DirectEmployers Association

Rescission of Executive Order 11246 – What It Means and What it Doesn't Mean for Federal Contractor Employers – What We Know and What We Don't Know

Webinar Q&A Guide

Q: Do you recommend changing the annual letter of commitment that EEO and AA employers typically post to have information about AA removed?

A: Yes, we recommend that contractors remove references to Executive Order 11246 and any references to 41 Code of Federal Regulations (CFR) Sections 60-1 or 60-2. Some employers use OFCCP's "flow-down" language that includes a reference to 41 CFR Section 60-1.4. That reference needs to be removed, too.

Q: Should we continue to follow OFCCP's Internet Applicant Rule when reporting applicant numbers for 503 and VEVRAA 44k data analytics?

A: It is not as strategically imperative as it was when the Executive Order was in effect and when OFCCP's enforcement authority included review of contractor's hiring decisions for race, ethnicity, and gender discrimination. We have always recommended and found value in the accurate dispositioning of applicants; we strongly believe that organizations should continue to monitor the race, gender, and ethnicity impact of their selection decisions through an attorney-client privileged lens. These analyses may be needed to dispel allegations of "unlawful" DEI. For organizations that want their count of veteran and disability applicants to reflect every applicant, including those applicants who were not actually considered, were not qualified, and who withdrew prior to an offer of employment, they certainly can do that.

Q: Do we need to remove the Pay Transparency Nondiscrimination Provision poster from our career site and premises?

A: If you are referring to the OFCCP-branded pay transparency poster, yes, you can remove it from your career site and premises. Please keep in mind that you may have pay transparency "policy" language on your intranet, too. Please remove references to the Executive Order, but before removing all pay transparency language from policies and intranets, please ensure that no state law requires you to leave the pay transparency language in your policy (just without a reference to OFCCP, the Obama Executive Order, or EO 11246).

For example, Massachusetts employers may decide to leave an edited version of the pay transparency language on their intranet in anticipation of that state law taking effect later this year.

Q: Do you advise running an adverse impact analysis for employment activities based on the most favored group for race and gender? What about pay analysis based on the most favored group also?

A: Yes, we advise running analyses based on most favored group for race and gender and in pay analyses under the protection of attorney client privilege. But you now have a little more latitude in how you group your data for analysis because we are not wedded to using OFCCP-defined job groups. Be thoughtful and strategic in running these analyses, and if your compensation analysis reveals statistically significant differences, be prepared to allocate resources to investigate the basis for the differences, and potentially the funds to implement pay changes.

Q: Do these recent changes to affect the EEO statements for job requisition we post and offer letters as a federal contractor?

A: Potentially, yes. Depending on how your EEO statement was worded for job requisitions and offer letters, there may be a need to revisit the wording. At the bare minimum, assuming that there is no other state law requiring your organization to list out the protected categories in a job requisition or job posting, you must state: "Equal Opportunity Employer, including disability and protected veteran status."

Q: What would a civil compliance investigation consist of?

A: Please visit the U.S. Department of Justice's False Claims Act website for more information. https://www.justice.gov/civil/false-claims-act It is hard to summarize in a Q&A how the False

Claims Act works. The concern is that the False Claims Act allows private citizens to file lawsuits on behalf of the government against any organization, which receives government grants, government assistance, or government contracts, and which has defrauded the government. The federal government is planning to add a certification when it lets out new contracts or awards new grants. We are not sure how quickly the certification will appear and in which databases. The System for Award Management? The OFCCP's Contractor Portal? We don't know.

The fraud allegation in the case of government contractors is that if they are found to have unlawful DEI programs, they will have falsely represented that they are "in compliance in all respects with all applicable Federal anti-discrimination laws" and that they do not "operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws." That sets up the False Claims Act allegations, and remedies are very steep, not to mention the costs of defending the allegation.

Q: Can contractors continue to perform proactive analysis for non-compliance purposes?

A: Yes, and if you use statistical analysis to evaluate the organization's equal opportunity decision-making for hires, promotions, terminations, and pay, through a race, gender, or ethnicity lens, we recommend that you do so under attorney client privilege. As noted above, you are not required to run these analyses by OFCCP-defined affirmative action plan job groups. Be thoughtful about how you do them.

Q: Can you elaborate on what has changed regarding the definition of an internet applicant?

