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Information Report: Review of the Department of State 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 The Office of Inspector General (OIG) conducted this review to determine whether the Department of State (Department) has taken steps to implement EO 13950 § 6(c).³

In its review, OIG found that the Department has taken the necessary steps to comply with EO 13950 § 6(c). Specifically, the Secretary of State issued two agency-wide orders to incorporate the requirements of the EO into agency operations and designated the Under Secretary for Management as the senior political appointee to oversee the implementation of the EO. Following the Secretary of State’s orders, the Bureau of Administration, Office of the Procurement Executive,⁴ issued subsequent guidance requiring the Department’s contractors and grantees to comply with the EO. Finally, the Undersecretary for Management, on behalf of the Secretary of State, requested that OIG review and assess agency compliance with the EO in the form of a report.

Based on the Department’s actions, OIG concludes that the Department has complied with the requirements set forth in EO 13950 § 6(c). 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 in calendar year 2020 to the Department’s compliance with § 6(c) of the EO. OIG’s review in calendar year 2021 will be broader in scope and will evaluate the Department’s compliance with all provisions of the EO.

⁴ The Office of the Procurement Executive evaluates, monitors, and reports on the performance of the Department’s procurement system in accordance with applicable laws and regulations.

and the Uniformed Services to address trainings that include divisive concepts,⁵ race or sex stereotyping,⁶ and race or sex scapegoating.⁷

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.⁸ The EO also requires that agencies identify grant programs for which compliance with these requirements may become a condition of receiving an award.⁹

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;”¹⁰

⁵ 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.”

⁶ 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.”

⁷ 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.”

⁸ 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.”

⁹ 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.”

¹⁰ 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];”¹¹ and
- iii. “assign at least one senior political appointee responsibility for ensuring compliance with the requirements” of the EO.¹²

Accordingly, the agency head for the Department is the Secretary of State, Michael R. Pompeo. The Secretary of State is responsible for exercising personal leadership in establishing, maintaining, and carrying out a continuing affirmative employment program designed to promote equal opportunity in every aspect of the Department’s personnel policies and practices.¹³

Purpose of the Information Report

The purpose of this information report is to convey the results of OIG’s review related to determining whether the Department 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.”¹⁴ 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

Department Took Necessary Steps To Implement EO 13950 § 6(c)

OIG found that the Department has taken the necessary steps to comply with EO 13950 § 6(c), issued on September 22, 2020. Specifically, the Secretary of State issued two agency-wide orders to incorporate the requirements of the EO into agency operations and designated the Under Secretary for Management as the senior political appointee to oversee the implementation of the EO. Following the Secretary of State’s orders, the Bureau of Administration, Office of the Procurement Executive, issued guidance requiring the Department’s contractors and grantees to comply with the EO. Finally, the Undersecretary for Management, on behalf of the Secretary of State, requested that OIG review and assess agency compliance with the EO in the form of a report.

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

¹² EO 13950, September 22, 2020, at § 6(c)(iii).

¹³ 3 Foreign Affairs Manual 1514(a), “Responsibilities.”

¹⁴ EO 13950, September 22, 2020, at § 6(c)(i).

The Secretary of State Satisfied § 6(c)(i) of EO 13950 by Incorporating the EO Requirements Into Agency Operations

On October 23, 2020, the Secretary of State issued an agency-wide order¹⁵ directing the Foreign Service Institute,¹⁶ domestic bureaus, and missions overseas to “pause delivery of all training on diversity and inclusion as of October 23, 2020, consistent with the [EO] and in consultation with [the Office of Personnel Management] and the Office of Management and Budget.” The order further stated that, the “Department is separately working on providing guidance on actions related to contracts and grants under the [EO].” The Department issued a separate agency-wide order on October 29, 2020, that states, “[t]raining material the [Chief of Mission] or Assistant Secretary deems noncompliant with [§] 6 of the [EO] on [‘divisive concepts’] should be discontinued.”¹⁷

Following the Secretary of State’s agency orders, the Bureau of Administration, Office of the Procurement Executive, issued guidance to implement EO 13950 for contracts and grants. Specifically, the Senior Procurement Executive issued a memorandum¹⁸ on November 20, 2020, to “remind all [Department] Contracting Officers that [EO] 13950 [takes] effect on November 21, 2020” and also to “remind everyone of their responsibility to review the [EO] and its effect on contracting . . . to ensure contractor compliance in accordance with [§] 4 of the [EO].” The Office of the Procurement Executive subsequently issued a memorandum on November 30, 2020, to “all [Department] Federal Assistance Personnel,” requiring the agency to comply with the updated “Standard Terms and Conditions for Federal Awards,” which went into effect on October 21, 2020, requiring that “[t]he recipient shall comply with . . . [EO] 13950 – Combating Race and Sex Stereotyping.”

The Secretary of State Assigned a Senior Political Appointee Who Requested That OIG Review the Department’s Compliance in Accordance With § 6(c)(ii) and § 6(c)(iii) of EO 13950

In the October 23, 2020, agency-wide notice issued by the Secretary of State, the Under Secretary for Management was identified as the “senior Department official responsible for ensuring compliance with [EO] 13950.”¹⁹ Consequently, on October 30, 2020, the Under Secretary for Management, on behalf of the Secretary of State, requested that OIG “thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, the Department’s compliance with the requirements” in accordance with §6(c)(ii) of EO 13950.

¹⁵ 20 STATE 104608, “Department Implementation of Executive Order on Race and Sex Stereotyping.”

¹⁶ The Foreign Service Institute is responsible for establishing and administering procedures that implement the Department’s training policies and operations.

¹⁷ 20 STATE 106142, “Guidance Related to Implementation of Executive Order 13950 on Combatting Race and Sex Stereotyping.”

¹⁸ The Senior Procurement Executive issued guidance by way of the Bureau of Administration, Office of the Procurement Executive, Office of Acquisition Policy, which is responsible for, among others, determining the effect of new EOs or implements, into the Department’s acquisition or assistance policy and procedures.

¹⁹ 20 STATE 104608, “Department Implementation of Executive Order on Race and Sex Stereotyping.”

Based on the Department's actions, OIG concludes that the Department complied with the requirements set forth in EO 13950 § 6(c). 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 Department of State (Department) has taken 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 memorandums published by the Office of Personnel Management and the Office of Management and Budget. OIG held phone conferences and exchanged email communication with officials from the Office of the Undersecretary for Management, the Foreign Service Institute, and the Bureau of Administration, Office of the Procurement Executive. Furthermore, OIG reviewed Department Notices, memorandums, and updated Standard Terms and Conditions for Federal Assistance Awards related to Department implementation of EO 13950 § 6(c).

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 in calendar year 2020 to the Department’s compliance with § 6(c) of the EO. OIG’s review in calendar year 2021 will be broader in scope and will evaluate the Department’s compliance with all provisions of the EO.

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

ABBREVIATIONS

Department	Department of State
EO	Executive Order
OIG	Office of Inspector General

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