



Labor & Employment @lert

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President Trump Revokes Executive Order 11246's Affirmative Action Requirements for Federal Government Contractors

Key Notes:

- On January 21, 2025, President Trump formally revoked Executive Order 11246, which had promoted affirmative action initiatives for federal government contractors and subcontractors since 1965.
- The OFCCP is no longer authorized to enforce Executive Order 11246 or hold contractors responsible for its affirmative action requirements.
- Despite President Trump's directive, federal contractors still face other employment-related compliance obligations.

In a shocking move, President Donald Trump has revoked Executive Order 11246, eliminating one of the core legal authorities enforced by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). By doing so, President Trump has significantly gutted the OFCCP's enforcement authority and dismantled a comprehensive framework of non-discrimination and affirmative action compliance requirements for federal government contractors and subcontractors.

Originally signed in 1965 by President Lyndon Johnson, Executive Order 11246 has served as the foundational legal authority enforced by OFCCP to promote non-discrimination and diversity in federal government contracting. At its core, Executive Order 11246 prohibited contractors from discriminating based on race, color, national origin, religion, sexual orientation, or gender identity. The Executive Order also required contractors to develop detailed affirmative action programs as outlined in

its implementing regulations found at 41 C.F.R. Part 60-2. These programs included preparing annual affirmative action plans, developing internal audit and reporting procedures, and evaluating contractor personnel activities and compensation practices.

The OFCCP has traditionally enforced Executive Order 11246 through its compliance evaluation process, where it selects individual contractor establishments for audit and conducts either desk or on-site evaluations of an establishment's compliance programs. OFCCP's most recent audit selection list was issued in November 2024. Any compliance issues identified by OFCCP are typically resolved through conciliation agreements and, in some cases, through enforcement actions filed with DOL's Office of Administrative Law Judges.

With one swoop of his pen, however, President Trump has eliminated Executive Order 11246 and its regulatory compliance framework. Issued on January 21, 2025, President Trump's executive order, titled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," formally revoked Executive Order 11246 and proclaimed that it was "[t]erminating illegal discrimination in the federal government." The order further stated a goal that the "Federal contracting process shall be streamlined to enhance speed and efficiency, reduce costs, and require Federal contractors and subcontractors to comply with our civil-rights laws."

While President Trump's directive allows contractors to continue complying with Executive Order 11246 for a period of 90 days, it orders the OFCCP to immediately cease from "[h]olding Federal contractors and subcontractors responsible for taking 'affirmative action,'" promoting diversity, or allowing or encouraging contractors "to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin."

President Trump's directive has significant implications for federal contractors and their employment compliance programs. As it stands, contractors are no longer required to prepare and maintain annual affirmative action programs under Executive Order 11246, and any pending OFCCP compliance audits under the order will very likely be terminated by the agency. While this likely removes a significant compliance burden for many members of the federal contracting community, they should remain vigilant of their remaining compliance obligations, including:

- **Section 503/VEVRAA Compliance:** President Trump's executive order does not address contractors' separate statutory affirmative action obligations for individuals with disabilities and protected veterans under Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Assistance Act. Since these requirements are grounded in statute, they presumably remain in effect.
- **EEO-1 and VETS-4212 Reporting:** All employers, including contractors, with at least 100 employees are still required to file annual EEO-1 reports. Similarly, contractors with federal contracts or subcontracts worth at least \$150,000 must file annual VETS-4212 reports with the DOL.
- **State or Local Affirmative Action Laws:** President Trump's executive order applies only to federal affirmative action requirements under Executive Order 11246. Contractors doing business with state or local governments must still comply with applicable affirmative action and reporting requirements, many of which closely resemble the federal framework.
- **Equal Pay and Pay Transparency Laws:** President Trump's directive does not impact contractors' obligations under the federal Equal Pay Act or similar state or local laws regarding pay equity and pay transparency. Currently, at least 43 states have equal pay requirements, and 14 states have pay transparency laws that are either pending or in effect. Contractors

should closely review their compensation practices to ensure compliance with all applicable laws. Conducting internal pay equity audits is also advisable to identify and address any compensation disparities.

We continue to monitor and assess the full impact of President Trump's decision to revoke Executive Order 11246 and will provide updates on any further developments or guidance from the White House or OFCCP.

FOR MORE INFORMATION

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