

client alert

PRELIMINARY INJUNCTION AGAINST DEI ORDERS STAYED BY FOURTH CIRCUIT COURT OF APPEALS

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We previously reported on the [preliminary injunction](#) the U.S. District Court for the District of Maryland (Baltimore Division) granted, which partially enjoined portions of President Trump’s [DEI Executive Orders 14151](#) (“Ending Radical and Wasteful Government DEI Programs and Preferencing”) and [14173](#) (“Ending Illegal Discrimination and Restoring Merit-Based Opportunity”) (the “DEI EOs”). The government appealed the preliminary injunction, and on March 14, 2025, the United States Fourth Circuit Court of Appeals stayed the partial injunction pending the resolution of that appeal.

This means that the Trump administration may now proceed with all of the actions called for in the DEI Executive Orders while the case is pending on appeal, including the following actions, which had been enjoined by the District Court:

- Pausing, freezing, canceling, terminating, or modifying “equity-related” grants and contracts” (EO 14151);
- Requiring grantees and contractors to (1) agree to comply with Federal anti-discrimination laws and agree that compliance is material to the government’s payment decisions under the False Claims Act; and (2) certify that the contractor does not have DEI programs that violate Federal anti-discrimination laws (EO 14173); and
- Bringing enforcement actions, including False Claims Act enforcement actions, civil investigations, and lawsuits against government contractors and private entities in light of their DEI programs (EO 14173).

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Of primary concern to government contractors is the now renewed potential threat of False Claims Act claims brought by the government should contractors continue to have DEI programs while actively contracting with the government. As for the private sector, the Department of Justice may now not only flag for investigation, but also prosecute companies that maintain DEI programs contrary to the DEI EOs.

For now, the DEI EOs remain in full effect. If the Fourth Circuit denies the government's appeal of the preliminary injunction order, the U.S. District Court may reinstate it. If the Fourth Circuit reverses the preliminary injunction order, the DEI EOs will remain in full effect unless the plaintiffs prevail and the U.S. District Court grants permanent relief against the DEI EOs. Even then, the government is likely to appeal any adverse ruling and could obtain a similar stay. So, government contractors and private companies should view the DEI EOs as fully intact.

Please see our [February 18, 2025 Client Alert](#) for a more in-depth analysis of the implications of the DEI EOs and what companies can do to comply with them.