

LEGAL ALERT

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U.S. DISTRICT COURT JUDGE GRANTS PRELIMINARY INJUNCTION BLOCKING DEPARTMENT OF LABOR FROM ENFORCING CERTAIN PROVISIONS OF DEI-RELATED EXECUTIVE ORDERS

BY MATTHEW K. GRASHOFF, SONJA C. RICE, MATTHEW F. WAGNER AND J. PATRICK WHITE

HAHN LOESER & PARKS LLP

[On April 2, we reported](#) that Judge Matthew Kennelly of the U.S. District Court for the Northern District of Illinois had issued a temporary restraining order blocking the Department of Labor from enforcing certain provisions of Executive Orders 14173 and 14151, both of which limit or prohibit federal grants or programs relating to “illegal,” “unlawful,” and “immoral” diversity, equity, and inclusion (“DEI”). Earlier this week, Judge Kennelly granted a preliminary injunction in that case, barring the Department of Labor from (1) requiring the plaintiff, Chicago Women in Trades (CWIT), to make certain certifications required by Executive Order 14173, and (2) terminating certain federal grants to CWIT as required by Executive Order 14151.

CERTIFICATION REQUIREMENT

First, the Court enjoined the Department of Labor from requiring any grantee or contractor to make a certification that it does not operate any programs “promoting DEI that violate any applicable Federal anti-discrimination laws,” as required by section 3(b)(iv) of [Executive Order 14173](#) (the “Certification Provision”). At oral argument, the government conceded that the Certification Provision attempts to regulate grantees’ speech outside of their federally funded programs. Moreover, the Court found that the Executive Order’s express reference to “programs promoting DEI” is fairly read to be an express reference to speech and advocacy protected by the First Amendment. The Court found that CWIT demonstrated that it was likely to succeed on the merits of its claim challenging the Certification Provision on the basis that the provision violated CWIT’s rights to freedom of speech and advocacy under the First Amendment.

GRANT TERMINATION

The Court also enjoined the Department of Labor from terminating the Women in Apprenticeship and Nontraditional Occupations (WANTO) grant, one of the five grants that CWIT receives from the government.

The Court held that CWIT was likely to succeed in its claim that the provision of Executive Order 14151 requiring agencies to terminate grants and contracts with organizations that promote DEI violated the separation of powers established by the U.S. Constitution because the Spending Clause of Article 1 of the Constitution gives the “power of the purse” – the power to appropriate funds – to Congress. The Court reasoned that the Spending Clause of the Constitution does not grant the Executive branch authority to add conditions to the disbursement of grants based on political priorities. Through the WANTO Act, Congress requires the Department of Labor to award grants to, among other things, projects benefitting women. The Court found that, by expressly requiring agencies and departments to terminate all equity-related grants based on conditions that the Executive branch does not have authority to impose, Executive Order 14151 would likely run afoul of the WANTO Act and thereby violate the separation of powers established by the Constitution.

Judge Kennelly’s preliminary injunction largely keeps in place the restrictions imposed in his March 27, 2025 temporary restraining order, narrowing the scope only with respect to termination of grants under Executive Order 14151, pending the outcome of the case in which CWIT seeks permanent relief.

WHAT IS NEXT?

The District Court in Illinois will next determine whether to issue a permanent injunction that could permanently extend the restrictions on the Department of Labor unless overturned or modified on appeal. Judge Kennelly has requested that the parties confer and provide a proposed schedule for further proceedings by April 24, 2025. Hahn Loeser & Parks will continue to monitor this issue and provide updates as they become available.

AUTHORS



MATTHEW K. GRASHOFF, PARTNER
mgrashoff@hahnlaw.com
216.274.2205



SONJA C. RICE, PARTNER
scrice@hahnlaw.com
216.274.2211



MATTHEW F. WAGNER, ASSOCIATE
mfwagner@hahnlaw.com
216.274.2345



J. PATRICK WHITE, OF COUNSEL
pwhite@hahnlaw.com
312.637.3092

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Executive Order 14173 is subject to litigation, and it is expected that the Office of Federal Contract Compliance Programs will likely introduce guidance interpreting the Order, which is subject to change.