

DOL Issues Proposed Rules Clarifying Contractor Obligations Following Rescission of Executive Order 11246

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On July 1, 2025, the US Department of Labor (DOL) – which includes the Office of Federal Contract Compliance Programs (OFCCP) – released three notices of proposed rules, outlining changes to federal contractors’ affirmative action obligations following President Donald Trump’s rescission of Executive Order (EO) 11246. As detailed below, these rules include formally rescinding EO 11246 regulations and modifying regulations under Section 503 of the Rehabilitation Act and the Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA).

Rescission of EO 11246 implementing regulations

The proposed rulemaking seeks to formally rescind regulations implementing EO 11246, which Trump revoked in January 2025 via EO 14173. EO 11246 had long required federal contractors to implement affirmative action programs (AAPs) addressing race- and sex-based criteria. While EO 11473 eliminated such race- and sex-related requirements, it did not affect obligations to prepare AAPs covering protected veterans and individuals with disabilities under VEVRAA and Section 503 of the Rehabilitation Act.

The DOL explained that, although it considers the regulations “null and void,” officially rescinding them will prevent confusion among contractors and the public. The agency also cited recent “course-corrections” in federal civil rights law – including US Supreme Court rulings in *Students for Fair Admissions v. Harvard* (2023), which struck down affirmative action in college admissions, and *Ames v. Ohio Department of Youth Services* (2025), which rejected a heightened burden standard for plaintiffs in demonstrating “reverse discrimination” under Title VII of the Civil Rights Act – as key reasons for the rescission. The DOL also took aim at certain “unsupported assumptions” underlying the AAP requirements for contractors. For example, the agency noted that such requirements were “imposed without any showing that discriminatory practices towards women and minorities do in fact exist” and assume, by the “mere existence of statistical disparities,” that there is evidence of underutilization of women and minorities “based on the fundamentally flawed assumption that each and every federal contractor’s workforce may harbor discrimination if it does not mirror the available labor pool for women or minorities.” The agency also stated that the regulations underlying EO 11246 may have induced and incentivized contractors to consider characteristics like race and sex when making decisions to attempt to avoid a scheduled compliance evaluation or to avoid an OFCCP enforcement action.

Revisions to Section 503 regulations

The proposed revisions to regulations underlying Section 503 are twofold:

- The DOL first proposes eliminating the requirement that contractors invite applicants and employees to voluntarily self-identify their disability status. According to the agency, this conflicts with the Americans with Disabilities Act, which prohibits disability-related inquiries before a job offer and only allows them post-offer when the inquiries are job-related and consistent with business necessity.
- Second, the agency proposes to remove the utilization goal requirements underlying Section 503, which require, among other things, annually conducting utilization analyses to determine if a contractor’s job groups meet the 7% utilization goal for the employment of individuals with disabilities. The agency stated that the utilization goal may, in practice, induce contractors to use quotas, which are prohibited under Section 503, to meet it. In addition, Section 503 regulations require contractors to conduct utilization analyses using the same job groups established for their analyses under EO 11246. However, with EO 11246 revoked, such utilization analyses are “unworkable.”

Revisions to VEVRAA regulations

The proposed updates to the VEVRAA regulations are primarily technical and aim to align these rules with recent court decisions and executive orders, such as EO 14173 and EO 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative.” These changes include removing references to the now-revoked EO 11246 from the VEVRAA regulations and introducing provisions related to administration enforcement proceedings under VEVRAA.

What’s next?

Comments on these proposed regulations are due by September 2, 2025. Until they are finalized, current rules remain in effect; contractors must continue to invite applicants and employees to self-identify their disability status and conduct utilization analyses.

Additionally, the OFCCP has lifted the abeyance on OFCCP program activity, so Section 503 and VEVRAA enforcement has resumed, including the processing of any Section 503 and VEVRAA complaints. The OFCCP, however, elected to administratively close all pending compliance reviews. The OFCCP’s announcement states, “Contractors are reminded, however, that Section 503 and VEVRAA, along with their implementing regulations, remain in effect and contractors should continue to otherwise comply with their obligations under the Section 503 and VEVRAA regulatory schemes.”

If you have any questions about OFCCP developments, please reach out to a member of the Cooley employment team.

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