

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in Section 2 of this Order, the Office of Personnel Management is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) of Title 5, United States Code, to designate individuals appointed by the President for training under Chapter 41 of Title 5, United States Code.

SEC. 2. The Attorney General is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) to designate individuals appointed by the President as United States Attorneys and United States Marshals for training under Chapter 41 of Title 5, United States Code.

SEC. 3. Executive Order No. 11531 of May 26, 1970, is hereby superseded.

### § 4103. Establishment of training programs

(a) In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency by, in, and through Government facilities and non-Government facilities. Each program, and plan thereunder, shall—

(1) conform to the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title;

(2) provide for adequate administrative control by appropriate authority;

(3) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and

(4) provide for the encouragement of self-training by employees by means of appropriate recognition of resultant increases in proficiency, skill, and capacity.

Two or more agencies jointly may operate under a training program.

(b)(1) Notwithstanding any other provision of this chapter, an agency may train any employee of the agency to prepare the employee for placement in another agency if the head of the agency determines that such training would be in the interests of the Government.

(2) In selecting an employee for training under this subsection, the head of the agency shall consider—

(A) the extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

(B) the employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(C) the benefits to the Government which would result from such training.

(c) The head of each agency shall, on a regular basis—

(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

(2) modify such program or plan as needed to accomplish such plans and goals.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 433; Pub. L. 95-454, title III, § 304, Oct. 13, 1978, 92 Stat. 1146; Pub. L. 103-226, § 2(a)(2), Mar. 30, 1994, 108 Stat. 111; Pub. L. 108-411, title II, § 201(a), Oct. 30, 2004, 118 Stat. 2311.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 2306.	July 7, 1958, Pub. L. 85-507, § 7, 72 Stat. 331.

The words "Within two hundred and seventy days after the date of enactment of this Act [July 7, 1958]" are omitted as obsolete.

In paragraph (1), reference to the effective date of the regulations is omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### Editorial Notes

##### AMENDMENTS

2004—Subsec. (c). Pub. L. 108-411 added subsec. (c).

1994—Subsec. (a). Pub. L. 103-226, § 2(a)(2)(A)(i), in introductory provisions, substituted "In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate" for "In order to increase economy and efficiency in the operations of the agency and to raise the standards of performance by employees of their official duties to the maximum possible level of proficiency, the head of each agency, in conformity with this chapter, shall establish, operate, and maintain".

Subsec. (a)(3), (4). Pub. L. 103-226, § 2(a)(2)(A)(ii)-(iv), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 103-226, § 2(a)(2)(B)(i), substituted "determines that such training would be in the interests of the Government." for "determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of this title."

Subsec. (b)(2). Pub. L. 103-226, § 2(a)(2)(B)(ii), (iii), redesignated par. (3) as (2), in subpar. (C) substituted "such training" for "retaining the employee in the Federal service", and struck out former par. (2) which read as follows: "Before undertaking any training under this subsection, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency."

Subsec. (b)(3). Pub. L. 103-226, § 2(a)(2)(B)(ii), redesignated par. (3) as (2).

1978—Pub. L. 95-454 designated existing provisions as subsec. (a) and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

##### OPTIONAL PARTICIPATION OF FEDERAL EMPLOYEES IN AIDS TRAINING PROGRAMS

Pub. L. 104-146, § 9, May 20, 1996, 110 Stat. 1373, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal employee may not be required to attend or participate in an AIDS or HIV training program if such employee refuses to consent to such at-

tendance or participation, except for training necessary to protect the health and safety of the Federal employee and the individuals served by such employees. An employer may not retaliate in any manner against such an employee because of the refusal of such employee to consent to such attendance or participation.

“(b) DEFINITION.—As used in subsection (a), the term ‘Federal employee’ has the same meaning given the term ‘employee’ in section 2105 of title 5, United States Code, and such term shall include members of the armed forces.”

EXPERIMENTAL PROGRAM RELATING TO ACCEPTANCE OF VOLUNTARY SERVICES FROM PARTICIPANTS IN EXECUTIVE EXCHANGE PROGRAM

Pub. L. 101-416, §1, Oct. 12, 1990, 104 Stat. 902, authorized a 90-day extension of programs established under Pub. L. 99-424 for individuals who were participating in the program on the expiration date.

