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DEI Task Force / Labor & Employment Update

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Impact of President Trump's Executive Orders Regarding Race and Gender on Corporate DEI Programs

Gibson Dunn's DEI Task Force is available to help clients understand what these and other expected policy changes will mean for them and how to comply with new requirements.

In his inaugural address yesterday, President Trump vowed to “forge a society that is colorblind and merit based,” and stated he would “end the government policy of trying to socially engineer race and gender into every aspect of public and private life.” Later in the day, he issued two executive orders that could affect race- and gender-related practices by government contractors and other private sector corporations.

The first order, “[Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#),” defines “sex” as “an individual’s immutable biological classification as either male or female” and directs federal agencies to “enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes.” There are at least two potential implications for private sector corporations.

First, the order directs federal agencies to “prioritize investigations and litigation to enforce . . . the freedom to express the binary nature of sex and the right to single-sex spaces in workplaces and federally funded entities covered by the Civil Rights Act of 1964.” Although the scope of this directive is not yet clear, it could lead to enforcement actions against private employers if they do not provide “single-sex spaces” such as bathrooms or if they take disciplinary action against employees for “express[ing] the binary nature of sex.”

Second, the order also affects government grant recipients. Although it does not restrict grantees' use of their own funds, it directs agencies to ensure that "grant funds do not promote gender ideology." It defines "gender ideology" as follows:

"Gender ideology" replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.

The second order, "[Ending Radical And Wasteful Government DEI Programs And Preferencing](#)," directs the termination of all "DEI" programs, policies, and activities in the federal government. It has two provisions potentially affecting government contractors.

First, the order directs the termination of "equity-related" grants or contracts. Contractors or grantees performing "equity-related" work should expect their contracts or grants to end. Relatedly, it directs agencies to provide the Director of OMB with a list of all "Federal contractors who have provided DEI training or DEI training materials to agency or department employees; and . . . Federal grantees who received Federal funding to provide or advance DEI, DEIA, or 'environmental justice' programs, services, or activities since January 20, 2021." Presumably any contracts or grants on these lists will be terminated when possible for the government to do so.

Second, the order directs the termination of "all DEI or DEIA performance requirements for employees, contractors, or grantees." Thus, any contractor whose contract includes such requirements should expect that they will no longer be enforced.

Gibson Dunn continues to monitor developments in this area. Additional executive action, especially with respect to government contractors, is anticipated. Government contractors and other private sector employers should consider reviewing their diversity programs and training to ensure compliance with evolving legal requirements. Our DEI Task Force is available to help clients understand what these and other expected policy changes will mean for them and how to comply with new requirements.

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. To learn more about these issues, please contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's DEI Task Force, [Labor and](#)

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