

TRUMP ADMINISTRATION ASKS FEDERAL CONTRACTORS TO SHARE AFFIRMATIVE ACTION “WIND DOWN” EFFORTS: WHAT SHOULD YOU DO?

Insights
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Back in January, President Trump unraveled key affirmative action requirements for federal contractors and barred “illegal” DEI programs. Now federal contractors have been asked to voluntarily share how they’ve adjusted their employment practices. Specifically, the Office of Federal Contract Compliance Programs (OFCCP) issued a letter on Friday inviting federal contractors to disclose the steps they’ve taken to “wind down” their affirmative action programs and ensure full compliance with federal anti-discrimination laws. Here’s what federal contractors need to know about this latest move and what you should consider doing now.

How Did We Get Here?

President Trump issued [Executive Order 14173](#) on January 21, revoking a 1965 order that had required federal contractors to implement affirmative action programs that included race- and sex-based placement goals, in addition to intentional outreach and recruitment efforts, and commitments to equal employment opportunity principles. Where goals were established, federal contractors were required to make good faith efforts to cast a wide net to diversify the applicant pool with the goal of providing the best opportunity for diversifying the workplace.

Renewed Emphasis on Nondiscrimination

While affirmative action in the employment context never allowed employers to make employment decisions based on protected characteristics, such as race and

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gender, President Trump aimed to reinforce merit-based, nondiscriminatory hiring and employment practices through the new executive order. He directed the OFCCP to immediately cease “holding federal contractors and subcontractors responsible for taking affirmative action.”

The order also barred the OFCCP from promoting “diversity” or “allowing or encouraging federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.”

Deadline Provided

Contractors had 90 days (until April 21) to “wind down” their compliance practices related to the 1965 order on affirmative action (Executive Order 11246). Notably, while President Trump’s new executive order affected affirmative action plans related to hiring women and minorities, it did not end affirmative action requirements under two laws aimed at protecting veterans and individuals with disabilities.

What’s New?

Now, in an unprecedented move, the OFCCP is seeking voluntary submissions from contractors stating how they have complied with President Trump’s Executive Order 14173. Here are the main takeaways from the June 27 request:

- **OFCCP is seeking voluntary updates:** Contractors now have the option to submit a narrative describing how they’ve phased out their previous affirmative action practices. This submission is completely optional and there’s no required format. You can decide what, if anything, to share.
- **The letter includes these examples of what contractors may include:**
 - Confirmation that race- or sex-based placement goals have been discontinued;
 - Adjustments to leadership programs, mentorships, or training previously limited to specific demographic groups;



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- Any changes made to compensation structures tied to DEI-related metrics;
 - Updates to hiring or recruiting practices that previously used race or sex as a “plus factor”; and
 - Removal of mandatory trainings focused on race- or gender-based content.
- **Deadline for voluntary submissions:** Contractors have until September 25 to submit any information they choose to share via [the OFCCP Contractor Portal](#) (the same system contractors had previously used to certify compliance with the applicable OFCCP regulations).
 - **Review DEI guidance:** The OFCCP also recommends that contractors [review recent guidance](#) from the Equal Employment Opportunity Commission (EEOC) and the Department of Justice (DOJ) on corporate DEI programs.

What Should You Do Now?

Start by speaking with experienced legal counsel about OFCCP compliance to determine the best course of action for your company. Whether to submit a voluntary response will be highly dependent on the nature and extent of each company’s contracts, past practices, and current practices. If you do decide to provide a voluntary response, the wording you choose will be critical.

Regardless of whether you provide a voluntary response, now is a good time to:

- Review any existing DEI programs;
- Identify any lingering practices that may no longer comply with EO 14173;
- Remember that contractors still have obligations under Section 503 for individuals with disabilities and VEVRAA for veterans (including affirmative action requirements).

Conclusion

If you would like help reviewing your policies or options for preparing a voluntary narrative for submission, reach out to your Fisher Phillips attorney or any member of our [Affirmative Action and Federal Contract Compliance Practice Group](#). We will continue to monitor developments

related to all aspects of workplace law. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.