Pub. L. 99-424, Sept. 30, 1986, 100 Stat. 964, as amended by Pub. L. 101-87, Aug. 16, 1989, 103 Stat. 595, authorized President to establish an experimental program, to be conducted during fiscal years 1987 through 1990, under which voluntary services could be accepted by the Government, without regard to 31 U.S.C. 1342.

**Executive Documents**

DEPARTMENT OF HOMELAND SECURITY

Exception from provisions of subsec. (a)(1) of this section of those elements of the Department of Homeland Security that are supervised by the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis, see Ex. Ord. No. 13286, §86, Feb. 28, 2003, 68 F.R. 10632, set out as a note under section 111 of Title 6, Domestic Security.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from certain provisions of subsec. (a)(1) of this section, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

EX. ORD. NO. 11348. FURTHER TRAINING OF GOVERNMENT EMPLOYEES

Ex. Ord. No. 11348, Apr. 20, 1967, 32 F.R. 6335, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code and by section 2 of the Act of July 7, 1958 (72 Stat. 327), it is ordered as follows:

PART I—GENERAL

SECTION 101. (a) As used in this order, the terms “agency”, “employee”, “Government”, and “training”, have meanings given to those terms, respectively, by section 4101 of Title 5, United States Code.

(b) “Interagency training” means training provided by one agency for other agencies or shared by two or more agencies.

SEC. 102. It is the policy of the Government of the United States to develop its employees through the establishment and operation of progressive and efficient training programs, thereby improving public service, increasing efficiency and economy, building and retaining a force of skilled and efficient employees, and installing and using the best modern practices and techniques in the conduct of the Government's business.

SEC. 103. The Office of Personnel Management shall provide leadership and guidance to insure that the policy set forth in section 102 is carried out.

PART II—OFFICE OF PERSONNEL MANAGEMENT RESPONSIBILITIES

SEC. 201. The Office of Personnel Management shall plan and promote the development, improvement, co-

ordination, and evaluation of training in accordance with chapter 41 of Title 5, United States Code, and with the policy set forth in section 102 of this order.

SEC. 202. In carrying out its responsibilities under chapter 41 of Title 5, United States Code, and section 201 of this order, the Office shall:

(a) Advise the President on means for furthering and strengthening programs of training;

(b) Counsel heads of agencies and other agency officials on the improvement of training;

(c) Assist agencies to develop sound programs and financial plans for training and provide advice, information, and assistance to agencies on planning, programming, budgeting, operating, and evaluating training programs;

(d) Identify functional areas in which new or expanded interagency training activity is needed and either conduct such training or arrange for agencies having the substantive competence to do so;

(e) Coordinate interagency training conducted by and for agencies (including agencies and portions of agencies excepted by section 4102(a) of Title 5, United States Code);

(f) Encourage agencies to make appropriate use of non-Government training resources;

(g) Develop, install, and maintain a system to provide the training data needed to carry out its own functions and to provide staff assistance to the President; and

(h) Provide for identification and dissemination of findings of research into training technology and undertake or assign to other agencies, such research projects as may be needed.

PART III—AGENCY RESPONSIBILITIES AND OPERATIONS

SEC. 301. The head of each agency shall plan, program, budget, operate, and evaluate training programs in accordance with chapter 41 of Title 5, United States Code, and with the policy set forth in section 102 of this order.

SEC. 302. The head of each agency shall:

(a) Foster employee self-development by creating a work environment in which self-development is encouraged, by assuring that opportunities for training and self-study materials are reasonably available, where the employee is stationed, and by recognizing self-initiated improvement in performance;

(b) Provide training for employees without regard to race, creed, color, national origin, sex, or other factors unrelated to the need for training;

(c) Establish and make full use of agency facilities for training employees;

(d) Extend agency training programs to employees of other agencies (including agencies and portions of agencies excepted by section 4102(a) of Title 5, United States Code) and assign his employees to interagency training whenever this will result in better training, improved service, or savings to the Government;

(e) Establish interagency training facilities in areas of substantive competence as arranged by the Office of Personnel Management; and

(f) Use non-Government training resources as appropriate.

