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Information Report: Review of the U.S. Agency for Global Media Compliance With Executive Order 13950 on Combating Race and Sex Stereotyping

INFORMATION REPORT

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Summary of Review

On September 22, 2020, the White House issued Executive Order (EO) 13950, Combating Race and Sex Stereotyping, to “promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating.”¹ Among other requirements, EO 13950 requires the agency head to take certain steps to ensure agency compliance with the EO, including to “issue an order incorporating the requirements of [the EO] into agency operations.”² Accordingly, the Office of Inspector General (OIG) conducted this review to determine whether the U.S. Agency for Global Media (USAGM) had taken steps to implement EO 13950 § 6(c).³

In its review, OIG found that USAGM did not take all the necessary steps to comply with EO 13950 § 6(c). Specifically, USAGM’s Chief Executive Officer did not issue an order to incorporate the requirements of the EO by November 21, 2020, into agency operations and did not assign a senior political appointee to oversee the implementation of the EO. Furthermore, USAGM did not formally request that OIG assess USAGM’s implementation of the EO. However, on November 25, 2020, USAGM designated a point of contact to work with OIG on the review. OIG considered this designation to be an implied request from USAGM to review and assess USAGM compliance with the EO. On December 14, 2020, USAGM provided OIG with an update on the steps it was taking to implement EO 13950 § 6(c) requirements. The USAGM point of contact stated that USAGM’s “general policy guide is being developed and will be issued across the enterprise prior to Jan[uary] 15[,] 2021[,] to implement the requirements” and that contracts and grants were “in the process of being updated for compliance.” While OIG acknowledges that USAGM is taking steps to implement the EO, it did not do so within 60 days of the EO’s issuance as required. Based on USAGM’s actions, OIG concludes that USAGM did not comply with the requirements set forth in EO 13950 § 6(c)(i) and § 6(c)(iii). In accordance with EO 13950 § 6(c)(ii), OIG is transmitting a copy of this report to the Office of Management and Budget.

BACKGROUND

On September 22, 2020, the White House issued EO 13950, Combating Race and Sex Stereotyping, to “promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating.” EO 13950 requires Federal agencies, Federal grantees, Federal contractors,

¹ EO 13950, Combating Race and Sex Stereotyping, September 22, 2020.

² EO 13950, September 22, 2020, at § 6(c)(i).

³ Because EO 13950 requires Offices of Inspectors General to complete a review and report findings to the Office of Management and Budget by the end of the calendar year, OIG limited its evaluation during 2020 to USAGM’s compliance with § 6(c) of the EO. OIG’s review during 2021 will be broader in scope and will evaluate USAGM’s compliance with all provisions of the EO.

and the Uniformed Services to address trainings that include divisive concepts,⁴ race or sex stereotyping,⁵ and race or sex scapegoating.⁶

The EO directs agencies to include provisions in all government contracts to ensure contractor compliance with the requirements beginning 60 days from the date on which the EO was signed, as applicable.⁷ The EO also requires that agencies identify grant programs for which compliance with these requirements may become a condition of receiving an award.⁸

Requirements for Agencies

EO 13950 § 6(a)(i) states that the head of each agency shall ensure that their “agency, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming . . . to agency employees do not teach, advocate, act upon, or promote . . . divisive concepts.” Specifically, each agency head shall:

- i. “issue an order incorporating the [EO requirements] into agency operations, including by making compliance with [the EO] a provision in all agency contracts for diversity training;”⁹

⁴ EO 13950, September 22, 2020, at § 2(a) defines “divisive concepts” as “concepts that (1) one race or sex is inherently superior to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (6) an individual’s moral character is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.” The term “divisive concepts” also “includes any other form of race or sex stereotyping or any other form of race or sex scapegoating.”

⁵ EO 13950, September 22, 2020, at § 2(b) defines “race or sex stereotyping” as “ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.”

⁶ EO 13950, September 22, 2020, at § 2(c) defines “race or sex scapegoating” as “assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.”

⁷ EO 13950, September 22, 2020, at § 4(a), states that “[e]xcept in contracts exempted in the manner provided by section 204 of [EO] 11246 of September 24, 1965 (Equal Employment Opportunity), as amended, all Government contracting agencies shall include [these provisions] in every Government contract hereafter.” Among other requirements, this section requires the contractor to include provisions of EO 13950 in “every subcontract or purchase order . . . so that such provisions will be binding upon each subcontractor or vendor.”

⁸ EO 13950, September 22, 2020, at § 5, states that the “heads of all agencies shall review their respective grant programs and identify programs for which the agency may, as a condition of receiving such a grant,” meet EO requirements. Further, “the heads of agencies shall each submit a report to the Director of the Office of Management and Budget (OMB) that lists all grant programs so identified.”

