



## Executive Order Revises Federal Contracting Policies

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**Action:** On April 30, the President signed an Executive Order directing Executive Branch agencies to expand the use of fixed-price and performance-based contracts in Federal procurement, making non-fixed-price contracting more onerous with new reporting and approval requirements. <sup>1</sup> The Order fits within the Administration's broader effort to increase accountability and efficiency across the Federal government by addressing perceived waste and weak performance incentives in Federal contracting. However, it runs the risk of reducing both flexibility for agencies and profits for contractors, particularly for contracts which have uncertain returns, which could discourage competition for Federal contracts.

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- Federal procurement rules permit several contract types, including fixed-price and cost-reimbursement contracts. Agencies and procurement practitioners generally view fixed-price contracts as better suited to acquisitions with clearly defined requirements and predictable costs, while agencies typically use cost-reimbursement contracts where requirements, costs, or technical risks are less certain.
- The Order states procurement relies too heavily on structures that permit unpredictable costs, bloated overhead, and weak performance incentives. The Administration argues that fixed-price and performance-based contracts better align with contractor incentives with timely, complete, and cost-effective delivery. It cites a FY 2024 review identifying approximately \$120 billion obligated on cost-reimbursement consulting contracts alone.
- The Order directs agencies to use fixed-price contracts as the default procurement method. Contracting officers must justify any non-fixed-price contract in writing, and agency heads must approve those contracts above agency-specific dollar thresholds, with higher thresholds for the Department of Defense, NASA, and the Department of Homeland Security.
- Agency heads may delegate this approval authority, but only to non-career officials (not, for instance, to a career agency head of procurement).
- Further, the Order requires review of agencies' ten largest current non-fixed-price contracts within 90 days, semiannual reporting to the Office of Management and Budget (OMB) and forthcoming OMB guidance and amendments to the Federal Acquisition Regulation. It includes exceptions for emergency, major disaster, or contingency response contracts and for research and development or pre-production development for major systems acquisition.
- Federal procurement data track contract pricing types, including fixed-price, cost-reimbursement, time-and-materials, labor-hour, and hybrid arrangements, but the practical impact of the Order will depend on how agencies identify and manage non-fixed-price contracts across existing portfolios and future solicitations.
- **What this means for business:**
  - Federal contractor risk and pricing: The practical impact of the Order will depend on how agencies identify and manage

non-fixed-price contracts. Implementation will turn on forthcoming OMB guidance and amendments to Federal Acquisition Regulations (FAR), due within 45 and 120 days.

- Depending on the outcome of the separate 90-day review of existing contracts, contractors relying on cost-reimbursement, time-and-material, or labor-hour contracts may face pressure to move toward fixed-price or performance-based structures, shifting more cost, schedule, and performance risk to contractors.
- Contract and portfolio review: Companies with large non-fixed-price contracts should prepare for agency reviews, potential restructuring discussions, and requests to add fixed-price deliverables or performance incentives.
- Procurement strategy and compliance: Future solicitations may emphasize clearer deliverables, measurable outcomes, milestones, and price certainty. Contractors should monitor OMB guidance, FAR amendments, and agency implementation while working to ensure that contract scopes and performance metrics are clear enough to support fixed-price proposals.

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1. The White House, "Promoting Efficiency, Accountability, and Performance in Federal Contracting," April 30, 2026, <https://www.whitehouse.gov/presidential-actions/2026/04/promoting-efficiency-accountability-and-performance-in-federal-contracting/>

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