SEC. 303. In carrying out his responsibilities, the head of each agency shall, consonant with chapter 41 of Title 5, United States Code, this order, and regulations of the Office of Personnel Management:

(a) Review periodically, but not less often than annually, the agency's program to identify training needed to bring about more effective performance at the least possible cost;

(b) Conduct periodic reviews of individual employee's training needs as related to program objectives;

(c) Conduct research related to training objectives and required for program improvement and effectiveness;

(d) Plan, program, and evaluate training for both short and longrange program needs by occupations, organizations, or other appropriate groups;

(e) Establish priorities for needed training, and provide for the use of funds and manhours in accordance with these priorities;

(f) Utilize the flexibility of work assignments to provide work experience which promotes growth leading to higher quality and greater quantity of work done;

(g) Establish training facilities and services as needed;

(h) Monitor the effectiveness with which self-development is encouraged and on-the-job training is provided at all levels; and

(i) Establish criteria for the selection of employees for training; and

(j) Approve the acceptance of any contributions, awards, or payments to employees authorized by section 401(b) of this order and regulations issued by the Office of Personnel Management.

#### PART IV—DELEGATIONS

SEC. 401. The following functions vested in the President are hereby delegated to the Office of Personnel Management:

(a) The authority under section 4102(b)(1) of Title 5, United States Code, to designate any agency or part thereof, or any employee or employees therein, as excepted from any provision of chapter 41, of Title 5, United States Code, other than sections 4102, 4111(b), and 4112; and to designate any such agency or part thereof, or any employee or employees therein previously excepted, as again subject to chapter 41 of Title 5, United States Code, or any provision of that chapter.

(b) The authority under section 4111(a) of Title 5, United States Code, to fix by regulation the extent to which the contributions, awards, and payments referred to in that section may be made to and accepted by employees.

SEC. 402. The authority vested in the President by section 4101(6)(B) of Title 5, United States Code, to designate a foreign government or international organization or instrumentality of either as eligible to provide training, is hereby delegated to the head of each agency for his employees except that each such designation shall be made only after the agency head concerned has obtained and given due consideration to the advice of the Department of State thereon prior to the first use of such training facility and thereafter periodically but not less often than once every three years.

#### PART V—REVOCATION OF PRIOR ORDER

SEC. 501. Executive Order No. 10800 of January 15, 1959, is hereby revoked.

##### EXECUTIVE ORDER No. 11451

Ex. Ord. No. 11451, Jan. 19, 1969, 34 F.R. 921, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which established the President's Commission on Personnel Interchange, was superseded by Ex. Ord. No. 12136, May 15, 1979, 44 F.R. 28771, formerly set out below.

##### EXECUTIVE ORDER No. 12136

Ex. Ord. No. 12136, May 15, 1979, 44 F.R. 28771, which continued the President's Commission on Personnel Interchange and renamed it the President's Commission on Executive Exchange, was revoked by Ex. Ord. No. 12493, Dec. 5, 1984, 49 F.R. 47819, formerly set out below.

##### EXECUTIVE ORDER No. 12493

Ex. Ord. No. 12493, Dec. 5, 1984, 49 F.R. 47819, as amended by Ex. Ord. No. 12516, May 21, 1985, 50 F.R. 21417; Ex. Ord. No. 12602, July 15, 1987, 52 F.R. 27187, which continued the President's Commission on Executive Exchange, was revoked by Ex. Ord. No. 12760, § 2, May 2, 1991, 56 F.R. 21062, set out below.

EX. ORD. No. 12574. ESTABLISHING EXPERIMENTAL PROGRAM WITHIN PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

Ex. Ord. No. 12574, Nov. 20, 1986, 51 F.R. 42199, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of

America, including the Executive Exchange Program Voluntary Services Act of 1986 (5 U.S.C. 4103 note, 100 Stat. 964), it is hereby ordered as follows:

SECTION 1. *Establishment of the Program.* Effective October 1, 1986, there is established, within the Executive Exchange Program of the President's Commission on Executive Exchange, an experimental program under which Executive agencies of the government may accept voluntary services for the United States from private sector participants in the Executive Exchange Program.

SEC. 2. *Program Limits.* The experimental program shall be conducted during the fiscal years 1987 through 1989, and not more than ten individuals may commence participation in the program during any fiscal year. Acceptance of voluntary services from such individuals may not result in the displacement of any employee of the government.