A: The OFCCP's Internet Applicant definition appeared in 41 Code of Federal Regulations Part 60-1, and that entire set of regulations arose out of Executive Order 11246. When President Trump rescinded Executive Order 11246, the implementing regulations were nullified. Thus, there is no longer a requirement that government contractors follow the Internet Applicant definition, but there may be good reasons why government contractors do not abandon the dispositioning and record keeping requirements. Those practices may turn out to help you to defend against allegations of unlawful DEI down the road.

Q: We have a Jan 1st plan date. What kind of risks there might be if we complete our EO 11246 plan before the 90-day ends?

A: There are no risks to preparing an EO 11246 plan before the 90-day period ends on April 21, 2025.

Q: RE: postings - do we still need to include the EEO tagline or will there be a 'new' tagline to include?

A: Depending on whether your tag line incorporated any state requirements, in addition to the Executive Order requirements, it could be simplified to read: We are an equal opportunity employer, including disability and protected veteran status. But yes – you still need to have a tagline in your job postings that complies with the veteran and disability requirements.

The requirements to have the taglines are found in the equal opportunity clauses (see 41 CFR Section 60-300.5(a)(12) and 60-744.5(a)(7). [The reason why the citation is different between the two sets of regulations is that the veteran EEO provision includes all the paragraphs about the required listings with state employment service delivery systems, so the citation is pushed back to sub-paragraph 12, not like the disability regs where it appears in sub-paragraph 7.]

Q: How are the UGESP guidelines impacted?

A: The OFCCP will not enforce them any longer. They remain as guidelines for the Equal Employment Opportunity Commission and the Department of Justice.

Q: Was there a directive from DOL last week that indicated any Section 503 or VEVRAA enforcement activity should be held in "abeyance" pending further guidance?

A: Yes. On January 24, 2025, acting Labor Secretary Vincent Micone issued a memorandum directing the OFCCP to cease all enforcement activities arising out of EO 11246 and to hold any enforcement of Section 503 or VEVRAA in abeyance. We are awaiting further communications from OFCCP for those employers with pending compliance reviews regarding what OFCCP intends to do with the 503 and VEVRAA portions of the audit.

Q: This may be not applicable, but if contractors have employee resource groups for women, minorities, LGBTQ, etc. - will that impact their ability to certify annually that they do not operate any programs promoting diversity?

A: It should not impact their ability to certify. Please keep in mind that the two-part certification will require you to affirm that your organization is in "compliance in all respects with all applicable Federal anti-discrimination laws" and that you do not "operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws." (answer continues)

Employee Resource Groups are not unlawful if they are open to all. And the executive order was careful to prohibit only **illegal** private-sector DEI preferences, mandates, policies, programs, and activities.

Some employers may have legacy ERGs that are exclusionary – open only to members of one gender, one race, one sexual orientation. Those employers will need to revisit the membership criteria and ensure that these ERGs are open to all.

Q: If we are a Federally-assisted federal contractor - does federal guidance or state guidance prevail?

A: If you are a federally-assisted construction contractor, and you have state contracts, you still will need to comply with state affirmative action requirements. There no longer is federal guidance from OFCCP. Depending on which agency let out the federally-assisted contract, there may be Department of Transportation or Federal Highway Administration requirements still in effect.

Q: What documentation should organizations retain to demonstrate ongoing compliance with non-discrimination principles?

A: It can vary, and it's entirely possible that the Administration may issue future guidance on what kinds of documentation employers can have.

When it comes to hiring and selection decisions: it always has been the case that employers should be documenting the reasons for rejecting qualified applicants and memorializing somehow/somewhere the decision to hire the selected candidate, who ought to be the most qualified person for the job. Why did you reject who you rejected and hire who you hired?

When it comes to terminations: a personnel action form, resignation letter, or other documentation explaining the basis for the termination to dispel any inference that race, ethnicity, gender, sex, age, or any other protected characteristic was the basis for the decision.

When it comes to compensation: that documentation could take many forms. We encourage you to have documentation explaining the basis for initial hiring decisions and merit increases.

If you use performance ratings to influence promotion and pay decisions, you ought to be reviewing those decisions through a privileged lens to ensure fairness and equal opportunity in the time to promotion and the basis for pay increase differences among similarly situated employees.

