

March 14, 2025

MEMORANDUM FOR ALL DOE FUNDING AGREEMENTS OR AWARDS

**FROM: RUSSELL EURY
PROCUREMENT DIRECTOR
NATIONAL ENERGY TECHNOLOGY LABORATORY**

SUBJECT: Rescission of the January 28, 2025 Memorandum

On January 28, 2025, an email was sent to Department of Energy (DOE), National Energy Technology Laboratory (NETL) award recipients which suspended all activities related to Diversity, Equity, and Inclusion (DEI) programs and activities involving or relating to DEI objectives and principles; Community Benefits Plans (CBP); and Justice40 requirements, conditions, or principles. On February 21, 2025, the United States District Court for the District of Maryland issued a preliminary injunction in the case of *National Association of Diversity Officers in Higher Education v. Trump*, 25-cv-333. The court order does not require that DOE change any prior funding agreements that were terminated or formally modified before 6:20 p.m. EST on February 21, 2025.

The DOE does not believe that any funding agreements issued by the DOE NETL are “equity-related” under section 2(b)(i) of Executive Order 14151, 90 FR 8339, entitled *Ending Radical and Wasteful Government DEI Program and Preferencing*, unless otherwise separately communicated. Nonetheless, out of an abundance of caution it is rescinding the following communication effective immediately: Memorandum for All DOE Funding Agreements or Awards; Subject: Important Notice for Ceasing All Activities Associated with DEI and CBP for Award No. [[AWARD NUMBER]] (dated Jan. 28, 2025).

Pursuant to DOE’s enforcement authority and in accordance with current administrative priorities, any DEI, CBP, or Justice40 activities provided for in any funding agreement, including the associated reporting, for the time being, are voluntary. In determining whether to undertake an activity, recipients are encouraged to consider how such an activity may contribute to the technical success of a project and the overall project budget, including satisfaction of required cost share. Should any recipient choose to engage in any DEI, CBP, or Justice40 initiatives provided for in its funding agreement, at this time, the recipient will be compensated per the terms of the funding agreement and consistent with applicable laws and regulations. Modifications pertaining to DEI, CBP, and Justice40 will not be made to funding agreements at this time.

Additionally, in compliance with the Preliminary Injunction issued on February 21, 2025, in the United District Court for the District of Maryland, *National Association of Diversity Officers in Higher Education v. Trump*, 25-cv-333, recipients are no longer required to certify or make any representation that they (A) agree that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government’s payment decisions for purposes of 31 U.S.C. § 3729(b)(4) and (B) that they do not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.

This matter is currently subject to ongoing litigation. Additional guidance will be provided as available.