

# OFCCP TAKES ADDITIONAL STEPS TO UNRAVEL KEY AFFIRMATIVE ACTION PROGRAMS: A 5-STEP PLAN FOR FEDERAL CONTRACTORS

Insights  
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Federal contractors should stay tuned as the Trump administration continues to make big changes impacting contract compliance. Just today, the Office of Federal Contract Compliance Programs (OFCCP) published proposed rules to align the agency's regulations with President Trump's directive revoking certain affirmative action programs. The new rules – which are just proposals at this point with no effective date – would officially rescind the agency's prior regulations on race- and gender-based affirmative action plans and update those related to veterans and individuals with disabilities. Last week, the OFCCP asked federal contractors to voluntarily share how they are winding down affirmative action plans, and now the agency is taking its own steps to cement changes. Here are the key takeaways for contractors as you adapt to the federal government's new direction.

## 3 New Proposals Impacting Federal Contractors

The OFCCP just published three proposed rules in the Federal Register on July 1 that would:

- **Officially Rescind Regulations Related to EO 11246**. These regulations prohibited covered federal contractors and subcontractors from discriminating in employment based on race, color, religion, sex, sexual orientation, gender identity, and national origin and required them to take affirmative action on those bases. President Trump **revoked** EO 11246 on January 21 and **directed the OFCCP** to immediately cease enforcing related affirmative action

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requirements. Contractors had 90 days (until April 21) to “wind down” their compliance practices.

Notably, while President Trump’s order ([EO 14173](#)) dismantled affirmative action programs related to hiring women and minorities, it did not end affirmative action requirements under two laws aimed at protecting veterans and individuals with disabilities (more on that below).

- **[Revise Regulations for the Vietnam Era Veterans’ Readjustment Assistance Act \(VEVRAA\)](#)**. Proposed updates to VEVRAA regulations remove cross-references to EO 11246 and aim to “better align the regulations with recent case law and executive orders,” according to the proposal. This includes President Trump’s EO 14173 and [the administration’s deregulatory initiative](#).
- **[Modify Regulations Related to Individuals with Disabilities Under Section 503 of the Rehabilitation Act](#)**. In addition to removing references to the now-revoked 1965 executive order, this proposal also aims to rescind [regulations](#) that require contractors to invite applicants and employees to self-identify their disability status, as well as [a requirement](#) that contractors apply a 7% utilization goal for employment of qualified individuals with disabilities to each of their job groups (or to their entire workforce if they have 100 or fewer employees).

“While the Section 503 regulations state that the use of quotas is prohibited, contractors may, in practice, be induced to using quotas to meet the utilization goal,” the proposal says. The administration has concerns that the self-identification and utilization goal regulations are inconsistent with the ADA, noting that “an employer may not, prior to an offer of employment, make any disability-related inquiries, even if that inquiry is related to the job.” Requirements to annually review outreach and recruitment efforts, however, will remain.

## What Should Federal Contractors Do Now? Your 5-Step Plan

**1. Consider Submitting a Comment.** These proposed rules have not yet been finalized or taken effect. Employers and other interested members of the public have an opportunity to comment on the proposals until August 30. You may want to reach out to experienced legal counsel to help you

compose and submit a comment on how these proposed changes would impact your business.

**2. Decide Whether to Share Affirmative Action “Wind Down” Steps.** In January, President Trump’s [EO 14173](#) unraveled key affirmative action requirements for federal contractors and barred “illegal” DEI programs. In late June, the OFCCP issued a letter inviting federal contractors to voluntarily disclose the steps they’ve taken to “wind down” their affirmative action programs and ensure full compliance with federal anti-discrimination laws. 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. [Click here to learn more.](#)

**3. Continue Other Compliance Efforts.** Federal contractors and subcontractors continue to have obligations related to federal and state laws, such as EEO-1 and VETS-4212 filings, and state pay data reporting requirements (including in California), as applicable. Continue to participate in these required compliance filings.

**4. Track Further Changes at the OFCCP.** We expect more changes, particularly as the Trump administration pursues mass layoffs – and aims to [eliminate the OFCCP altogether](#) and transfer remaining responsibilities to other agencies.

**5. Watch for Updates from Other Federal Agencies.** The OFCCP may refer discrimination matters to the EEOC and/or the Department of Justice. You can follow the latest news by subscribing to [Fisher Phillips’ Insight System](#).

## Conclusion

If you would like help reviewing your policies or options for preparing a comment, 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.