⁹ EO 13950, September 22, 2020, at § 6(c)(i).

- ii. “request that the agency inspector general thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to [the Office of Management and Budget];”¹⁰ and
- iii. “assign at least one senior political appointee responsibility for ensuring compliance with the requirements” of the EO.¹¹

The USAGM agency head is the Chief Executive Officer, Michael Pack, who is responsible for ensuring that all elements of the EO are implemented.¹²

Purpose of the Information Report

The purpose of this information report is to convey the results of OIG’s review related to determining whether USAGM took steps to comply with EO 13950. This information report addresses EO 13950, § 6(c), which requires that the agency head, among other things, “issue an order incorporating the requirements of this [EO] into agency operations, including by making compliance with [the EO] a provision in all agency contracts for diversity training.”¹³ OIG conducted this review in accordance with the *Quality Standards for Inspection and Evaluation* as set forth by the Council of the Inspectors General on Integrity and Efficiency in 2012. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report. In accordance with a reporting provision outlined in EO 13950, OIG has transmitted a copy of this final report to the Office of Management and Budget. Appendix A provides additional details of the purpose, scope, and methodology of this project.

RESULTS

USAGM Did Not Take Necessary Steps To Implement EO 13950 § 6(c)

OIG found that USAGM did not take all the necessary steps to comply with EO 13950 § 6(c), issued on September 22, 2020. Specifically, USAGM’s Chief Executive Officer did not issue an order to incorporate the requirements of the EO by November 21, 2020, into agency operations and did not assign a senior political appointee to oversee the implementation of the EO. Furthermore, USAGM did not formally request that OIG assess USAGM’s implementation of the EO. However, on November 25, 2020, USAGM designated a point of contact¹⁴ to facilitate OIG’s review and assessment of agency compliance with the EO in the form of a report. OIG considered this designation to be an implied request from USAGM to review and assess USAGM compliance with the EO.

¹⁰ EO 13950, September 22, 2020, at § 6(c)(ii).

¹¹ EO 13950, September 22, 2020, at § 6(c)(iii).

¹² Under the National Defense Authorization Act for Fiscal Year 2017, § 1288, the Chief Executive Officer assumed all leadership, management, and operational authorities of USAGM. *See generally* 22 U.S. Code § 6203.

¹³ EO 13950, September 22, 2020, at § 6(c)(i).

¹⁴ See Appendix A for additional details regarding OIG efforts to review and assess USAGM compliance with the EO.

The Chief Executive Officer Did Not Satisfy § 6(c)(i) of EO 13950 by Incorporating the EO Requirements into Agency Operations

OIG found that the Chief Executive Officer had not issued an order incorporating the requirements of the EO by November 21, 2020, into agency operations. Specifically, USAGM did not provide OIG with documentation to show that the Chief Executive Officer had issued an order directing the agency's contract and grant officials to incorporate the requirements of the EO into contracts¹⁵ and grants.¹⁶ On December 8, 2020, USAGM's designated point of contact stated that an order was being drafted but did not provide a timeframe for issuing the order. On December 14, 2020, USAGM's point of contact provided an update, stating that USAGM's "general policy guide is being developed and will be issued across the enterprise prior to Jan[uary] 15[,] 2021[,] to implement the requirements" of the EO and that contracts and grants were "in the process of being updated for compliance." While OIG acknowledges that USAGM was taking steps to implement § 6(c)(i) the EO, it did not do so within 60 days of the EO issuance as required. Therefore, USAGM did not comply with 6(c)(i) of EO 13950 by issuing an order incorporating the EO requirements into agency operations.

The Chief Executive Officer Did Not Assign a Senior Political Appointee or Formally Request That OIG Review USAGM's EO 13950 Compliance in Accordance With § 6(c)(ii) and § 6(c)(iii) of EO 13950

OIG found that as of December 14, 2020, USAGM had not assigned a senior political appointee the responsibility for ensuring compliance with the requirements of EO 13950 as required under EO 13950 § 6(c)(iii). USAGM did not provide OIG with documentation to show such an assignment had occurred, nor did it provide confirmation that the Chief Executive Officer retained such responsibility rather than assigning another senior political appointee within the agency.

Furthermore, USAGM did not formally request that OIG assess USAGM's implementation of the EO. However, on November 25, 2020, after OIG announced its review, USAGM designated a point of contact to facilitate OIG's review of USAGM compliance with the EO.¹⁷ OIG considered this designation to be an implied request from USAGM to review and assess USAGM

¹⁵ EO 13950, § 4, states that Government contracting agencies shall include provided provisions in every Government contract, except those exempted by Section 204 of EO 11246. This requirement applies to contracts entered into 60 days or more after the date of the EO.