Q: Do you have a sample of an approved or recommended statement?

A: We would need a bit more information about what the statement is aimed at.

Q: Are the investigations looking at this language different than audits?

A: Each federal agency has been commanded to identify up to 9 organizations, which are "the most egregious and discriminatory DEI practitioners in each sector of concern," as part of the president's strategic enforcement plan. The federal agencies were commanded to look at publicly traded corporations, large non-profit corporations or associations, or foundations with assets of $500 million or more, and State and local bar and medical associations and institutions of high education with endowments over $1 Billion.

It is not clear what the new administration plans to do with this information, what any investigation might look like, or what due process protections the organizations on the list might have before the Attorney General could act on the report.

These investigations likely will be quite different from OFCCP audits.

Q: Will targeted job distribution to organizations that promote the employment of women, minorities, veterans, and individuals with disabilities, or DEI-type organizations, be part of any audit? [Note: we edited the question]

A: If OFCCP continues audits to assess compliance with section 503 and VEVRAA, it will likely continue to request and review documentation of outreach activities to recruit protected veterans and individuals with disabilities.

We don't know if targeted outreach will be a part of any DEI focused audits pursuant to the new Executive Order 14173. Outreach, recruiting, and targeted job distribution are ways in which employers try to broaden the pool, searching for qualified applicants. Such activities are allowable under Title VII and other nondiscrimination laws. In an abundance of caution about the upcoming targeting of DEI programs, it may be worth seeking the advice of counsel about how best to identify where outreach is appropriate and needed. It may make sense to do privileged analyses of incumbency versus availability for each race/ethnicity and for both men and women. Having the data to show the exercise was race/ethnicity and sex neutral might bolster a defense alleging unlawful DEI. Whatever an employer decides to do for outreach, once someone applies for a job opportunity, though, all decisions must be made in accordance with equal opportunity and nondiscrimination laws. But targeting the outreach is lawful.

Q: Have they defined "promoting"?

A: No, they have not defined what it means to promote unlawful diversity. That said, all placements (hires, promotions, lateral moves, etc.) should comply with equal employment opportunity and nondiscrimination laws and be based on identifying the most qualified candidate.

Q: Should we expect that any diversity-oriented recruiting activities will be interpreted as "workforce balancing"?

A: Recruiting and outreach are not workforce balancing. You are absolutely able to aim your recruiting and outreach at organizations and websites that are focused on women, minorities, veterans, and individuals with disabilities. But once someone applies, you must follow equal employment opportunity and nondiscrimination principles and legal obligations. It never was unlawful, and it is not unlawful now to cast a very wide net for qualified candidates, including ensuring that your jobs are being sent to and visible to applicants who are women and minorities. What you need to be careful about are programs (i.e., internships, mentoring, succession planning) available only to one gender or one race.

Q: Will audits be suspended?

A: Open OFCCP audits no longer will have any enforcement aimed at topics arising out of the Executive Order. But remember that the current OFCCP scheduling letter in paragraphs 8-15, 23, 25, and 26, asked questions about compliance under Section 503 and VEVRAA. What OFCCP intends to do with those paragraphs for pending/open audits remains to be seen.

Q: Is the OFCCP certification going to go away? OFCCP took forever to create the current portal.

A: We do not know how OFCCP intends to use its Contractor Portal. We will need to wait for OFCCP to tell us whether we have any certification obligation in 2025 arising from the disability and veteran AAPs. It also might be that the administration uses the OFCCP's Contractor Portal to obtain the certification that the employer is in "compliance in all respects with all applicable Federal Anti-discrimination laws" and that it "does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws."

Q: Joshua, you mentioned that OFCCP office still exists, however, it will change. What is it allowed to do now under the new EO?

A: We are not sure what its mission will be going forward. We need further guidance from the Department of Labor, the White House, or OFCCP itself.

Q: How does this affect the requirement of annual AAP renewal reporting for federal contractors?

A: We will need to wait to see if OFCCP requires employers to certify compliance with their veteran and disability AAP obligations in the contractor portal. There is still a requirement to prepare the annual veteran and disability plans. We just don't know about certification.

Q: Reverse Whistleblower??? The agencies will blow the whistle on corporations? I'm so confused!

