

# CLIENT UPDATE

ALISSA A. HORVITZ  
JOSHUA S. ROFFMAN  
JAMES M. MCCAULEY

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## FUTURE OF CONTRACTOR COMPLIANCE OBLIGATIONS COMING INTO BETTER FOCUS

There have been a series of recent developments that provide more clarity about the future of compliance for federal contractor employers.

### 1. The Secretary of Labor Issues an Order Reopening Veterans and Disability Investigations, Closing all Open or Pending Veterans and Disability Compliance Reviews, and Confirming Contractors' Continued Veterans and Disability Affirmative Action Obligations

On July 2, 2025, OFCCP issued a stakeholder bulletin which addressed several topics:

- In Order 08-2025, Secretary of Labor Lori Chavez-DeRemer announced that the Department of Labor will **resume processing** VEVRAA and Section 503 employee complaints, but OFCCP will be **administratively closing any open Section 503**

**and VEVRAA compliance reviews** and notifying employers accordingly. In short, all open OFCCP compliance reviews are ended, but OFCCP will resume investigating pending complaints alleging discrimination based on veteran and disability statuses.

- OFCCP will not be taking any further action to schedule audits from the Corporate Scheduling Announcement List that was released in November 2024.
- There will not be any certification of veteran and disability affirmative action plan completion this year.
- OFCCP reaffirmed that it was extending its moratorium to exempt Veterans Affairs Health Benefits Program (VAHBP) providers from affirmative action obligations under Section 503 and VEVRAA through at least May 27, 2027. The affirmative action moratorium does not relieve VAHBP providers from any discrimination complaint investigations under the laws enforced by OFCCP.

The Secretary of Labor made a point of reminding contractors and subcontractors “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.”

## 2. Proposed Regulations Rescind Women and Minority Affirmative Action Plan Obligations and the Collection of Disability Data

OFCCP is proposing to **revise** its regulations implementing VEVRAA and Section 503 and to **rescind** its regulations implementing Executive Order 11246. Any organization wishing to submit a comment must do so by Tuesday September 2, 2025.

- The proposed rescission of the EO 11246 regulations may be found here - <https://roffmanhorvitz.com/documents/2025-12276.pdf>
- The proposed revision of the VEVRAA regulations may be found here - <https://roffmanhorvitz.com/documents/2025-12006.pdf>
- The proposed revision of the Section 503 regulations may be found here - <https://roffmanhorvitz.com/documents/2025-12233.pdf>

The rescission of the EO 11246 regulations was expected after Executive Order 14173 rescinded EO 11246.

OFCCP's proposed revisions to the VEVRAA regulations are minor and insubstantial; mostly just tidying up cross-references to the women and minority AAPs or EO 11246 regulations.

The proposed revisions to the Section 503 regulations would remove self-identification and all data analytics obligations. For those of you who remember former OFCCP Director Pat Shiu's rallying point that "what gets measured gets done," OFCCP is proposing not to measure any longer whether outreach efforts are successful using disability self-identification data. If there are any disability organizations that would like assistance in drafting comments, let us know.

Once the time for submitting comments has concluded, it's not clear how soon thereafter the rescissions and revisions will take effect. Until that happens, contractors must comply with the existing regulatory requirements under VEVRAA and Section 503.

### **3. OFCCP Director Announces Voluntary OFCCP Submission Regarding Executive Order 14173 Compliance**

On June 27, 2025, OFCCP Director Catherine Eschbach published a letter on OFCCP's website that invited federal contractors to voluntarily submit information via OFCCP's contractor portal on actions taken to comply with Executive Order 14173. The OFCCP affords organizations 90 days to use the portal, which would end on September 25, 2025.

Unless and until there is some reason to believe that there is any upside or benefit to providing this information, Roffman Horvitz does not recommend submitting anything. It feels like an admission against interest. If you identify all the initiatives you unwound, it implies that you may have been doing something unlawful in the past, and we do not see any benefit to listing all the places where DEI became inclusion and belonging, now.

