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FAR Council's PRA Request for New Contractor Anti-DEI Requirement Raises Speculation About Annual Information Collection

Government Contractor Compliance & Regulatory Update on **April 27, 2026**

Quick Hit: On April 17, 2026, the Federal Acquisition Regulatory Council (the "FAR Council") submitted a justification pursuant to the Paperwork Reduction Act ("PRA"), seeking emergency clearance from the Office of Management and Budget ("OMB") to permit collection of information to comply with Executive Order 14398 (the "Order"), "which prohibits contractors from engaging in any racially discriminatory diversity, equity, and inclusion (DEI) activities…." The request provides an estimate of the burden these requirements will place on contractors. In so doing, it estimates that "one percent of covered awards, or 6,420 … will require submission of the information under the clause."

Key Takeaways: As we discussed in a prior post, the Order requires government agencies to include a new clause in federal contracts barring federal contractors and subcontractors from engaging in "racially discriminatory DEI activities." Several aspects of the Order anticipate the provision of information from contractors to the government; specifically, responses to information requests related to compliance, reporting on subcontractors' non-compliance, and informing contracting officers of efforts by the subcontractor to challenge the clause.

More Details: As noted above, the PRA request anticipates over 6,000 contracts awarded will be subject to a submission requirement annually. The basis for this estimate is unclear, as is what is anticipated by "require[d] submission of information." There are three different information submission obligations under the Order; two address reporting on subcontractor actions, which are wholly dependent on whether a subcontractor violates or challenges the new contract clause and the contractor's knowledge of the violating conduct. The third, and the one that has garnered the most attention (and questions), is the following requirement:

“The Contractor will furnish all information and reports, including providing access to books, records, and accounts, as required by the Contracting Officer, for purposes of ascertaining compliance with this clause.”

Since the issuance of the Order, contractors have wondered whether this provision signals the government will request such compliance information on a systematic basis. Some have read the PRA request’s estimate to be an indication that the government intends to engage in some form of “auditing” for compliance with the new clause. That is far from clear from the PRA request, which does not state that an audit process is part of its estimate.

Further, the request estimates the burden of information submissions in response to government inquiries will be one hour. This suggests that any “auditing” would be minimal, though the government notoriously underestimates the burden information requests place on submitters and the FAR Council estimates it will take the government sixteen hours to review the submitted materials (suggesting the materials submitted are expected to be voluminous).

For now, contractors should continue to monitor developments and be aware that they could be subject to contracting officer requests for “books, records and accounts” relating to compliance with the new clause once it is incorporated into one of their contracts. For more on the new clause and what contractors should be doing now to prepare, please see our prior post on the Order, available here.

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