CLIENT ALERTS & INSIGHTS

OFCCP Publishes Final Rule Rescinding Affirmative Action Regulations Pursuant to Executive Order 11246

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Featured Practices: Labor & Employment

The U.S. Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") published a Final Rule on August 21, 2026, rescinding the regulations implementing Executive Order 11246 and modifying the administrative enforcement procedures at 41 CFR part 60-30.

The Final Rule follows President Trump's Executive Order 14173, issued January 21, 2025, that revoked Executive Order 11246 and directed the OFCCP within the Department of Labor to immediately cease the following: promoting diversity; holding federal contractors and subcontractors responsible for taking affirmative action; and allowing or encouraging federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

The Department of Labor identified other reasons for rescinding the regulations, including the following:

- Eliminating legal vulnerabilities related to the affirmative action requirements
- Improving the efficiency of the federal contracting process
- Decreasing employer burden
- Providing regulatory certainty to contractors and other stakeholders by aligning the regulations with recent executive orders impacting the Department's enforcement

Ultimately, the Department of Labor rescinded these regulations because they can no longer be lawfully maintained following the revocation of Executive Order 11246.

The Final Rule: What Changed?

The Final Rule rescinds 41 CFR Parts 60-1, 60-2, 60-3, 60-4, 60-20, 60-30, 60-40, 60-50, and 60-999, and modifies the administrative enforcement procedures at 41 CFR part 60-30 by removing the Executive Order 11246 components. The changes eliminate the following:

- Written affirmative action program requirements

- Workforce analyses, comparisons to labor-market availability, identification of underutilization, and placement goals
- Minority participation goals and compliance obligations for construction contractors

The Final Rule is effective October 26, 2026.

What Now?

Federal contractors remain subject to Title VII of the Civil Rights Act of 1964 and other federal and state nondiscrimination laws.

Additionally, Executive Order 14398, issued by President Trump on March 26, 2026, requires federal contractors to include a clause in their contracts affirming they will not engage in "racially discriminatory DEI activities"-defined as disparate treatment based on race or ethnicity in the recruitment, employment, contracting, program participation, or allocation or deployment of an entity's resources-and will furnish records necessary to verify compliance with this nondiscrimination obligation. The order directs the Federal Acquisition Regulatory Council to promulgate implementing regulations.

Related Final Rules

Relatedly, on August 21, 2026, the OFCCP published a Final Rule revising its implementing regulations for Section 503 of the Rehabilitation Act of 1973, and a Final Rule updating VEVRAA coverage thresholds and enforcement procedures.