

On March 26, 2026, President Donald Trump signed Executive Order 14398 “Addressing DEI Discrimination by Federal Contractors”¹ (the “EO”) directing federal agencies to include mandatory anti-diversity, equity and inclusion (DEI) compliance clauses in all government contracts by April 25, 2026.

Federal contractors and their subcontractors that engage in “racially discriminatory DEI activities” now face contract suspension, termination, debarment and potential False Claims Act liability. As the deadline approaches, it is important for contractors and subcontractors to take immediate measures to ensure they have a compliant supply chain.

Background

The EO is the latest signed by the Trump administration to eliminate DEI-based preferences from the federal sphere. In his first term, President Trump issued Executive Order 13950, “Combating Race and Sex Stereotyping,” which prohibited federal contractors from conducting workplace training that promoted certain “divisive concepts.”²

Upon returning to office, President Trump signed Executive Order 14151, “Ending Radical and Wasteful Government DEI Programs and Preferencing” in January 2025, directing agency heads within 60 days to terminate all DEI, diversity, equity, inclusion and accessibility (DEIA) and “environmental justice” offices, positions, equity action plans, initiatives and performance requirements; and identify contractors who had provided DEI training to agency employees, as well as assess whether DEI programs had been “misleadingly relabeled”³ to preserve pre-election functions.

President Trump also issued Executive Order 14173 “Ending Illegal Discrimination and Restoring Merit-based Opportunity” in January 2025, which repealed certain affirmative action requirements for federal contractors and prohibited DEI programs that violated anti-discrimination regulations. These executive orders implemented compliance requirements on federal contractors without imposing direct compliance clauses into the federal contracts. The purpose of this March 26, 2026 EO, is to close that gap.

Revised Definitions under the EO

The EO invokes the president’s authority under the Federal Property and Administrative Services Act (FPASA) to promote economy and efficiency in federal contracting. It rests on the stated rationale that DEI activities “cause inefficiencies, waste and abuse” and “impose artificial costs in hiring, promotion and operations” that are “inevitably passed on to the federal government” when it contracts with companies engaging in racially discriminatory DEI activities.

The EO includes two key terms:

- **“Racially discriminatory DEI activities”** – Disparate treatment based on race or ethnicity in the recruitment, employment (e.g., hiring and promotions), contracting (e.g., vendor agreements), program participation, allocation or deployment of an entity’s resources.
- **“Program participation”** – Membership or participation in, or access or admission to training, mentoring or leadership development programs; educational opportunities; clubs; associations or similar opportunities that are sponsored or established by the contractor or subcontractor.

Mandatory Contract Clause Requirements

By April 25, 2026, all executive departments and agencies, including independent establishments, subject to FPASA⁴ must ensure that contracts and contract-like instruments, including subcontracts and lower-tier subcontracts, contain the following clause:

1. The contractor will not engage in any racially discriminatory DEI activities, as defined in section 2 of the EO
2. The contractor will furnish all information and reports, including providing access to books, records and accounts, as required by the contracting agency . . . for the purposes of ascertaining compliance with this clause
3. In the event of the contractor’s or a subcontractor’s noncompliance with this clause, this contract may be canceled, terminated or suspended in whole or in part, and the contractor or subcontractor may be declared ineligible for further government contracts
4. The contractor will report any subcontractor’s known or reasonably knowable conduct that may violate this clause to the contracting department or agency, and take any appropriate remedial actions directed by the contracting department or agency
5. The contractor will inform the contracting department or agency if a subcontractor sues the contractor and the suit puts at issue, in any way, the validity of this clause
6. The contractor recognizes that compliance with the requirements of this clause is material to the government’s payment decisions for purposes of section 3729(b)(4) of title 31, US Code (False Claims Act)

¹ [Addressing DEI Discrimination by Federal Contractors – The White House](#)

² See Exec. Order No. 13,950, 85 Fed. Reg. 60,683 (Sept. 28, 2020).

³ See Exec. Order No. 14,151, 90 Fed. Reg. 8,339 (Jan. 29, 2025).

⁴ Under FPASA, 40 U.S.C. 102(4)(A), the “agencies” subject to FPASA include (a) executive departments or independent establishments in the executive branch of the government; and (b) wholly owned government corporations.

Enforcement

The EO establishes a layered enforcement regime:

- Contracting agencies are mandated to cancel, terminate or suspend any contract for failure to comply with this clause
- Agencies must take appropriate action to suspend and debar noncompliant contractors or subcontractors
- Within 120 days of the EO (i.e., July 24, 2026), each agency head must review implementation and report compliance to the assistant to the president for domestic policy
- The attorney general will consider whether to bring FCA actions against noncompliant contractors, and will conduct prompt review of *qui tam* actions concerning federal contracts within 60 days where practicable

The director of the Office of Management and Budget (OMB) will issue guidance to contracting agencies to ensure compliance and, in coordination with the attorney general, the assistant to the president for domestic policy and the US Equal Employment Opportunity Commission (EEOC) chairman, will identify economic sectors posing a particular risk of DEI activities based on current or past conduct, and issue sector-specific guidance.

Contractors and Subcontractors Must Immediately Check Their Supply Chain for DEI Discrimination Activities

The EO applies broadly to any contractor or subcontractor at any tier performing work under a federal contract or contract-like instrument, including those subject to FPASA.

Contractors and subcontractors should act now to address any practices or programs that meet the definition of “racially discriminatory DEI activities,” and then take measures to eliminate such practices and programs internally and from their supply chains. Ahead of the April 25 effective date, contractors should consider the following preemptive actions:

- Perform an internal audit to identify any practices or programs that may be considered “racially discriminatory DEI activities”
- Create a plan to phase-out or eliminate any such practices or programs
- Send a notice to all vendors in the supply chains about this EO
- Prepare and be ready to send a certification to be executed by all parties in the supply chain certifying that they do not have any practices or programs that are “racially discriminatory DEI activities”
- Establish an internal reporting mechanism, including procedures for reporting violations by subcontractors
- Maintain records of compliance efforts for federal agency audits.

If you have any questions regarding this EO or need assistance in implementing a strategy for compliance, please reach out to one of the authors below.

Contacts

Karen Harbaugh

Partner, Washington DC
T +1 202 457 6485
E karen.harbaugh@squirepb.com

Jeremy Dutra

Partner, Washington DC
T +1 202 457 6237
E jeremy.dutra@squirepb.com

Meghan E. Hill

Partner, Columbus,
T +1 614 365 2720
E meghan.hill@squirepb.com

Amjad Wakil

Associate, Washington DC
T +1 202 457 5547
E amjad.wakil@squirepb.com