

# LABOR AND EMPLOYMENT LAW

## INFORMATION MEMO

JULY 2, 2025

### OFCCP Invites Federal Contractors to Voluntarily Disclose Efforts to Wind Down Executive Order 11246 Obligations

On June 27, 2025, the Office of Federal Contract Compliance Programs (OFCCP) announced in a [letter](#) to federal contractors that they were invited to share information regarding their compliance efforts in response to [Executive Order 14173](#), “Ending Illegal Discrimination and Restoring Merit-Based Opportunity.”

OFCCP Director Catherine Eschbach states in the letter that EO 14173 is aimed at “eliminating reliance upon unlawful, unfair and unsafe discriminatory practices including those labeled as diversity, equity and inclusion (DEI) and revokes executive orders that implemented or encouraged the adoption of such unlawful practices.” As we [previously reported](#), EO 14173 revoked Executive Order 11246, which was signed into law in 1965 by Lyndon B. Johnson and required covered federal contractors to implement affirmative action programs for females and minorities. The OFCCP Director’s letter stated that the EO 11246 regulations’ requirement “that federal contractors engage in workforce balancing and use placement goals to benefit certain individuals may have led contractors to engage in unlawful disparate treatment based on race and sex in hiring and employment decisions.” While OFCCP noted that the regulations expressly prohibited quotas and disparate treatment, the Director asserts that many federal contractors may have, in practice, engaged in disparate treatment by making employment decisions based on race or sex in an effort to meet those goals. Federal contractors were given a 90-day “safe harbor” until April 21, 2025, after which they were expected to have wound down their affirmative action programs for women and minorities under the now revoked EO 11246.

In her letter, the OFCCP Director invites federal contractors to share information in narrative form about what specific actions they have taken to comply with EO 14173 and discontinue practices previously required under EO 11246. The letter provides examples of changes in practices that OFCCP suggests federal contractors may choose to describe, including trainings, sponsorship programs, leadership development programs or other privileges of employment available only to employees of a certain race or sex; race or sex-based placement goals, including the use of participation in race or sex-related organizations as a “plus factor” or proxy for race or sex in employment decisions, tying executive compensation to meeting race or sex-based hiring, promotion, retention, representation or other demographically-based goals, trainings focused on racial stereotypes, and encouraging recruitment efforts towards or referrals of candidates based on race or sex.

Federal contractors have 90 days (i.e., until Sept. 25, 2025, which coincides with the close of the federal fiscal year) to voluntarily disclose information about their efforts to phase out previous EO 11246 regulatory compliance mandates. The OFCCP letter states “the content, format and decision to provide any information is completely up to the contractor.” OFCCP emphasizes that disclosure

is not mandatory and contractors have full discretion over what information to provide, if any. If federal contractors wish to make such a submission, it may be submitted through the OFCCP Contractor Portal.

Notably, EO 14173 did not rescind federal contractors' affirmative action obligations for individuals with disabilities and protected veterans under Section 503 of the Rehabilitation Act or the Vietnam-Era Veterans' Readjustment Assistance Act of 1974. Those affirmative action obligations are also enforced by OFCCP and, at least for now, also mandate compliance with established hiring benchmark and utilization goals. OFCCP's invitation to share information does not make any reference to these continuing affirmative action obligations enforced by the OFCCP.

In light of the recent significant reduction in OFCCP staff, the closure of a majority of its offices and the proposed elimination of the OFCCP in the next fiscal year, the OFCCP's enforcement priorities and efforts have been in question. It is unclear how OFCCP intends to use the information it gathers from federal contractors who choose to respond to this invitation for information regarding their efforts to wind down practices previously required under EO 11246. The OFCCP fails to explain what benefit a contractor would gain by volunteering such information. It is also unclear whether OFCCP intends to share this information with other federal agencies, such as the Department of Justice or the EEOC and/or whether the information submitted by federal contractors would be subject to disclosure in response to a Freedom of Information Act request. Federal contractors are encouraged to consult with counsel about their decision whether to make a submission and if so, the content of such submission.

If you have any questions, please contact [Christa Cook](#), any attorney in the firm's [labor and employment practice](#) or the Bond attorney with whom you have regular contact.

