



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

November 9, 2020

The Honorable Carolyn B. Maloney  
Chairwoman  
Committee on Oversight and Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Madam Chairwoman:

I write in response to your recent letter regarding Office of Management and Budget (“OMB”) Memorandum M-20-34 on “Training in the Federal Government” (September 4, 2020)<sup>1</sup> and Executive Order 13950 on “Combating Race and Sex Stereotyping” (September 22, 2020).<sup>2</sup>

Based on your letter, it appears that you fundamentally misunderstand what M-20-34 and Executive Order 13950 actually direct. For example, you characterize the above directives as tantamount to the “cancellation of diversity and anti-racism training in the federal government,”<sup>3</sup> when neither directive does anything of the sort. In fact, to the contrary, Executive Order 13950 states that “Executive departments and agencies (agencies), our Uniformed Services, Federal contractors, and Federal grant recipients should, of course, continue to foster environments devoid of hostility grounded in race, sex, and other federally protected characteristics” and that “[t]raining employees to create an inclusive workplace is appropriate and beneficial.” Moreover, the Executive Order explicitly provides that “[t]his order does not prevent agencies, the United States Uniformed Services, or contractors from promoting racial, cultural, or ethnic diversity or inclusiveness,” and further requires that “[a]gencies should continue all training that will foster a workplace that is respectful of all employees.”

Rather than banning diversity and anti-racism training in the Federal government, as you incorrectly claim, Executive Order 13950 only seeks to curb trainings that “perpetuate[] racial stereotypes and division.” Specifically, Section 6 of the order targets trainings that teach, advocate, act upon, or promote in any training to agency employees any of the following divisive concepts:

- (1) that one race or sex is inherently superior to another race or sex;
- (2) that the United States is fundamentally racist or sexist;

---

<sup>1</sup> Office of Management and Budget Memorandum M-20-34, “Training in the Federal Government” (Sept. 4, 2020).

<sup>2</sup> Executive Order 13950, “Combating Race and Sex Stereotyping” (Sept. 22, 2020).

<sup>3</sup> Letter from the Hon. Carolyn B. Maloney, Chairwoman, House Comm. On Oversight and Reform, et al., to the Hon. Russell T. Vought, Director, Office of Management and Budget (Sept. 29, 2020) at 1.

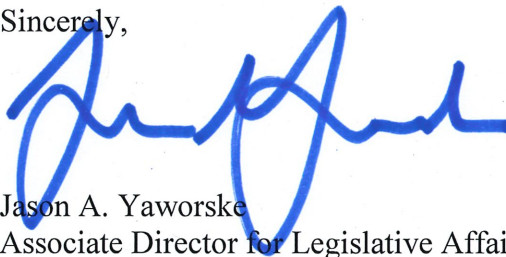
- (3) that an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- (4) that an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- (5) that members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- (6) that an individual's moral character is necessarily determined by his or her race or sex;
- (7) that 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) that any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex;
- (9) that meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race; or
- (10) any other any other form of race or sex stereotyping or any other form of race or sex scapegoating, which the order defines 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.

Accordingly, if a particular agency training does not teach, advocate, act upon, or promote to agency employees any of the divisive concepts described above (*e.g.*, that people of one race are superior or inferior to people from another race or that the United States is fundamentally racist or sexist), then that particular training would not be impacted by the Executive Order and may continue.

I hope that the above explanation is helpful and allays your concerns about the nature and impact of M-20-34 and Executive Order 13950. In addition, please find enclosed records responsive to your request for information about these directives.

If you or your staff have any further questions, please contact the OMB Office of Legislative Affairs at [OMBLegislativeAffairs@omb.eop.gov](mailto:OMBLegislativeAffairs@omb.eop.gov).

Sincerely,



Jason A. Yaworske  
Associate Director for Legislative Affairs

Enclosure

cc: The Honorable Gerald E. Connolly  
The Honorable Jamie Raskin  
The Honorable Stephen F. Lynch  
The Honorable Raja Krishnamoorthi  
The Honorable Harley Rouda  
The Honorable Eleanor Holmes Norton  
The Honorable Ro Khanna  
The Honorable John P. Sarbanes  
The Honorable Jackie Speier  
The Honorable Brenda L. Lawrence  
The Honorable Stacey E. Plaskett  
The Honorable Jimmy Gomez  
The Honorable Alexandria Ocasio-Cortez  
The Honorable Rashida Tlaib  
The Honorable Donald S. Beyer, Jr.  
The Honorable David Trone  
The Honorable Jennifer Wexton  
The Honorable James R. Comer  
The Honorable Jody B. Hice  
The Honorable Chip Roy  
The Honorable Glenn Grothman  
The Honorable Michael Cloud  
The Honorable Mark Green



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

THE DIRECTOR

September 4, 2020

M-20-34

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Russell Vought  
Director

A handwritten signature in blue ink, appearing to read "R. Vought", written over the printed name "Russell Vought".

