allies and partners that would result from granting the application.”
- Section 9 requires relevant agencies to “identify all agency actions that impose undue burdens on the domestic mining and processing of non-fuel minerals and undertake steps to revise or rescind such actions.” The Order further requires the Secretary of Energy to “ensure that critical mineral projects, including the processing of critical minerals, receive consideration for Federal support, contingent on the availability of appropriated funds.”

As with the Alaska Executive Order, this Order indicates that the Trump administration’s policy will be to emphasize energy project development over environmental protection concerns, possibly resulting in more energy-related construction projects over the next few years. This Order also requires certain already-awarded contracts to be terminated and others to be paused for review. Thus, construction contractors who work on projects in the energy sector could be impacted in either direction by the changes contemplated by this Order.

- **Executive Order 14168: Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.** 7 This Executive Order states that the policy of the federal government is to recognize that there are only two sexes, male and female, which are “not changeable and are grounded in fundamental and incontrovertible reality.” The Order prescribes several actions that federal agencies are instructed to take to implement this policy. This may impact the



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construction industry in several ways, including under Section 7: Within 120 days, the heads of all federal agencies are to submit a report on the progress of implementing this policy, which is to address, among other things, what “agency-imposed requirements” have been placed “on federally funded entities, including contractors. “This process may result in changes to compliance requirements to which federal construction contractors are subject.

- **Executive Order 14173: Ending Illegal Discrimination and Restoring Merit-Based Opportunity.** 8 This Executive Order garnered attention for revoking Executive Order 11,246 issued by President Johnson in 1965. 9 The Equal Employment Opportunity Executive Order had been the policy of the federal government for nearly 60 years. Under this Order, the Office of Federal Contract Compliance Programs within the Department of Labor is instructed to immediately cease promoting diversity and to stop “[h]olding Federal contractors and subcontractors responsible for taking ‘affirmative action.’” Under Section 3(b), going forward, “each agency shall include in every contract or grant award” a term requiring each counterparty or recipient “to certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.” Further, under Section 4, the heads of all agencies are instructed to identify large business entities and institutions that maintain illegally discriminatory DEI or similar programs to the Attorney General for civil compliance investigation. This Order, along with others issued by the Trump administration, 10 underscores that the administration takes a starkly different view of diversity and affirmative action initiatives in comparison with previous administrations. This change in policy may result in changing compliance obligations for government construction contractors.

Beyond these are many other executive actions that have been announced or have been publicly contemplated that will undoubtedly impact the construction industry in ways large and small if they come to pass. These include the resurrected Promoting Beautiful Federal Civil Architecture initiation, 11 the America First Trade Policy, 12 trade tariffs, changes in immigration enforcement, 13 and many others. As highlighted above, changes under the Trump administration may result in new opportunities for some in the construction industry, but they also may involve changes to compliance requirements impacting how construction companies operate and perform. Some contractors might find their contracts terminated as a result of these changes. Further, legal challenges to the Trump administration’s Executive Orders could result in the judiciary limiting or even preventing the implementation of the various Executive Orders as originally issued. With all this rapid change and uncertainty likely to impact the construction industry in myriad ways, it will be advisable to keep a close watch on what is happening in Washington for the foreseeable future.