SEC. 3. *Participant Restrictions.* An individual participating in the experimental program shall be considered an employee of the agency to which assigned for purposes of any laws, rules, and regulations of the United States, except that such individual shall not be covered by chapters 51, 53, 63, 83, 87, or 89 of title 5, United States Code, or any comparable provisions relating to classification, pay, leave, retirement, life insurance, or health benefits for employees of the government.

RONALD REAGAN.

##### EX. ORD. No. 12760. PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

Ex. Ord. No. 12760, May 2, 1991, 56 F.R. 21062, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. The President's Commission on Executive Exchange is hereby abolished. The Director of the Office of Personnel Management shall be responsible for terminating the functions of the Commission, which shall be completed no later than September 30, 1991.

SEC. 2. Executive Order No. 12493 of December 5, 1984 is revoked.

GEORGE BUSH.

EX. ORD. No. 13111. USING TECHNOLOGY TO IMPROVE TRAINING OPPORTUNITIES FOR FEDERAL GOVERNMENT EMPLOYEES

Ex. Ord. No. 13111, Jan. 12, 1999, 64 F.R. 2793, as amended by Ex. Ord. No. 13188, Jan. 12, 2001, 66 F.R. 5419; Ex. Ord. No. 13218, §3(a), June 20, 2001, 66 F.R. 33628; Ex. Ord. No. 13316, §3(a), Sept. 17, 2003, 68 F.R. 55255, provided:

Advances in technology and increased skills needs are changing the workplace at an ever increasing rate. These advances can make Federal employees more productive and provide improved service to our customers, the American taxpayers. We need to ensure that we continue to train Federal employees to take full advantage of these technological advances and to acquire the skills and learning needed to succeed in a changing workplace. A coordinated Federal effort is needed to provide flexible training opportunities to employees and to explore how Federal training programs, initiatives, and policies can better support lifelong learning through the use of learning technology.

To help us meet these goals, I am creating a task force on Federal training technology, directing Federal agencies to take certain steps to enhance employees' training opportunities through the use of training technology, and an advisory committee on the use of training technology, which also will explore options for financing the training and post-secondary education needed to upgrade skills and gain new knowledge.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in furtherance of the purposes of Chapter 41 of title 5, United States Code, the Government Employees Training Act of 1958

(Public Law 85-507 [see Tables for classification]), as amended, and Executive Order 11348, "Providing for the Further Training of Government Employees," [set out above] and in order to make effective use of technology to improve training opportunities for Federal Government employees, it is ordered as follows:

SECTION 1. *Establishment of the President's Task Force on Federal Training Technology.* (a) The "President's Task Force on Federal Training Technology" (Task Force) is established. The Task Force shall provide leadership regarding the effective use of technology in training and education; make training opportunities an integral part of continuing employment in the Federal Government; and facilitate the ongoing coordination of Federal activities concerning the use of technology in training. The Task Force shall consist of the heads of the following departments and agencies or their representatives: the Departments of State, the Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education; the Office of Personnel Management, General Services Administration, Environmental Protection Agency, National Aeronautics and Space Administration, Small Business Administration, and Social Security Administration; a representative from the Small Agency Council; and representatives from other relevant agencies and related Federal councils, as determined by the Chair and Vice Chair of the Task Force.

(b) Within 30 days of the date of this order, the head of each agency or council shall designate a senior official to serve as a representative to the Task Force. The representative shall report directly to the agency head or the President's Management Council member on the agency's or council's activities under this order.

(c) The Director of the Office of Personnel Management (OPM) shall be the Chair and the representative from the Department of Labor shall be the Vice Chair of the Task Force.

(d) The Chair and Vice Chair shall appoint an Executive Director.

(e) The Task Force member agencies shall provide any required staffing and funding, as appropriate.

