

## Labor & Employment and Government Contracts Update

July 2025

### OFCCP Clarifies Scope of Affirmative Action Compliance Obligations for Government Contractors

#### Key Notes:

- OFCCP has proposed formal rescission of the implementing affirmative action regulations for Executive Order 11246, which was revoked by President Trump in January 2025.
- The OFCCP Director also invites all government contractors to voluntarily submit information regarding their efforts to wind down affirmative action programs under Executive Order 11246.
- After a several-month pause, OFCCP is resuming investigation and enforcement activity under Section 503 and VEVRAA.

After months of silence and inactivity, the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) recently issued a flurry of administrative and regulatory updates that will significantly impact the affirmative action compliance obligations of federal government contractors.

#### Voluntary Submission of Compliance Information

On June 27, 2025, OFCCP Director Catherine Eschbach issued a [letter](#) to contractors "to ensure compliance with President Trump's Executive Order 14173." The Executive Order, issued on January 21, 2025, formally revoked the long-standing Executive Order 11246 and its requirement for government contractors to engage in affirmative action based on race and ethnicity. Contractors were given a 90-day window, until April 21, 2025, to continue voluntary compliance with Executive Order 11246 but were expected

to wind down such compliance activities by the end of that period.

Citing OFCCP's obligations under Executive Order 14173 "to ensure that OFCCP is no longer allowing federal contractors to engage in workforce balancing based on protected characteristics or requiring federal contractors and subcontractors to take 'affirmative action,'" Director Eschbach's letter invites all contractors to voluntarily submit information to OFCCP regarding their efforts "to wind down compliance with the EO 11246 regulatory scheme and ensure full compliance with the Nation's non-discrimination laws."

While the letter includes examples of the types of information contractors may provide, Director Eschbach emphasizes that both the decision to submit and the nature of the submission are entirely voluntary. Contractors may submit information via the OFCCP Contractor Portal for 90 days, or until September 25, 2025.

#### Rescission of Executive Order 11246 Regulations

A few days after Director Eschbach's letter, OFCCP issued a [Proposed Rule](#) on July 1, 2025, to formally rescind the implementing regulations of the now-revoked Executive Order 11246. The regulations—located at 41 C.F.R. Parts 60-1, 60-2 and 60-4—outline affirmative action compliance obligations for both construction and non-construction government contractors. These obligations included written affirmative action plans, compensation analyses, adverse impact assessments related to hiring, promotion and

termination, as well as targeted outreach and recruitment efforts for women and protected minorities.

In addition to the Executive Order's revocation, the Proposed Rule offers several justifications for rescinding the regulations. Specifically, OFCCP notes that the regulations "are vulnerable to legal challenge" following the Supreme Court's 2023 decision in *Students for Fair Admissions v. Pres. & Fellows of Harv. Coll.*, 600 U.S. 181 (2023) (SFFA) and should therefore be rescinded. The Proposed Rule states the regulations conflict with the SFFA decision because they required contractors to take affirmative action "without any showing that discriminatory practices towards women and minorities do in fact exist" and "failed to take account of other factors that might influence the composition of a contractor's labor force."

The Proposed Rule also cites Executive Order 14173's directive that OFCCP cease enforcing Executive Order 11246's implementing regulations as further justification for rescission. According to OFCCP, the regulations are "null and void" and rescinding them is necessary to avoid confusion among government contractors.

The Proposed Rule is subject to a 60-day public notice and comment period, ending September 2, 2025, before OFCCP may proceed to final rulemaking. Notably, the Proposed Rule does not seek to rescind or revise the separate regulations governing contractors' affirmative action obligations for individuals with disabilities under Section 503 of the Rehabilitation Act or for protected veterans under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), as those requirements are rooted in federal statute and therefore remain in effect.

### OFCCP Resumes Enforcement of Section 503 and VEVRAA

Shortly after issuing the Proposed Rule, the Secretary of Labor formally lifted the abeyance on OFCCP's authority to enforce Section 503 and VEVRAA. The abeyance, which had been in effect since January 24, 2025, temporarily paused OFCCP's enforcement and investigation activity related to contractors' affirmative action obligations for individuals with disabilities and protected veterans. The Department of

Labor (DOL) deemed a pause necessary following the revocation of Executive Order 11246.

In [Secretary's Order 08-2025](#), the Secretary authorized OFCCP and other DOL agencies to resume investigations and enforcement activity under Section 503 and VEVRAA. While OFCCP will now accept, process and investigate complaints under both statutes, the agency has announced its plans to close all pending compliance reviews administratively under Section 503 and VEVRAA. Additionally, OFCCP will take no further action on the Corporate Scheduling Announcement List issued in November 2024. Contractors previously selected for a compliance audit can now expect formal closure letters from OFCCP soon.

Although OFCCP is not currently pursuing new compliance audits, the agency has advised that contractors' obligations under Section 503, VEVRAA, and their implementing regulations remain in effect. Contractors must therefore continue to meet their affirmative action obligations for individuals with disabilities and protected veterans.

### Implications for Government Contractors

OFCCP and DOL have finally offered much-needed clarity for contractors navigating the post-Executive Order 14173 landscape. While contractors are no longer required to comply with affirmative action requirements based on race, ethnicity and gender, they must remain vigilant about their responsibilities under Section 503 and VEVRAA. Contractors should ensure they have appropriately wound down any remaining affirmative action programs, policies or activities tied to Executive Order 11246.

Recent OFCCP activity signals that the agency intends to resume investigation and enforcement under Section 503 and VEVRAA—and potentially pursue compliance efforts consistent with Executive Order 14173. However, these efforts may be short-lived. DOL has proposed [eliminating OFCCP entirely](#) and transferring its remaining authority to the Equal Employment Opportunity Commission (EEOC) and Veterans' Employment and Training Service (VETS). If that occurs, contractors may find themselves explaining their affirmative action compliance efforts to investigators less familiar with the nuances of Section 503 and VEVRAA.

Contractors with specific questions or concerns regarding their ongoing compliance obligations or the restrictions imposed by Executive Order 14173 should consult with legal counsel.

### FOR MORE INFORMATION

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