

New Executive Order Puts Federal Contractors on the Clock for DEI Certifications

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by Samuel Flitton

On March 26, the Trump administration issued an Executive Order titled “Addressing DEI Discrimination by Federal Contractors” that represents perhaps the most significant operationalization to date of the administration’s campaign against DEI. The order requires federal agencies to incorporate new anti-DEI certification clauses into contracts, contract-like instruments, and subcontracts within 30 days, meaning the April 26 deadline is fast approaching.

What’s New

The EO introduces a mandatory contract clause requiring federal contractors and subcontractors to certify they will not engage in “racially discriminatory DEI activities,” which the order defines as disparate treatment based on race or ethnicity in recruitment, employment, contracting, program participation, or the allocation of an entity’s resources. That definition is notable: it’s the clearest articulation the administration has offered to date of what it considers impermissible DEI.

The order also grants the government broad audit authority, requiring contractors to make their books, records, and accounts available for compliance reviews, with few express limitations on scope. Prime contractors must monitor and report subcontractor noncompliance. And noncompliant parties face serious consequences: contract termination, suspension or debarment, and False Claims Act liability, including treble damages and qui tam exposure.

Why It Matters

The scope of who qualifies as a “federal contractor” or “subcontractor” under this EO remains unclear, but could sweep in tens of thousands of entities, including universities, healthcare providers, small businesses, and even vendors and suppliers to prime contractors. The order also creates potential tension with existing federal programs like the SBA’s 8(a) program and state-level requirements for affirmative action plans or

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disadvantaged business enterprise participation.

What to Do Now

Federal contractors should be taking steps now to prepare. Our colleagues Chris DeLong, Matt Gillespie, Alex Hontos, and Eric Weisenburger break down the order's key provisions, open questions, and practical compliance guidance in their full client alert: [New DEI-Focused Executive Order Implements Expansive Audit Authority and Imposes DEI Certification Obligations on All Federal Contractors, Subcontractors](#).

For questions about how the EO may affect your organization, please contact any member of Dorsey's [Government Contracts](#) or [Labor & Employment](#) teams.