

Insights: Alerts

President Trump Rescinds EO 11246

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On January 21, 2025, President Trump issued a broad executive order tilted “[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)” (the “Order”), which among other things, rescinds Executive Order (“EO”) 11246.

What is EO 11246?

EO 11246 was first issued by President Lyndon Johnson in September 1965. Notably, EO 11246 established requirements for non-discriminatory practices in hiring and employment on the part of federal government contractors and subcontractors.

It prohibited “federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin.” It also required contractors to “take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin.”

EO 11246 is one of the key affirmative action obligations that is currently enforced by the Office of Federal Contract Compliance Programs (“OFCCP”)

What did President Trump's Order do?

In addition to rescinding EO 11246, President Trump's Order also instructs the 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, sexual preference, religion or national origin.”

In line with his prior executive orders signed on January 20, 2025 with respect to diversity, equity, and inclusion (“DEI”) initiatives within the federal government, President Trump's instant executive order rescinding EO 11246 also instructs agency heads to “include in every contractor 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.”

What happens next?

According to the express language of President Trump's Order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025 for the next 90 days. The Order has also directed the Director of the Office of Management and Budget ("OMB"), with the assistance of the Attorney General, (1) to review all Government-wide processes, directives, and guidance, (2) remove references to DEI and DEI principles from Federal acquisition, contracting, grants, and finance assistance procedures, and (3) terminate all "diversity," "equity," "equitable decision-making," "equitable deployment of financial and technical assistance," "advancing equity," and like mandates, requirements, programs, or activities, as appropriate.

At least for now, government contractors that are subject to Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Assistance Act ("VEVRAA") will still have affirmative obligations with respect to individuals with disabilities and protected veterans, as those obligations are grounded in statute and not EO 11246.

What Does This Mean for Me?

The exact implications of this revocation will be clear over the coming weeks but there are a few things you should be aware of now:

- If you are undergoing an OFCCP audit, this may impact that audit including any pending or anticipated enforcement.
- Company policies regarding EO 11246 may need to be revisited and updated.
- You may also need to evaluate and change your supply agreements if they included requirements pertaining to EO 11246.

As this is a developing story, the Kilpatrick team will continue to monitor these developments and provide updates as developments occur. For more information on how this new order may affect your workplace policies and compliance obligations, please contact one of the authors or your regular Kilpatrick point of contact.

Footnotes

¹ On January 20, 2025, President Trump signed an Executive Order targeting federal diversity, equity, and inclusion ("DEI") programs, named "Ending Radical and Wasteful Government DEI Programs and Preferencing." He also signed another Executive Order, titled "Initial Recissions of Harmful Executive Orders and Actions," which revokes, among other things, President Biden's foundational DEI Executive Orders, including EO 13985 on racial equity and EO 14035 on diversity in the federal workforce.

Related People



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