Nothing that was required by the now-rescinded EO 11246 and its implementing regulations would be considered unlawful DEI based on the guidance issued earlier this year by the Justice Department and EEOC. That means that many, if not most, employers didn't need to take any action beyond updating some documents and clauses to unwind their EO 11246 affirmative action plans and to come in compliance with EO 14173. For these employers, their submission presumably would say that they didn't need to make any programmatic changes to come into compliance with EO 14173. We think that there is a distinct possibility that a disclosure to this effect also will not resonate well with the current OFCCP Director, who has made assertions that EO 11246 required employers to engage in unlawful DEI. In other words, we don't really see any scenario where what the employer submits will not one way or the other be seen as problematic by the current OFCCP Director.

A copy of her letter may be found here -

<https://roffmanhorvitz.com/documents/Letter-OFCCP-Director-Catherine-Eschbach-6.27.25-508c.pdf>

#### **4. DOJ Announces its Civil Fraud Initiative and Solicits Plaintiff Whistleblowers**

On May 19, 2025, the Department of Justice announced the establishment of a “Civil Rights Fraud Initiative, which will utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws.”

Although the memorandum specifically focuses on (1) antisemitism at universities, (2) allowing biological men to use women’s bathroom or to compete in women’s athletic competitions at universities, and (3) federal contractor DEI programs “that assign benefits or burdens on race, ethnicity, or national origin,” the memorandum states that the “Initiative will utilize the False Claims Act to investigate and . . . pursue claims against any recipient of federal funds that knowingly violate federal civil rights laws.” This suggests that the Initiative is open to pursuing any civil rights violations and not only those in the areas specifically called out in the memorandum.

Given the broad scope of the Initiative, employers should strongly consider continuing to evaluate hiring, promotions, terminations, and other employment processes to investigate any disparities by sex and race/ethnicity.

The Department of Justice is strongly encouraging anyone with knowledge of discrimination by federal funding recipients or federal contractors to consider filing a False Claims Act qui tam lawsuit.

The DOJ’s publication may be found here -

<https://www.roffmanhorvitz.com/documents/DAG-Blanche-Memo-Civil-Rights-Fraud-Initiative-20250519.pdf>

#### **5. AI Moratorium Removed From the Federal Budget Bill, Opening the Way for Continued State and Local Regulation of AI Tools in Employment and Other Contexts**



The proposed moratorium on state regulation of artificial intelligence was struck from the final Senate version of the “big, beautiful bill” by a 99-1 vote, and thus was not a part of the final bill signed by President Trump. This will permit states to implement regulations regarding employers’ use of artificial intelligence in the workplace. California, Colorado, Illinois, and New York City already have laws regulating the use of AI in employment. Many other jurisdictions are evaluating their own laws regulating AI. Employers continue to need to be thoughtful, purposeful, and careful as they implement AI tools in recruiting, candidate screening, hiring, and other employment practices.

## **6. VETS-4212 Filing Period is Approaching**

VETS-4212 forms are coming due on September 30, 2025. In past years, the Department of Labor’s Veterans Employment Training Service (VETS) would send out a reminder to employers that its filing portal would be open from August 1 through September 30, but it no longer does that. We anticipate that the VETS portal will be open in 2025 from August 1 to September 30, but it’s possible that those dates might shift. If the person in your organization who submitted your VETS-4212 form in 2024 has left the organization, you may need to designate a new employee to file the report, and that person may need to “request access for an existing company” on the VETS-4212 filing website.

<https://vets4212.dol.gov/vets4212/External/Registration>

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**Joshua S. Roffman**

Managing Attorney

[jroffman@roffmanhorvitz.com](mailto:jroffman@roffmanhorvitz.com)

(703) 752-3775

**Alissa A. Horvitz**

Member Attorney

[ahorvitz@roffmanhorvitz.com](mailto:ahorvitz@roffmanhorvitz.com)

(703) 752-3776

**James M. McCauley**

Associate Attorney

[jmccauley@roffmanhorvitz.com](mailto:jmccauley@roffmanhorvitz.com)

(703) 752-3766