A: Each federal agency has been commanded to identify up to 9 organizations, which are "the most egregious and discriminatory DEI practitioners in each sector of concern," as part of the president's strategic enforcement plan. The federal agencies were commanded to look at publicly traded corporations, large non-profit corporations or associations, or foundations with assets of $500 million or more, and State and local bar and medical associations and institutions of high education with endowments over $1 Billion.

It is not clear what the new administration plans to do with this information, what any investigation might look like, or what due process protections the organizations on the list might have before the Attorney General could act on the report.

Q: Did you say there is no need to do a proactive compensation analysis?

A: We said that there is no longer a requirement as part of an annual AAP to do a compensation analysis like what was expected under OFCCP's regulations at 41 C.F.R. Section 60-2.17(b)(3). Organizations should ensure that they are paying similarly situated employees fairly, in compliance with Title VII and other federal pay laws, not to mention all the new state pay transparency and reporting laws that are prompting employers to ensure pay fairness and conduct privileged pay equity analyses.

Q: Are there any clues as to what the penalties are for those agencies identified as violating the EO?

A: Not yet.

Q: Does that include the EEO statement we're all required to list on all job descriptions?

A: Yes, you should be reviewing the current EEO statement on your job applications and modifying those types of statements as appropriate, based on federal and state laws. OFCCP's Executive Order 11246 is only one of several laws that spoke to what employers should say in tag lines.

Q: Are we still required to use the 11246 definition of job group and establishment for Vets AAPs?

A: Neither the Executive Order 11246 itself nor its regulations defined "establishment," but covered contractors are still required to create affirmative action plans for protected veterans and individuals with disabilities at each establishment under the Section 503 and VEVRAA regulations. The concept of establishment came from the definitions that the Equal Employment Opportunity Commission used for the filing of EEO-1s.

The job group framework was more relevant to our disability utilization analyses than they were for the Veteran Hiring Benchmark or the collection of veteran applicants and hires data for what we called the ".44k" data tables. Employers always had discretion about the makeup of their job groups. It might make sense for some employers to change/update their job groups now that the EO 11246 AAPs are not required, and job groups will be used only for the disability utilization analysis.

Q: This includes 41 CFR 60-4 for construction contractors, correct?

A: Correct – 60-4 no longer exists after the rescission of EO 11246.

Q: Is there anything that would prevent employers from continuing collection of sex and race data?

A: No, there shouldn't be. In fact, Minnesota state law requires all state contractors to collect it. If you have a contract with the state of MN, you are required to invite applicants to self-identify. Self-identification of race, ethnicity, and sex is also the preferred method of gathering the data required for EEO-1 reporting.

Q: Are there any other changes to self-ID? Limitations on what is collected?

A: Employers must still invite applicants and employees to self-identify their protected veteran and disability statuses. Organizations should decide whether to continue soliciting race, ethnicity, and gender from applicants, and at what point in the process they do that. We suspect that continuing to collect this information may prove useful to dispel allegations of unlawful DEI or unlawful discrimination and would encourage you to have a pros and cons discussion with employment counsel before eliminating your collection of this data entirely. Employers that have contracts with the State of Minnesota must continue to solicit race, gender, and ethnicity of applicants.

Q: Can we add the gender non-binary fields at the application stage?

A: Yes, but if you use E-Verify, you may want to consult with employment or immigration counsel to ensure that a non-binary gender selected at the application stage does not auto-feed your HRIS and create any E-Verify mis-match issues once renewed drivers' licenses or renewed passports now have only F or M on them.

Q: Collecting race/gender/ethnicity as optional rather than required would comply with this section?? If we are collecting that data internally, are we prohibited from it? CA Pay Data reporting requires additional options other than 'I choose not to identify'.

A: Yes. You may collect race/gender/ethnicity information. If you are collecting the data internally, you are permitted to use it for lawful purposes.

As to employees in CA that declines to self-identify, the FAQ states:

> If an employee declines voluntarily provide their race/ethnicity, employers must still report the employee according to one of the seven race/ethnicity categories, using (in the following order): current employment records, other reliable records or information, or observer perception. CRD recognizes the risk of inaccurate race/ethnicity identification based on observer perception alone; this method should only be used after making a good faith effort to obtain race/ethnicity information from the employee voluntarily or from other reliable records. When an employer uses observer perception, CRD encourages employers to utilize the clarifying remarks field to state they have done so, stating for example: "The race/ethnicity of [number] employees in this employee grouping is being reported based on observer perception."