SUBJECT: Training in the Federal Government

It has come to the President's attention that Executive Branch agencies have spent millions of taxpayer dollars to date "training" government workers to believe divisive, anti-American propaganda.

For example, according to press reports, employees across the Executive Branch have been required to attend trainings where they are told that "virtually all White people contribute to racism" or where they are required to say that they "benefit from racism." According to press reports, in some cases these training have further claimed that there is racism embedded in the belief that America is the land of opportunity or the belief that the most qualified person should receive a job.

These types of "trainings" not only run counter to the fundamental beliefs for which our Nation has stood since its inception, but they also engender division and resentment within the Federal workforce. We can be proud that as an employer, the Federal government has employees of all races, ethnicities, and religions. We can be proud that Americans from all over the country seek to join our workforce and dedicate themselves to public service. We can be proud of our continued efforts to welcome all individuals who seek to serve their fellow Americans as Federal employees. However, we cannot accept our employees receiving training that seeks to undercut our core values as Americans and drive division within our workforce.

The President has directed me to ensure that Federal agencies cease and desist from using taxpayer dollars to fund these divisive, un-American propaganda training sessions. Accordingly, to that end, the Office of Management and Budget will shortly issue more detailed guidance on implementing the President's directive. In the meantime, all agencies are directed to begin to identify all contracts or other agency spending related to any training on "critical race theory," "white privilege," or any other training or propaganda effort that teaches or suggests either (1) that the United States is an inherently racist or evil country or (2) that any race or ethnicity is inherently racist or evil. In addition, all agencies should begin to identify all available avenues within the law to cancel any such contracts and/or to divert Federal dollars away from these un-American propaganda training sessions.

The President, and his Administration, are fully committed to the fair and equal treatment of all individuals in the United States. The President has a proven track record of standing for those whose voice has long been ignored and who have failed to benefit from all our country has to offer, and he intends to continue to support all Americans, regardless of race, religion, or creed. The divisive, false, and demeaning propaganda of the critical race theory movement is contrary to all we stand for as Americans and should have no place in the Federal government.

**EXECUTIVE ORDERS**

# Executive Order on Combating Race and Sex Stereotyping

**LAW & JUSTICE**Issued on: **September 22, 2020**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 et seq., and in order 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, it is hereby ordered as follows:

Section 1. Purpose. From the battlefield of Gettysburg to the bus boycott in Montgomery and the Selma-to-Montgomery marches, heroic Americans have valiantly risked their lives to ensure that their children would grow up in a Nation living out its creed, expressed in the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal.” It was this belief in the inherent equality of every individual that inspired the Founding generation to risk their lives, their fortunes, and their sacred honor to establish a new Nation, unique among the countries of the world. President Abraham Lincoln understood that this belief is “the electric cord” that “links the hearts of patriotic and liberty-loving” people, no matter their race or country of origin. It is the belief that inspired the heroic black soldiers of the 54th Massachusetts Infantry Regiment to defend that same Union at great cost in the Civil War. And it is what

inspired Dr. Martin Luther King, Jr., to dream that his children would one day “not be judged by the color of their skin but by the content of their character.”

Thanks to the courage and sacrifice of our forebears, America has made significant progress toward realization of our national creed, particularly in the 57 years since Dr. King shared his dream with the country.

Today, however, many people are pushing a different vision of America that is grounded in hierarchies based on collective social and political identities rather than in the inherent and equal dignity of every person as an individual. This ideology is rooted in the pernicious and false belief that America is an irredeemably racist and sexist country; that some people, simply on account of their race or sex, are oppressors; and that racial and sexual identities are more important than our common status as human beings and Americans.

This destructive ideology is grounded in misrepresentations of our country’s history and its role in the world. Although presented as new and revolutionary, they resurrect the discredited notions of the nineteenth century’s apologists for slavery who, like President Lincoln’s rival Stephen A. Douglas, maintained that our government “was made on the white basis” “by white men, for the benefit of white men.” Our Founding documents rejected these racialized views of America, which were soundly defeated on the blood-stained battlefields of the Civil War. Yet they are now being repackaged and sold as cutting-edge insights. They are designed to divide us and to prevent us from uniting as one people in pursuit of one common destiny for our great country.

