



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

September 28, 2020

M-20-37

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Russell T. Vought
Director

SUBJECT: Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All

On September 4, 2020, M-20-34 was issued at the President's direction, which states in part, "The President, and his Administration, are fully committed to the fair and equal treatment of all individuals in the United States."

M-20-34 alerted agencies that some Federal worker "training" sessions are being held – at taxpayer expense – that demonstrably undermine this core American principle by stereotyping and scapegoating specific groups of people. These divisive trainings constitute a malign subset of a larger pool of Federal agency trainings held to promote diversity and inclusiveness. The sort of training at issue does neither; it sows division among the workforce by attempting to prescribe and impose upon employees a conformity of belief in ideologies that label entire groups of Americans as inherently racist or evil (e.g., critical race theory).

On September 22, 2020, the President issued an Executive Order on Combating Race and Sex Stereotyping. The Executive Order encourages diversity and inclusion efforts consistent with principles of fair and equal treatment, and it defines the sort of divisive trainings the Administration seeks to end.

The President and the Administration believe the fair and equal treatment of individuals is an inviolable principle that must be maintained in the Federal workplace. Agencies should continue all training that will foster a workplace that is respectful of all employees. As stated previously in M-20-34, the Federal government is proud that as an employer we have employees of all races, ethnicities, and religions. Our commitment and efforts to welcome all individuals who seek to serve the American people remains, and our commitment to the fair and equal treatment of Federal employees is enduring. Taking the steps described in this memorandum will help ensure that all Federal workers are treated with the individual respect they deserve and that the Federal government continues to foster a workplace of respect for all. Agencies should take immediate and substantive action to begin this implementation, and complete implementation within the time frame required by the E.O.

Agency employees and contractors are not to engage in divisive training of Federal workers. Noncompliance by continuing with prohibited training will result in consequences, which may include adverse action for Federal employees who violate the Order.

Federal contractors are to be required to represent that they will not conduct such trainings for their own employees, with potential sanctions for noncompliance. Agencies are to review their grant programs and identify programs for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote the divisive concepts set forth in the E.O.

With respect to spending transparency, the EO states that, “Within 90 days of the date of this order, each agency shall report to OMB all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors. Such report shall, in addition to providing aggregate totals, delineate awards to each individual contractor.”

In furtherance of the Executive Order on Combating Race and Sex Stereotyping and M-20-34, agencies must:

- Identify all agency training programs related to diversity and inclusion held during Fiscal Year 2020, including both those conducted by the agency’s own employees and those conducted by others (e.g., outside vendors). Determine the spending on each such session, and the aggregate spending on all such sessions. The data should be presented so that all awards to an individual contractor are viewable together. Since these trainings and the dollars spent on them may be difficult to track or identify, it is recommended that agency leadership consult with the heads of component offices that offer such trainings to obtain their assistance in identifying them and determining the sums obligated.
- Review these trainings to determine whether they teach, advocate, or promote the divisive concepts specified in the Executive Order on Combating Race and Sex Stereotyping (e.g., that the United States is fundamentally racist or sexist or that an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive). Reviews of specific training curriculum materials can be supplemented by a broader keyword search of agency financial data and procurements for terms including, but not limited to: “critical race theory,” “white privilege,” “intersectionality,” “systemic racism,” “positionality,” “racial humility,” and “unconscious bias.” When used in the context of diversity training, these terms may help to identify the type of training prohibited by the E.O. Searching for these key words without additional review does not satisfy the review requirements of the E.O.

To prevent prohibited trainings going forward, except for those contracts specifically exempted by the E.O. (see Section 4 and FAR Subpart 22.807), every government contract must include the provisions required by Section 4 of the E.O.

Where diversity and inclusion training is to be provided to Federal employees by contractors, the following steps must be taken:

- Agencies must ensure that requirements are scoped consistent with the E.O. Existing contracts should be reviewed to ensure that training is consistent with this E.O. and any work identified as inconsistent is immediately removed, if necessary and permissible through a partial termination for convenience of the government.
- For future awards, agency solicitations or statements of work concerning Federal employee training shall include the provisions set forth in Section 4 of the E.O.

Contractors who are found to have provided a training for agency employees that teaches, advocates, or promotes the divisive concepts specified in the E.O. in violation of the applicable contract will be considered for suspension and debarment procedures consistent with the E.O. and in accordance with the procedures set forth in Part 9 of the Federal Acquisition Regulation.

For Federal financial assistance, as required by Section 5 of the E.O., Federal awarding agencies are required to identify all programs for which the agency may, as a condition of receiving Federal grants and cooperative agreements, require the recipient to certify that it will not use Federal funds to promote the concepts listed in Section 5 of the E.O. Additionally, although training and education for employee development may otherwise be an allowable cost under 2 CFR 200.472, training or education on the divisive concepts specified in the Executive Order is not an allowable cost unless otherwise provided by law.

As Federal awarding agencies are conducting their review of programs to identify those for which the agency may lawfully impose the condition described in Section 5 of the E.O., they must look at all Federal grant and cooperative agreement programs, not just those for the purposes of providing training. For those programs so identified, Federal awarding agencies must update their guidance, practices, and procedures to ensure that future notice of funding opportunities and the terms and conditions of Federal awards restrict the use of Federal funds, including funds to meet cost share requirements, from being used to promote the divisive concepts set forth in the E.O. (including by conducting research premised upon these concepts), to the extent consistent with the statute(s) governing the grant program and all other applicable law.

By November 20, 2020, Federal awarding agencies are required to report to OMB, through their RMO, those programs for which the agency may impose the conditions identified in Section 5 of the E.O.

The agency head shall designate at least one senior political appointee to review and approve in advance any expenditure on Federal employee diversity and inclusion training (via contract or SF-182), and the senior political appointee shall do so only after certifying that the curriculum meets the standard of fair and equal treatment of individuals.

Pursuant to Section 7 of the E.O. all training programs for agency employees relating to diversity or inclusion must be reviewed by the Office of Personnel Management (OPM) for compliance with the E.O. prior to the training program being used. OPM will issue guidance to agencies on the process for submitting training programs for review and the approval process.

Finally, agencies should take all appropriate actions to align their public-facing information with the requirements for training Federal employees outlined in the E.O. Agencies should encourage their employees to report to the agency Inspector General (IG) any agency-sponsored training session that violates the standard of fair and equal treatment of individuals set forth in the E.O., to support the IG reviews described in Section 6(c)(ii) of the E.O.