We also are aware that in 2025, CA employers may not report "unknown" race/ethnicity or sex of a labor contractor employee or their own employees. (answer continues on next page)

In sum, follow CA Pay Data solicitation requirements, if you need to comply with that state's reporting requirements.

Q: Will bias testing still be a requirement for A.I. tools? Like in NY?

A: Yes. Employers that are implementing new technologies still will be required to ensure that the technologies do not discriminate against any race, ethnicity, or gender; or, if they do have a discriminatory impact, that they were validated or that they are job-related and consistent with business necessity. New York City and other states have laws addressing AI requirements, and you should familiarize yourself with those laws as your organization implements new AI tools.

Q: Can we still have a gender "choose not to disclose" option?

A: Yes.

Q: Would continuing to invite employees to self-id would bring problems to organizations??? Can applicants complain and report organizations?

A: If you have the option, "I decline to self-identify," we're not sure why a voluntary self-identification would expose the employer to liability. Nonetheless, consult counsel.

Q: Could 503 focused reviews come back?

A: Uncertain.

Q: Will the deferred resignation program offered to federal employees have an impact EEOC and OFCCP?

A: Uncertain.

Q: Do you have a list of State requirement AAP's like MN reporting?

A: Each employer should seek the advice of counsel about what obligations exist in the states and municipalities where they operate and with which they have government contracts.

Q: Future audits will start from 2025 - future OR will OFCCP have the right to investigate prior to this Executive Order? Do you know?

A: If the OFCCP retains enforcement authority to audit compliance with Section 503 and VEVRAA, those laws have record retention requirements –two years from the making of the record or the personnel decision, whichever is later, for most records; and three years for the applicant and hires data used in the .44(k) tables, for the Veteran Hiring Benchmark at -300.45, the disability utilization analysis at -741.45, and the outreach and assessment required by both laws in -.44(f). In audits, the OFCCP has the right to ask for that data and those analyses going three years back.

Any future OFCCP audits will not look back at race, ethnicity, or gender data.

Q: If you were notified that you would have an OFCCP audit in 2025 - do you think that will be rescinded?

A: There will not be any audits unless or until OFCCP receives approval for a new audit scheduling letter or at a minimum makes revisions to the current one to remove the itemized listings that are relevant to the EO 11246 requirements. The currently approved letter requests information that no longer is required.

Q: Don't we need to ask for the gender and ethnicity information to build the EEO-1 report?

A: EEOC regulations do not require private employers to invite applicants or employees to self-identify in order to file the EEO-1 report. EEO-1 instructions specify that self-identification is the preferred method to obtain the necessary gender, race, and ethnicity identifications, but filers may also determine gender, race, and ethnicity through visual observation or other employment records. The best way to collect the necessary information is still self-identification.

Q: If we have an open audit that was pending finalizing a Conciliation Agreement and do not receive a letter this week, what action should we take?

A: You can email the compliance officer or the District Director and see if a letter is forthcoming. Please be patient.

Q: For construction contractors, what will happen to the recently required CC257 form that tracks workforce by race and gender work hours?

A: We are awaiting clarification from OFCCP. The legal authority to reinstate the form was tied not only to EO 11246, which was rescinded, but also to Section 503 and VEVRAA, which remain in effect.

Q: So, sounds like we can still include "gender identity" and "sexual orientation" in our tagline? Is there a sample of an approved or recommended statement?

A: Yes, you can. The minimum statement in the tagline is "Equal Opportunity Employer, including disability and protected veteran status." If you want to expand on a nondiscrimination statement in your job postings or advertisements, consider using this (but ensure that you also are complying with any state or local required categories in your tagline, too):

All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, pregnancy, genetic information, disability, or status as a protected veteran.

Q: Please clarify - the gender ideology EO does not apply to federal contractors?

A: The executive order "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" was aimed at federal agencies. Correct.

Q: Can you have the statement on the career site and on each job?

A: There is nothing that prohibits having the statement on the career site and on each job.

Q: Is it accurate that the Pay Transparency poster is out?

A: The OFCCP-branded Pay Transparency is out, but if your organization has employees in any states with Pay Transparency requirements, you may need to ensure that policies remain.

Q: Remove "Affirmative Action Employer" language from job postings?

