

# LABOR AND EMPLOYMENT LAW

## INFORMATION MEMO

JANUARY 23, 2025

### President Trump Revokes Executive Order 11246

On Jan. 21, 2025, President Trump issued an executive order titled “Ending Illegal Discrimination and Restoring Merit-Based Opportunity” (the Order). Among other changes, the Order revokes Executive Order 11246 (EO 11246), which governs federal contractors and subcontractors.

EO 11246, which was signed into law in 1965 by Lyndon B. Johnson, has been enforced by the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP). EO 11246 prohibited federal contractors, subcontractors and federally assisted construction contractors, who did over \$10,000 in business with the federal government, from discriminating in employment decisions and required them to take affirmative action to ensure equal opportunity without regard to race, color, religion, sex, sexual orientation, gender identity or national origin. In addition, certain federal contractors who had contracts above a certain monetary threshold were also obligated to implement a written affirmative action program (AAP). Covered federal contractors obligated to maintain written AAPs were required to certify on the OFCCP’s online Contractor Portal, on an annual basis, that they developed and were in compliance with the AAP mandates.

The Order not only rescinds EO 11246, but also directs OFCCP to immediately cease:

- (A) Promoting “diversity”;
- (B) Holding federal contractors and subcontractors responsible for taking “affirmative action”; and
- (C) Allowing or encouraging federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion or national origin.

The Order also requires federal agencies to include in every contract or grant award a term requiring the contractor/grantee to “certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.”

Federal contractors must comply with the Order within 90 days. While we are continuing to analyze the implications of the revocation of EO 11246, many questions remain, including the impact on federal contractors currently undergoing an OFCCP audit or compliance review.

The Rehabilitation Act of 1973 (covering individuals with disabilities) and the Vietnam-Era Veterans’ Readjustment Assistance Act of 1974 (covering protected veterans), which are also enforced by OFCCP, prohibit discrimination in employment and require certain federal contractors to develop written affirmative action plans. Those affirmative action obligations for individuals with disabilities and protected veterans, which are not found in EO 11246, do not appear to be impacted by President Trump’s Order and will remain in effect.

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.