Unfortunately, this malign ideology is now migrating from the fringes of American society and threatens to infect core institutions of our country. Instructors and materials teaching that men and members of certain races, as well as our most venerable institutions, are inherently sexist and racist are appearing in workplace diversity trainings across the country, even in components of the Federal Government and among Federal contractors. For example, the Department of the Treasury recently held a seminar that promoted arguments that “virtually all White people, regardless of how

‘woke’ they are, contribute to racism,” and that instructed small group leaders to encourage employees to avoid “narratives” that Americans should “be more color-blind” or “let people’s skills and personalities be what differentiates them.”

Training materials from Argonne National Laboratories, a Federal entity, stated that racism “is interwoven into every fabric of America” and described statements like “color blindness” and the “meritocracy” as “actions of bias.”

Materials from Sandia National Laboratories, also a Federal entity, for non-minority males stated that an emphasis on “rationality over emotionality” was a characteristic of “white male[s],” and asked those present to “acknowledge” their “privilege” to each other.

A Smithsonian Institution museum graphic recently claimed that concepts like “[o]bjective, rational linear thinking,” “[h]ard work” being “the key to success,” the “nuclear family,” and belief in a single god are not values that unite Americans of all races but are instead “aspects and assumptions of whiteness.” The museum also stated that “[f]acing your whiteness is hard and can result in feelings of guilt, sadness, confusion, defensiveness, or fear.”

All of this is contrary to the fundamental premises underpinning our Republic: that all individuals are created equal and should be allowed an equal opportunity under the law to pursue happiness and prosper based on individual merit.

Executive departments and agencies (agencies), our Uniformed Services, Federal contractors, and Federal grant recipients should, of course, continue to foster environments devoid of hostility grounded in race, sex, and other federally protected characteristics. Training employees to create an inclusive workplace is appropriate and beneficial. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law.



But training like that discussed above perpetuates racial stereotypes and division and can use subtle coercive pressure to ensure conformity of viewpoint. Such ideas may be fashionable in the academy, but they have no place in programs and activities supported by Federal taxpayer dollars. Research also suggests that blame-focused diversity training reinforces biases and decreases opportunities for minorities.

Our Federal civil service system is based on merit principles. These principles, codified at 5 U.S.C. 2301, call for all employees to “receive fair and equitable treatment in all aspects of personnel management without regard to” race or sex “and with proper regard for their . . . constitutional rights.” Instructing Federal employees that treating individuals on the basis of individual merit is racist or sexist directly undermines our Merit System Principles and impairs the efficiency of the Federal service. Similarly, our Uniformed Services should not teach our heroic men and women in uniform the lie that the country for which they are willing to die is fundamentally racist. Such teachings could directly threaten the cohesion and effectiveness of our Uniformed Services.

Such activities also promote division and inefficiency when carried out by Federal contractors. The Federal Government has long prohibited Federal contractors from engaging in race or sex discrimination and required contractors to take affirmative action to ensure that such discrimination does not occur. The participation of contractors’ employees in training that promotes race or sex stereotyping or scapegoating similarly undermines efficiency in Federal contracting. Such requirements promote divisiveness in the workplace and distract from the pursuit of excellence and collaborative achievements in public administration.

Therefore, it shall be the policy of the United States not to promote race or sex stereotyping or scapegoating in the Federal workforce or in the Uniformed Services, and not to allow grant funds to be used for these purposes. In addition, Federal contractors will not be permitted to inculcate such views in their employees.

Sec. 2. Definitions. For the purposes of this order, the phrase:

(a) “Divisive concepts” means the 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.

(b) “Race or sex stereotyping” means 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.

(c) “Race or sex scapegoating” means 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.

(d) “Senior political appointee” means an individual appointed by the President, or a non-career member of the Senior Executive Service (or agency-equivalent system).

Sec. 3. Requirements for the United States Uniformed Services. The United States Uniformed Services, including the United States Armed Forces, shall not teach, instruct, or train any member of the United States Uniformed Services, whether serving on active duty, serving on reserve duty, attending a military service academy, or attending courses

conducted by a military department pursuant to a Reserve Officer Corps Training program, to believe any of the divisive concepts set forth in section 2(a) of this order. No member of the United States Uniformed Services shall face any penalty or discrimination on account of his or her refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to these concepts.