A: Probably advisable. Even though the VEVRAA and Section 503 "affirmative action" requirement remain, it is acceptable and less controversial to use instead "Equal Opportunity Employer".

Q: How about making sure there are "x" amount of diverse candidates? Sounds like this might be an issue?

A: In order to ensure that there are x amount of diverse candidates, it sounds like the organization would be taking race or gender into account. That practice has risk, probably isn't okay, and almost certainly would be viewed as unlawful DEI by the current administration.

Q: Are the investigations mentioned are different than audits?

A: Yes. Those are ones that will be conducted under the new Executive Order. They are not OFCCP compliance review audits that we expect to continue for VEVRAA and Section 503 compliance.

Q: Are Leadership programs for LGBTQ+ lawful, assuming that only those who identify as LGBTQ+ can be selected for the program?

A: No, they probably are unlawful because if they select only LGBTQ+ for the program, they will be viewed to be exclusionary based on sexual orientation.

Q: What would be your guidance to employers who have aspirational diversity, gender, and race goals for the purpose of expanding the diversity of our workforce? They are not quotas.

A: Our guidance to employers that operate only within the United States would be to reframe them in a way that comports with principles of equal opportunity and nondiscrimination. We worry where the goal came from in the first place. This practice is risky and is very likely to be viewed as unlawful DEI by the current administration,

Our guidance to multinational employers facing foreign pressure to have aspirational goals in the United States would be to make clear that in the United States, these aspirations are never to be interpreted as quotas or preferences. Please also ensure that U.S. executives and leaders are not evaluated on the organization's progress in attaining the goal.

Q: What about compensation analysis? I may have missed it.

A: There is no longer a requirement to prepare an annual compensation analysis in accordance with OFCCP's regulations at 41 C.F.R. Section 60-2.17(b)(3).

We strongly encourage employers to conduct annual privileged pay equity analyses to ensure that similarly situated employees are paid fairly and the employer has documentation to explain pay differences.

Q: For those with calendar year AAPs, should they continue to develop/finish their AAPs for EO 11246, Section 503 and VEVRAA?

A: Employers are permitted to complete calendar year Executive Order Women & Minorities' plans through April 21, 2025, and are required to prepare Section 503 and VEVRAA affirmative action plans. So you should definitely finish the veteran and disability plans for 2025. If you would like to have a set of Women & Minority AAPs along with some or all of those analyses to inform your recruiting and outreach strategies and action plans for 2025, you should go ahead and finish them before April 21, 2025.

Q: When evaluating our employment decisions, you said something about no longer having to use establishment-based plans? Can you elaborate? The regulation that requires establishments and rolling up of employees into their supervisor's plan if they work at home. Does this mean, for the VEVRAA and Section 503 AAP's we can set our own way of evaluating the programs?

A: You should continue to use your establishments for preparation of your VEVRAA and Section 503 plans. We also think companies with an existing FAAP Agreement with OFCCP should continue to use the functional units in the FAAP Agreement, but it might make sense to seek guidance from OFCCP on that.

The comment about not having to use establishment-based plans was in reference to employers who want to continue to analyze employment activity and have outreach initiatives for gender/sex and race/ethnicity. It is not being done pursuant to OFCCP regulations, so employers have flexibility to do them in a way that best aligns with their organization.

Q: How might our workforce utilization goal of 7% IWD for Sec 503 be impacted? Specifically, how the analysis should be done for the same job groups we use under EO 11246.

A: Employers always have had discretion about their job groups. It might make sense to use different job groups now that the EO 11246 obligations are gone.

Q: Could you please talk about Employee Resource Groups (ERGs) and the impact of Executive Order? Everyone wants to know more about this.

A: Employee Resource Groups are lawful so long as they do not exclude membership based on a protected characteristic. They should be open to all employees. They were lawful before the Executive Order and remain lawful after the Executive Order rescinding EO 11246.

Q: For ERGs, can even using the term "and allies" cause a certain segment to say they are being excluded because they are not allies? Sounds ridiculous, but the times we find ourselves in is very different.

A: Employers should decide for themselves what messaging works best to communicate their views on inclusion and how much they want to ensure that no employees feel excluded. It is something worth revisiting in light of the policies of the new administration and general targeting of employer DEI programs. There isn't one right answer.