SEC. 2. *Duties of the Task Force.* (a) Within 18 months of the date of this order, the Task Force shall develop and recommend to the President, through the Assistant to the President for Economic Policy and the Assistant to the President for Science and Technology, a policy to make effective use of technology to improve training opportunities for Federal Government employees. The policy should promote and integrate the effective use of training technologies to create affordable and convenient training opportunities to improve Federal employee performance. The Task Force shall seek the views of experts from industry, academia, and State and local governments as the Task Force proceeds, as appropriate. Specifically, the Task Force shall:

(1) develop strategies to improve the efficiency and availability of training opportunities for Federal Government employees;

(2) form partnerships among key Federal agencies, State and local governments, businesses, universities, and other appropriate entities to promote the development and use of high-quality training opportunities;

(3) analyze the use of technology in existing training programs and policies of the Task Force member agencies to determine what changes, modifications, and innovations may be necessary to advance training opportunities;

(4) in consultation with the Department of Defense and the National Institute of Standards and Technology, recommend standards for training software and associated services purchased by Federal agencies and contractors. These standards should be consistent with voluntary industry consensus-based commercial standards. Agencies, where appropriate, should use these standards in procurements to promote reusable training component software and thereby reduce duplication in the development of courseware;

(5) evaluate and, where appropriate, coordinate and collaborate on, research and demonstration activities of Task Force member agencies related to Federal training technology;

(6) identify and support cross-agency training areas that would particularly benefit from new instructional technologies and facilitate multiagency procurement and use of training materials, where appropriate;

(7) in consultation with the General Services Administration, the Office of Personnel Management, and the Office of Federal Procurement Policy of the Office of Management and Budget (OFPP), promote existing and new procurement vehicles that allow agencies to provide innovative training opportunities for Federal employees;

(8) recommend changes that may be needed to existing procurement laws to further the objectives of this order and forward the recommendations to the Administrator of OFPP; and

(b) develop options and recommendations for establishing a Federal Individual Training Account for each Federal worker for training relevant to his or her Federal employment. To the extent permitted by law, such accounts may be established with the funds allocated to the agency for employee training. Approval for training would be within the discretion of the individual employee's manager. Options and recommendations shall be reported no later than 6 months from the date of this order.

SEC. 3. *Duties of All Federal Agencies.* (a) Each Federal agency shall, to the extent permitted by law:

(1) include as part of its annual budget process a set of goals to provide the highest quality and most efficient training opportunities possible to its employees, and a set of performance measures of the quality and availability of training opportunities possible to its employees. Such measures should be, where appropriate, based on outcomes related to performance rather than time allocation;

(2) identify the resources necessary to achieve the aforementioned goals and performance measures articulated in its annual performance plan;

(3) and, where practicable, use the standards recommended by the Task Force and published by the Office of Personnel Management for purchasing training software and associated services; and

(4) subject to the availability of appropriations, post training courses, information, and other learning opportunities on the Department of Labor's America's Learning Exchange (ALX), or other appropriate information dissemination vehicles as determined by the Task Force, to make information about Federal training courses, information, and other learning opportunities widely available to Federal employees.

(b) Each Federal agency, to the extent permitted by law, is encouraged to consider how savings achieved through the efficient use of training technology can be reinvested in improved training for their employees.

SEC. 4. *Duties of Specific Federal Agencies.* (a) In light of the Office of Personnel Management's responsibility for developing Government-wide training policy, coordinating and managing training policy programs, and providing technical assistance to Federal agencies, the Office of Personnel Management or other appropriate agency as determined by the Task Force shall:

(1) in consultation with the Task Force, the Department of Defense, the National Institute of Standards and Technology, the Department of Labor, and other appropriate agencies as determined by OPM, publish the standards for training software and associated services recommended by the Task Force; and

(2) ensure that qualification standards for civil service positions, where appropriate, reflect standard industry certification practices.

(b) The Department of Labor or other appropriate agency as determined by the Task Force shall, subject to the availability of appropriations:

(1) establish a specialized database for Federal training within the framework of the Department of

Labor's ALX, or other appropriate information dissemination vehicles determined by the Task Force, to make information about Federal training courses, information, and other learning opportunities widely available to Federal employees;

(2) establish and maintain a training technology website for agencies to post training needs and to foster communication among the agencies and between public and private sector organizations to identify and meet common needs; and

(3) establish a staffed help desk and technology resource center to support Federal agencies using training technology and to facilitate the development of online training courses.

(c) The Department of Defense or other appropriate agency as determined by the Task Force shall:

(1) in consultation with the National Institute of Standards and Technology, lead Federal participation in business and university organizations charged with developing consensus standards for training software and associated services and lead the Federal review of the standards; and

(2) provide guidance to Defense agencies and advise the civilian agencies, as appropriate, on how best to use these standards for large-scale development and implementation of efficient and effective distributed learning technologies.

