

Labor & Employment



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Steps Employers Should Take After President Trump Revoked Executive Order 11246

On January 21, 2025, President Donald Trump issued an Executive Order (“EO”) titled “Ending Illegal Discrimination And Restoring Merit-Based Opportunity” explicitly revoking Executive Order 11246, which mandated federal contractors comply with certain diversity, equity, and inclusion (“DEI”) related requirements, including the dissemination and enforcement of nondiscriminatory policies, establishing a written affirmative action plan and placement goals for women and minorities, and implementing action-oriented programs for accomplishing these goals.

FEDERAL CONTRACTORS HAVE 90 DAYS TO COMPLY

President Trump’s EO gives federal contractors until April 21, 2025, to end their compliance with EO 11246. However, effective immediately, the Office of Federal Contract Compliance Programs (“OFCCP”), the agency within the Department of Labor responsible for monitoring compliance with Executive Order 11246 is required to cease:

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

Accordingly, all federal contractors will now be required to certify they “do not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws” in all contracts and grant awards with federal agencies.

IMPLICATIONS FOR PRIVATE EMPLOYERS WHO ARE NOT GOVERNMENT CONTRACTORS

President Trump’s EO also had implications for private employers who are not government contractors, particularly public companies and educational institutions. Putting pressure on the private sector to follow suit and end DEI programs, the EO directs the heads of federal agencies to submit reports within the next 120 days addressing the following issues:

- Private sector companies with the most “egregious and discriminatory” DEI programs;
- Plans to deter DEI programs “that constitute illegal discrimination or preferences”;
- Consideration of litigation that would be potentially appropriate for federal lawsuits, intervention, or statements of interest; and
- Other strategies to encourage the private sector to end “illegal DEI discrimination and preferences” and comply with all Federal civil-rights laws.

NEXT STEPS FOR EMPLOYERS:

Federal contractor employers and private employers alike should consult their counsel to discuss the following next steps:

- Federal Contractors: Assess and review policies and practices that have been set up to comply with adopted Affirmative Action programs and analyze any independent and/or overlapping state law obligations which may remain in effect and require compliance. Consider changes to ensure compliance with new federal EO standards (i.e., ensuring there are no workforce balancing policies or DEI programs that could be construed as violative of federal anti-discrimination laws such as Title VII of the Civil Rights Act) and obtain guidance on how to reconcile the federal obligations with state law requirements.

- Private Employers: Conduct a privileged assessment of all current DEI statements, policies, programs, and initiatives to ensure compliance with federal civil rights laws to ensure that employment decisions are based on merit and that protections are in place to prevent employees or applicants from being adversely treated or impacted on the basis of race, sex, gender, or any other protected characteristics under federal or state law.

The EO is a sea change in national policy which will have a ripple effect throughout the private sector, including the risk of private lawsuits challenging existing policies or decisions made under them. These are early days, and we will continue to watch and report on developments, but any employer which ignores the significance of the EO does so at its peril.

For more information or assistance, contact [Anthony B. Haller](#), [Theresa A. Topping](#), or another member of Blank Rome's Labor & Employment or Government Contracts team.

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