

United States Senate  
WASHINGTON, DC 20510

May 4, 2020

*VIA ELECTRONIC SUBMISSION*

Craig E. Leen  
Director  
Office of Federal Contract Compliance Programs  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Director Leen,

We write to express concern with the Department of Labor's recent decision to exempt federal contractors from complying with certain equal opportunity requirements. According to a Department memorandum from the Office of Federal Contract Compliance Programs (OFCCP) dated March 17, 2020, as a part of the broader effort by this Administration to combat the novel coronavirus (COVID-19) pandemic, federal contractors fulfilling new COVID-19 relief contracts are not required to comply with the affirmative action requirements of Executive Order 11246 (EO 11246), Section 503 of the Rehabilitation Act (Section 503), and Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). This action is inappropriate, harmful, and must be reversed immediately.

With the continued spread of COVID-19 throughout our country, it is critical that the Department do everything in its power to support worker protections and uphold federal civil rights laws in labor practices. As unemployment claims significantly increase each week and tensions escalate in many workplaces, we must ensure that efforts to remedy past discrimination do not fall by the wayside in this crisis. OFCCP must continue to fully enforce laws instead of relaxing compliance provisions for federal contractors. This decision to weaken protections for workers, however temporary, could disadvantage populations of employees already at an increased risk for mistreatment in their workplaces.

We have already seen evidence of more challenging work environments for certain groups during the pandemic. For example, misplaced stereotypes regarding the origins of the novel coronavirus's outbreak have contributed to widespread reports of hostile attitudes toward members of the Asian-American community, including instances of verbal and physical attacks<sup>1</sup>. Furthermore, existing health and economic data from large cities show that lower-income communities of color are being affected by COVID-19 at disproportionately higher rates due to

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<sup>1</sup> <https://www.nytimes.com/2020/03/23/us/chinese-coronavirus-racist-attacks.html>

underlying conditions that include employment in roles not suitable for social distancing<sup>2</sup>. While we are grateful that OFCCP has provided guidance reminding federal contractors that their nondiscrimination obligations are unchanged, these troubling trends highlight the continued need for OFCCP to remain vigilant in fully enforcing EO 11246 and not permit the current crisis to undermine efforts to remedy past discrimination.

In addition, OFCCP's waiver of provisions that promote the hiring, promotion and retention of disabled American workers through Section 503 and for veterans through VEVRAA risks further deepening the employment gap between these workers and other segments of the labor force both during and after this outbreak. If economic trends continue downward, these two groups of workers will likely continue to suffer in the job market as they are forced to compete in a larger labor pool and an increasingly unfair playing field.

Now is the time for the federal government to provide more protection for our workers, not less. As we continue to work toward providing economic security to workers and their families, we ask that the Administration support these protections for all of our American labor force. We thank you in advance for your attention to this important matter.

Sincerely,

/s/ Tammy Baldwin  
United States Senator

/s/ Kirsten Gillibrand  
United States Senator

/s/ Kamala D. Harris  
United States Senator

/s/ Elizabeth Warren  
United States Senator

/s/ Robert P. Casey, Jr.  
United States Senator

/s/ Tina Smith  
United States Senator

/s/ Chris Van Hollen  
United States Senator

/s/ Mazie Hirono  
United States Senator

/s/ Amy Klobuchar  
United States Senator

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<sup>2</sup> <https://www.wsj.com/articles/black-hispanic-new-yorkers-account-for-disproportionate-number-of-coronavirus-deaths-11586359447>