(d) Each Executive department shall designate at least one subject area of training that it will use to demonstrate opportunities in technology-based training and assign an agency leader in the designated area. Leaders in these training technology experiments shall work closely with other agencies with similar training interests. Each Executive department shall develop a plan for measuring and evaluating the effectiveness, cost-effectiveness, and benefits to employees and the agency for each designated subject area.

[SECS. 5 to 7. Revoked by Ex. Ord. No. 13316, §3(a), Sept. 17, 2003, 68 F.R. 55255, eff. Sept. 30, 2003.]

SEC. 8. *Definitions.* (a) As used in this order, the terms "agency," "employee," "Government," and "training" have the meaning given to those terms, respectively, by section 4101 of title 5, United States Code.

(b) The term "technology," means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources. For purposes of the preceding sentence, equipment is used by an Executive agency if the equipment is used by the Executive agency directly or is used by a contractor under a contract with the Executive agency that requires the use of such equipment. The term "technology" does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

SEC. 9. *Judicial Review.* This order does not create any enforceable rights against the United States, its agencies, its officers, or any person.

EX. ORD. NO. 13950. COMBATING RACE AND SEX  
STEREOTYPING

Ex. Ord. No. 13950, Sept. 22, 2020, 85 F.R. 60683, provided:

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) [42 U.S.C. 2000e note], 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 [Sept. 22, 2020], 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 [Sept. 22, 2020].

**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.

§ 4104. Government facilities; use of

An agency program for the training of employees by, in, and through Government facilities under this chapter shall—

(1) provide for training, insofar as practicable, by, in, and through Government facilities under the jurisdiction or control of the agency; and

(2) provide for the making by the agency, to the extent necessary and appropriate, of agreements with other agencies in any branch of the Government, on a reimbursable basis when requested by the other agencies, for—

(A) use of Government facilities under the jurisdiction or control of the other agencies in any branch of the Government; and

(B) extension to employees of the agency of training programs of other agencies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: ..... 5 U.S.C. 2307. July 7, 1958, Pub. L. 85-507, § 8, 72 Stat. 331.

In paragraph (2), the words "other agencies in any branch of the Government" and "the other agencies" are coextensive with and substituted for "other departments, and with other agencies in any branch of the Government" and "such other departments and agencies". This is so because "other agencies in any branch of the Government" is broader than "agency" as defined for the purpose of this chapter in section 4101(1).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4105. Non-Government facilities; use of

The head of an agency, without regard to section 6101(b) to (d) of title 41, may make agreements or other arrangements for the training of employees of the agency by, in, or through non-Government facilities under this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434; Pub. L. 103-226, § 2(a)(3), Mar. 30, 1994, 108 Stat. 111; Pub. L. 111-350, § 5(a)(7), Jan. 4, 2011, 124 Stat. 3841.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: ..... 5 U.S.C. 2308. July 7, 1958, Pub. L. 85-507, § 9, 72 Stat. 331.

In subsection (a), the word "appropriate" is omitted as unnecessary.

In subsection (b)(1), the words "by, in, and through non-Government facilities" are omitted as unnecessary in view of the previous reference in the subsection.

In subsection (b)(2), the word "appropriate" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

2011—Pub. L. 111-350 substituted "section 6101(b) to (d) of title 41" for "section 5 of title 41".

1994—Pub. L. 103-226 struck out subsec. (a) designation and subsecs. (b) and (c), which read as follows:

"(b) An agency program for the training of employees by, in, and through non-Government facilities under this chapter shall—

"(1) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and

"(2) give consideration to the needs and requirements of the agency in recruiting and retaining scientific, professional, technical, and administrative employees.

"(c) In order to protect the Government concerning payment and reimbursement of training expenses, each agency shall prescribe such regulations as it considers necessary to implement the regulations prescribed under section 4118(a)(8) of this title."

[§ 4106. Repealed. Pub. L. 103-226, § 2(a)(4), Mar. 30, 1994, 108 Stat. 112]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434; Pub. L. 95-454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224, related to limitations on amount of training of employees through non-Government facilities.

§ 4107. Academic degree training

(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

(1) contributes significantly to—

(A) meeting an identified agency training need;

(B) resolving an identified agency staffing problem; or

(C) accomplishing goals in the strategic plan of the agency;

(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

(b) In exercising authority under subsection (a), an agency shall—