¹⁶ EO 13950, § 5, states that agency heads shall review their grant programs and identify those which the agency may require grant recipients to certify they will not use Federal funds to promote the concepts detailed in the EO. Within 60 days of the date of the EO, the heads of agencies shall each submit a report to the Director of the Office of Management and Budget that lists all grant programs so identified. OMB Memorandum M-20-37, "Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All," further states that for those programs identified, the agencies must update their guidance, practices, and procedures to ensure notice of funding opportunities and terms and conditions of awards restrict the use of Federal funds from being used to promote the concepts detailed in the EO.

¹⁷ Because of OIG's obligation under § 6(c)(ii) to issue a report by December 31, 2020, on USAGM's compliance with the EO, OIG announced to USAGM it was initiating its review on October 30, 2020.

compliance with the EO by the end of the calendar year, and not less than annually thereafter, as required under 6(c)(ii) of the EO.

CONCLUSION

Based on information provided by USAGM, OIG concludes that USAGM did not comply with the requirements set forth in EO 13950 § 6(c)(i) and § 6(c)(iii). USAGM's Chief Executive Officer should take the following steps to comply with the requirements of this section—issue an order to incorporate the requirements of the EO into agency operations and assign at least one senior political appointee to oversee the implementation of the EO. In accordance with EO 13950 § 6(c)(ii), OIG is transmitting a copy of this report to the Office of Management and Budget.

APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

On September 22, 2020, the White House issued Executive Order (EO) 13950, Combating Race and Sex Stereotyping. The Office of Inspector General (OIG) conducted this review to determine whether the U.S. Agency for Global Media (USAGM) took steps to implement the requirements in § 6(c) of EO 13950.¹ That section requires the agency head, among other things, to “issue an order incorporating the requirements of this [EO] into agency operations, including by making compliance with [the EO] a provision in all agency contracts for diversity training.”²

OIG conducted this review from November to December 2020 in the Washington, DC, metropolitan area. Specifically, OIG conducted this review in accordance with the *Quality Standards for Inspection and Evaluation* as set forth by the Council of the Inspectors General on Integrity and Efficiency in 2012. These standards require that OIG plan and perform a review to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the review objective. OIG believes that the evidence obtained provides a reasonable basis for its findings and conclusions based on the objective.

To perform this project, OIG reviewed the applicable EO and related memoranda published by the Office of Personnel Management and the Office of Management and Budget. OIG held telephone meetings and exchanged email communication with designated USAGM officials during the review period. This review was significantly delayed due to a lack of USAGM responsiveness to OIG’s requests. On October 30, 2020, OIG formally notified USAGM’s Chief Executive Officer that it was initiating a review of USAGM’s compliance with EO 13950 and requested a point of contact by November 4, 2020, to work with OIG on the review. After not receiving a response, on November 9, 2020, OIG submitted a second request to USAGM for a point of contact and provided a list of documents needed by November 20, 2020. After again receiving no response, on November 25, 2020, the Acting Inspector General reiterated the requirements for USAGM to respond to OIG to the official serving as the chief of staff at that time. The chief of staff indicated that he would be the point of contact for this review and stated that the prior chief of staff had recently resigned. Although a point of contact was provided, USAGM did not provide requested documentation. OIG’s Assistant Inspector General for Audits contacted USAGM between December 2, 2020, and December 4, 2020, communicating with a third, interim, chief of staff. The interim chief of staff stated that USAGM would provide the requested information. On December 8, 2020, OIG provided additional information on the review to the interim chief of staff. On December 14, 2020, the interim chief of staff provided a brief email with an update on the steps USAGM was taking to implement the EO.

¹ Because EO 13950 requires Offices of Inspectors General to complete a review and report findings to the Office of Management and Budget by the end of the calendar year, OIG limited its evaluation during 2020 to USAGM’s compliance with § 6(c) of the EO. OIG’s review during 2021 will be broader in scope and will evaluate USAGM’s compliance with all provisions of the EO.

² EO 13950, Combating Race and Sex Stereotyping, September 22, 2020, at § 6(c)(i).

ABBREVIATIONS

EO	Executive Order
OIG	Office of Inspector General
USAGM	U.S. Agency for Global Media

OIG TEAM MEMBERS

Denise Colchin, Division Director
Contracts, Grants, and Infrastructure Division
Office of Audits

Zorayma Torres-Alvarez, Audit Manager
Contracts, Grants, and Infrastructure Division
Office of Audits

Maria Sharp, Auditor
Contracts, Grants, and Infrastructure Division
Office of Audits

Laura Miller, Management Analyst
Contracts, Grants, and Infrastructure Division
Office of Audits

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