

New executive order issued on AI; Prior AI order revoked

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Among the blizzard of executive orders issued following his inauguration, President Trump revoked former President Biden's executive order addressing artificial intelligence (AI). A few days later, on January 23, 2025, President Trump issued his own AI executive order, entitled, "Removing Barriers to American Leadership in Artificial Intelligence" ("AI Executive Order," <https://bit.ly/3EkX7Xo>).

As background, on October 30, 2023, then-President Biden issued an "Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence," which addressed concerns surrounding the use of AI. It identified several areas, including labor, competition, cybersecurity, education, health, and privacy.

The Biden order not only called on federal agencies to collaborate, provide more guidance, and conduct training, but it also urged agencies to develop principles and best practices to mitigate harms and maximize benefits of AI for workers.

Throughout the remainder of his term, President Biden's administration took a "whole of government" (<https://bit.ly/3Eg0ChZ>) approach to AI concerns, prompting criticism that this promoted a pro-union agenda throughout the government.

President Trump's AI Executive Order does not directly impact private sector employers — at this time.

The Trump AI Executive Order asserts that it intends to "revoke[] certain existing AI policies and directives that act as barriers to American AI innovation" and create a "clear[] path for the United States to act decisively to retain global leadership in artificial intelligence."

The Trump order asserts that the Biden AI order "established unnecessarily burdensome requirements for companies developing and deploying AI that would stifle private sector innovation and threaten American technological leadership."

The Trump AI Executive Order instructs the assistant to the president for science and technology, special advisor for AI and crypto, and assistant to the president for national security affairs,

within 180 days, to "review, in coordination with the heads of all agencies as they deem relevant, all policies, directives, regulations, orders, and other actions taken pursuant to" former President Biden's executive order addressing AI.

Based upon that review, any action identified as a barrier to "America's global AI dominance," will be targeted for suspension, revision, or rescission. It is expected that President Biden's "whole of government" approach will be subjected to intense scrutiny.

Until the ordered review of the Biden administration's actions is complete, and OMB Memoranda 24-10 is updated, agencies are unlikely to take significant action on AI-focused guidance.

Other materials likely to be examined include the Equal Employment Opportunity Commission's Artificial Intelligence and Algorithmic Fairness Initiative, the EEOC's May 12, 2022 "Technical Assistance" document addressing AI, the "Department of Labor's Artificial Intelligence and Worker Well-being: Principles for Developers and Employers," (<https://bit.ly/4cKA18g>) and AI guidance (<https://bit.ly/3QInee4>) from the Office of Federal Contract Compliance Programs.

The AI Executive Order expressly singles out the Office of Management and Budget (OMB) Memorandum 24-10, Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence (<https://bit.ly/42HJBHH>), requiring that it be updated within 60 days.

President Trump's AI Executive Order does not directly impact private sector employers — at this time. Notwithstanding this, employers should regularly assess their AI use and the impact of AI systems in the workplace upon employees and applicants.

Until the ordered review of the Biden administration's actions is complete, and OMB Memoranda 24-10 is updated, agencies are unlikely to take significant action on AI-focused guidance.

Rather, it is likely that President Trump's administration will develop such guidance with the benefit of the notice-and-comment

process, rather than simply issue guidance and technical assistance documents.

It can be expected that unlike previous agency actions (<https://bit.ly/3Eg0ChZ>), such hearings will include a broad range

of perspectives and constituencies. It remains critical for employers and their counsel to pay close attention to current and developing legal authority concerning AI in the workplace.

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