Sec. 4. Requirements for Government Contractors. (a) Except in contracts exempted in the manner provided by section 204 of Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity), as amended, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

“During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual’s moral character is necessarily determined by his or her race or sex; (f) 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; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) 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 “race or sex stereotyping” means 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, and the term “race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under the Executive Order of September 22, 2020, entitled Combating Race and Sex Stereotyping, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3. In the event of the contractor's noncompliance with the requirements of paragraphs (1), (2), and (4), or with any rules, regulations, or orders that may be promulgated in accordance with the Executive Order of September 22, 2020, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided by any rules, regulations, or orders the Secretary of Labor has issued or adopted pursuant to Executive Order 11246, including subpart D of that order.

4. The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

(b) The Department of Labor is directed, through the Office of Federal Contract Compliance Programs (OFCCP), to establish a hotline and investigate complaints received under both this order as well as Executive Order 11246 alleging that a Federal contractor is utilizing such training programs in violation of the contractor's obligations

under those orders. The Department shall take appropriate enforcement action and provide remedial relief, as appropriate.

(c) Within 30 days of the date of this order, the Director of OFCCP shall publish in the Federal Register a request for information seeking information from Federal contractors, Federal subcontractors, and employees of Federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees. The request for information should request copies of any training, workshop, or similar programming having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities.

Sec. 5. Requirements for Federal Grants. 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, require the recipient to certify that it will not use Federal funds to promote the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) 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; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. Within 60 days of the date of this order, 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.

Sec. 6. Requirements for Agencies. (a) 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.

Accordingly:

(i) The head of each agency shall use his or her authority under 5 U.S.C. 301, 302, and 4103 to ensure that the agency, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming (for purposes of this section, “training”) to agency employees do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in section 2(a) of this order. Agencies may consult with the Office of Personnel Management (OPM), pursuant to 5 U.S.C. 4116, in carrying out this provision; and

(ii) Agency diversity and inclusion efforts shall, first and foremost, encourage agency employees not to judge each other by their color, race, ethnicity, sex, or any other characteristic protected by Federal law.

(b) The Director of OPM shall propose regulations providing that agency officials with supervisory authority over a supervisor or an employee with responsibility for promoting diversity and inclusion, if such supervisor or employee either authorizes or approves training that promotes the divisive concepts set forth in section 2(a) of this order, shall take appropriate steps to pursue a performance-based adverse action proceeding against such supervisor or employee under chapter 43 or 75 of title 5, United States Code.

(c) Each agency head shall:

(i) issue an order incorporating the requirements of this order into agency operations, including by making compliance with this order a provision in all agency contracts for diversity training;

(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 OMB; and

(iii) assign at least one senior political appointee responsibility for ensuring compliance with the requirements of this order.

Sec. 7. OMB and OPM Review of Agency Training. (a) Consistent with OPM's authority under 5 U.S.C. 4115-4118, all training programs for agency employees relating to diversity or inclusion shall, before being used, be reviewed by OPM for compliance with the requirements of section 6 of this order.

(b) If a contractor provides a training for agency employees relating to diversity or inclusion that teaches, advocates, or promotes the divisive concepts set forth in section 2(a) of this order, and such action is in violation of the applicable contract, the agency that contracted for such training shall evaluate whether to pursue debarment of that contractor, consistent with applicable law and regulations, and in consultation with the Interagency Suspension and Debarment Committee.

(c) 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.

(d) The Directors of OMB and OPM may jointly issue guidance and directives pertaining to agency obligations under, and ensuring compliance with, this order.

Sec. 8. Title VII Guidance. The Attorney General should continue to assess the extent to which workplace training that teaches the divisive concepts set forth in section 2(a) of this order may contribute to a hostile work environment and give rise to potential liability under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. If appropriate, the Attorney General and the Equal Employment Opportunity Commission shall issue publicly available guidance to assist employers in better promoting diversity and inclusive workplaces consistent with Title VII.

Sec. 9. Effective Date. This order is effective immediately, except that the requirements of section 4 of this order shall apply to contracts entered into 60 days after the date of this order.

Sec. 10. General Provisions. (a) This order does not prevent agencies, the United States Uniformed Services, or contractors from promoting racial, cultural, or ethnic diversity or inclusiveness, provided such efforts are consistent with the requirements of this order.

(b) Nothing in this order shall be construed to prohibit discussing, as part of a larger course of academic instruction, the divisive concepts listed in section 2(a) of this order in an objective manner and without endorsement.

(c) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof;  
or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



DONALD J. TRUMP

THE WHITE HOUSE,  
September 22, 2020.



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

A handwritten signature in blue ink, appearing to read "R. Vought", is written over the printed name of the 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.