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EXECUTIVE ORDER

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DISCLOSURE OF POLITICAL SPENDING BY GOVERNMENT CONTRACTORS

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 to ensure the integrity of the federal contracting system in order to produce the most economical and efficient results for the American people, it is hereby ordered that:

Section 1. The Federal Government must ensure that its contracting decisions are merit-based in order to deliver the best value for the taxpayer. It is incumbent that every stage of the contracting process - from appropriation to contract award to performance to post-performance review - be free from the undue influence of factors extraneous to the underlying merits of contracting decision making, such as political activity or political favoritism. It is important that the contracting process not only adhere to these principles, but also that the public have the utmost confidence that the principles are followed. When the public lacks confidence that the contracting system works fairly, it may deter participation and deprive the government of the most robust competition and the best providers. And without the full complement of tools to hold the system accountable, the possibility of actual misconduct or the appearance thereof is increased.

In order to begin to address these problems, the Federal Government prohibits federal contractors from making certain contributions during the course of negotiation and performance of a contract. Notwithstanding these measures and the diligent work of the government's contracting officers and other acquisition professionals, additional measures are appropriate and effective in addressing the perception that political campaign spending provides enhanced access to or favoritism in the contracting process. Several states have adopted "pay-to-play" laws that go further by limiting not only contributions by the contracting entity itself, but also by certain officers and affiliates to prevent circumvention and in other cases by requiring disclosure. This state innovation towards better government should be encouraged and the Federal government should draw from the best practices developed by the states.

Sec. 2. Therefore, in order to increase transparency and accountability to ensure an efficient and economical procurement process, every contracting department and agency shall require all entities submitting offers for federal contracts to disclose certain political contributions and expenditures that they have made within the two years prior to submission of their offer. Certification that disclosure of this information has been made in the manner established by the Federal Acquisition Regulatory Council (FAR Council) pursuant to Sec. 4 shall be required as a condition of award.

This disclosure shall include:

(a) All contributions or expenditures to or on behalf of federal candidates, parties or party committees made by the bidding entity, its directors or officers, or any affiliates or subsidiaries within its control; and

(b) Any contributions made to third party entities with the intention or reasonable expectation that parties would use those contributions to make independent expenditures or electioneering communications.

This disclosure shall be required whenever the aggregate amount of such contributions and expenditures made by the bidding entity, its officers and directors, and its affiliates and subsidiaries exceeds $5,000 to a given recipient during a given year.

Sec. 3. All disclosed data shall be made publicly available in a centralized, searchable, sortable, downloadable and machine readable format on data.gov as soon as practicable upon submission.

Sec. 4. On or before the end of this calendar year, the FAR Council shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to carry out this order. Such rules, regulations, and orders shall minimize the costs of compliance for contractors and shall not interfere with the ability of contractors or their officers or employees to engage in political activities to the extent otherwise permitted by law.

Sec. 5. Each contracting department or agency shall cooperate with the FAR Council and provide such information and assistance as the FAR Council may require in the performance of its functions under this order.

Sec. 6. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) 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.

Sec. 7. This order shall become effective immediately, and shall apply to contracts resulting from solicitations issued on or after the effective date of the action taken by the FAR Council under section 4 of this order.

THE WHITE HOUSE,