

# LEGAL ALERT

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## DEPARTMENT OF JUSTICE RESCINDS PRIOR REPORT ABOUT RACE AND SEX IN FEDERAL CONTRACTING

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On April 23, 2025, the United States Department of Justice announced that it is rescinding the January 31, 2022 Notice of Report on Lawful Uses of Race or Sex in Federal Contracting Programs (the “2022 Report”). The April 23 announcement (the “Announcement”) does not clarify what practices or activities constitute inappropriate DEI programs. Rather, the Announcement functions to remove the 2022 Report as a citable resource that litigants and federal agencies can rely upon in support of sex- and race-based considerations.

### BACKGROUND: THE 2022 REPORT

On January 31, 2022, the Justice Department issued a report of its review of substantial evidence – including research studies and evidence given at Congressional hearings – that demonstrated pervasive discriminatory barriers that “impede the full and fair participation of businesses owned by women and people of color in government contracting.” Of special significance to federal contractors, the 2022 Report found that a “substantial body of statistical evidence ... [demonstrated] significant disparities in the amount of public contracting dollars going to businesses owned by women or people of color as compared to their availability for such contracts.” The 2022 Report (which is available [here](#)) found that the evidence supported the “compelling interest in the continued use of federal programs that contain remedial measures to eliminate discriminatory barriers to contracting opportunities for businesses owned by women and people of color.”

### THE APRIL 23, 2025 ANNOUNCEMENT

Effective as of April 23, 2025, the Justice Department has rescinded the 2022 Report. According to the Announcement, which was issued on April 10 but not published until April 23, 2025, the 2022 Report “is no longer considered an accurate reflection of the current laws, executive orders, and federal court jurisprudence concerning the constitutionality of using race or sex in federal government programs.” The Announcement also states that the rescission is consistent with Executive Order 14151 (“Ending Radical and Wasteful Government DEI Programs and Preferencing”) and Executive Order 14173 (“Ending Illegal Discrimination and Restoring Merit-Based Opportunity”), which directed the immediate termination of unlawful “DEI”

programs throughout the federal government, including in contracts with the federal government and contracts supported by federal grants.

The Announcement does not make any changes to existing federal law or regulations. However, the effect of the Announcement is to eliminate the 2022 Report as evidence that courts and governmental agencies can rely on to support eliminating discriminatory barriers in federal contracting.

Hahn Loeser will continue to monitor this issue closely and provide updates as they become known.

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