



Executive Order on Defense Contracting

February 11, 2026

The Department of Defense (DOD), which is “using a secondary Department of War designation” under [Executive Order 14347](#) dated September 5, 2025, relies on a large and complex *defense industrial base* (DIB) to produce materials, products, and services that enable the department’s warfighting capabilities and business operations. DOD procures such materials, products, and services from contractors. In 2025, both the executive branch and Congress have introduced efforts to reform DOD contracting processes.

On January 7, 2026, President Trump issued Executive Order 14372 ([E.O. 14372](#)), entitled “Prioritizing the Warfighter in Defense Contracting.” E.O. 14372 states that “many large contractors – while underperforming on existing contracts – pursue newer, more lucrative contracts, stock buy-backs, and excessive dividends to shareholders at the cost of production capacity, innovation, and on-time delivery.” The order directs, “effective immediately, [large contractors] are not permitted in any way, shape or form to pay dividends or buy back stock, until such time as they are able to produce a superior product, on time and on budget.” The E.O. makes a similar prohibition for “major defense contractors.”

This Insight discusses the authorities invoked in the order, the processes it establishes for DOD, and potential legal challenges to the E.O. While executive orders may announce new administration policies or direct executive agencies to take certain actions, they are not codified in statute. Congress may consider whether or not to pass legislation that codifies, clarifies, or revokes elements of E.O. 14372. Congress may also conduct oversight of DOD as it executes the E.O.’s directives.

DOD Acquisition Reform and E.O. 14372

Since January 2025, [both the executive branch and Congress have introduced efforts](#) to reform DOD acquisition and contracting and to maintain estimated DOD program costs and schedules. Such efforts continue over a decade of defense acquisition reform initiatives and reporting requirements. E.O. 14372 directs the Secretary of Defense, who is using “Secretary of War” as a “secondary title,” to “identify any defense contractors for critical weapons, supplies, and equipment that are underperforming on their contracts, not investing their own capital into necessary production capacity, not sufficiently prioritizing United States Government contracts, or whose production speed is insufficient as determined by the Secretary, and that have, during the period of underperformance or insufficient prioritization, investment,

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IN12654

or production speed, engaged in any stock buy-back or corporate distribution” and to notify and engage with the contractor to “resolve the issues... including, where permissible under applicable law, providing the contractor with the opportunity to submit a remediation plan.” Should remediation not succeed, the E.O. provides that the Secretary may take actions to “return the contractor to sufficient performance, investment, prioritization, and production, to the maximum extent permitted by law.” (For examples of such actions, see CRS Report R45322, *Selected Legal Tools for Maintaining Government Contractor Accountability*, by David H. Carpenter. The E.O. also requires similar actions for future contracts.)

E.O. 14372 and the Defense Production Act (DPA)

In addition to the aforementioned provisions, E.O. 14372 invokes the Defense Production Act (DPA), which gives the President authority to compel or incentivize industry in the interest of national security. (For more information on the DPA, see CRS Report R43767, *The Defense Production Act of 1950: History, Authorities, and Considerations for Congress*, by Alexandra G. Neenan.) While the E.O. does not list any specific authorities outlined in the DPA, it does mention “voluntary agreement[s].” Such agreements may implicate DPA [Title VII](#), which includes the authority to establish voluntary agreements with private industry “to help provide for the national defense.” Additionally, [Title I](#) allows the President to require persons (including businesses and corporations) to prioritize and accept contracts for materials and services as necessary to promote the national defense.

Potential Legal Issues

Defense contractors covered by E.O. 14372 may raise legal challenges to the E.O. or its implementation, particularly if they become subject to agency enforcement after an underperformance determination. As noted above, the E.O. cites [the DPA](#) as a potential source of enforcement authority; it also cites the [Federal Acquisition Regulation \(FAR\)](#) and [Defense Federal Acquisition Regulation Supplement \(DFARS\)](#). Enforcement actions would be subject to the procedural and substantive limitations in those respective authorities. To the extent the E.O. imposes new requirements on existing contracts, particularly with respect to prohibiting underperforming contractors from paying dividends or buying back stock, such requirements might be challenged as being unauthorized by the terms of the contract or applicable regulations (for example, the FAR currently contemplates limiting dividend payments only in certain circumstances, such as [in connection with advance payments](#)). The Administration likely has greater latitude to impose such requirements on new contracts. Congress or the Administration may also seek to revise the FAR or DFARS to implement this E.O., but such changes would be subject to [additional procedural requirements](#) and could be challenged if those procedures are not followed.

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