

Office of Labor Management Standards (OLMS)

RIN: 1245-AA03

 [View Related Documents](#)**Title:** Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA**Abstract:** The Department intends to publish a final rule revising its interpretation of section 203(c) of the Labor-Management Reporting and Disclosure Act (LMRDA). That statutory provision creates an "advice" exemption from reporting requirements that apply to employers and other persons in connection with persuading employees about the right to organize and bargain collectively. The revised interpretation would narrow the scope of the advice exemption.**Priority:** Other Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 29 CFR 405; 29 CFR 406 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)**Legal Authority:** 29 USC 433; 29 USC 438**Legal Deadline:** None**Regulatory Plan:****Statement of Need:** In June 2011, the Department of Labor proposed a regulatory initiative to better implement the public disclosure objectives of the Labor-Management Reporting and Disclosure Act (LMRDA) regarding employer-consultant agreements to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a third party consultant to persuade employees as to their collective bargaining rights or to obtain certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant is also required to report concerning such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give "advice" to the employer. The Department's proposal stated that its current policy concerning the scope of the "advice exception" is overbroad and that a narrower construction would better allow for the employer and consultant reporting intended by the LMRDA. The proposal stated that regulatory action is needed to provide workers with information critical to their effective participation in the workplace.**Legal Basis:** This rulemaking is authorized under U.S.C. sections 433 and 438 and applies to regulations at 29 CFR part 405 and 29 CFR part 406.**Alternatives:** Alternatives will be developed and considered in the rulemaking.**Costs and Benefits:** Anticipated costs and benefits of this regulatory initiative have not been assessed and will be determined at a later date, as appropriate.**Risks:** This action does not affect public health, safety, or the environment.**Timetable:**

Action	Date	FR Cite
NPRM	06/21/2011	76 FR 36178
NPRM Comment Period Extended	07/29/2011	76 FR 45480
NPRM Comment Period End	08/22/2011	
NPRM Comment Period End	09/21/2011	
Final Action	04/00/2013	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** No**Federalism:** No**Energy Affected:** No**RIN Information URL:** www.olms.dol.gov**Public Comment URL:** www.regulations.gov**Related RINs:** Previously Reported as 1215-AB79**Agency Contact:** Andrew R. Davis

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E-Mail: davis.andrew@dol.gov**Department of Labor (DOL)****Office of Federal Contract Compliance Programs (OFCCP)**

RIN: 1250-AA01

 [View Related Documents](#)**Title:** Construction Contractors' Affirmative Action Requirements

Abstract: The regulations implementing the affirmative action obligations of construction contractors under Executive Order 11246, as amended, were last revised in 1980. Recent data show that disparities in the representation of women and racial minorities continue to exist in on-site construction occupations in the construction industry. This Notice of Proposed Rulemaking (NPRM) would revise 41 CFR part 60-1 and 60-4 by removing outdated regulatory provisions, proposing a new method for establishing affirmative action goals, and proposing other revisions to the affirmative action requirements that reflect the realities of the labor market and employment practices in the construction industry today.

Priority: Other Significant**Agenda Stage of Rulemaking:** Proposed Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 41 CFR 60-1; 41 CFR 60-4 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)**Legal Authority:** sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by EO 12086**Legal Deadline:** None**Regulatory Plan:**

Statement of Need: These regulations, last revised in 1980, have proven ineffective at making meaningful progress in the employment of women and certain minorities in the construction industry. Analysis of 2006 to 2008 ACS data for 27 on-site construction occupations reveals a significant disparity between the percentage of women in construction occupations in the construction industry and the percentage of women in construction occupations in all other industries. The representation of African Americans in the construction industry is substantially less than would be expected given their representation in all other industries. For example, in 23 of the 27 occupations analyzed, disparities were found in the representation of African Americans. The NPRM would remove outdated regulatory provisions, propose a new method for establishing affirmative action goals, and propose other revisions to the affirmative action requirements that reflect the realities of the labor market and employment practices in the construction industry today.

Legal Basis: This action is not required by statute or court order. Legal Authority: Sections 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by E.O. 12086.

Alternatives: Regulatory alternatives will be addressed as the NPRM is developed.

Costs and Benefits: The proposed rule would adopt a new framework for implementing affirmative action requirements in the construction industry and proposes standards for designating projects "mega construction projects." There may be some additional costs to contractors as a result of the increased scope of required actions. The benefits would likely include increased diversity in construction workplaces and increased opportunities for women and minorities to obtain on-site construction jobs. Recent reports on the national unemployment rate show significantly higher unemployment in these populations than in others. The African American unemployment rate is at record high numbers. More detailed cost and benefit analyses will be made as the NPRM is developed. All data show significant underrepresentation of these groups in the construction industry.

Risks: Failure to provide updated regulations may impede the equal opportunity rights of some workers in protected classes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/2013	

Regulatory Flexibility Analysis Required: Undetermined**Government Levels Affected:** No**Federalism:** Undetermined**Related RINs:** Previously Reported as 1215-AB81**Agency Contact:** Debra A. Carr

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E-Mail: ofccp-public@dol.gov**Department of Labor (DOL)****Office of Federal Contract Compliance Programs (OFCCP)****RIN:** 1250-AA03 [View Related Documents](#)

Title: Nondiscrimination in Compensation: Compensation Data Collection Tool

Abstract: Compensation discrimination is one form of discrimination that Executive Order 11246 prohibits. Eliminating sex- and race-based compensation discrimination continues to be a priority for OFCCP. To this end, OFCCP will develop a new compensation data collection tool to identify contractors likely to violate the Executive Order. In addition, the data collection tool could play a key role in OFCCP's establishment-specific, contractor-wide, and industry-wide analyses. Through publication of an Notice of Proposed Rulemaking (NPRM), OFCCP will seek to develop an effective and efficient data collection instrument.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: No

CFR Citation: 41 CFR 60-2 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: EO 11246; 30 FR 12319, as amended by EO 11375; 32 FR 14303, as amended by EO 12086; 43 FR 46501

Legal Deadline: None

Regulatory Plan:

Statement of Need:

Legal Basis:

Alternatives:

Costs and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	08/10/2011	76 FR 49398
ANPRM Comment Period Closed	10/11/2011	
NPRM	06/00/2013	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: No

Federalism: No

Energy Affected: No

Related RINs: Previously Reported as 1215-AB80

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Department of Labor (DOL)

Office of Federal Contract Compliance Programs (OFCCP)

RIN: 1250-AA05

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Title: Sex Discrimination Guidelines

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, as amended, which prohibits Federal Government contractors and subcontractors from discriminating against individuals in employment on the basis of race, color, sex, religion, or national origin, and requires them to take affirmative action. OFCCP regulations at 41 CFR part 60-20 set forth the interpretations and guidelines for implementing Executive Order 11246, as amended, in regard to promoting and ensuring equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors without regard to sex. This nondiscrimination requirement also applies to contractors and subcontractors performing under federally assisted construction contracts. The guidance in part 60-20 is more than 30 years old and warrants a regulatory lookback. OFCCP will issue a Notice of Proposed Rulemaking to create sex discrimination regulations that reflect the current state of the law in this area.

Priority: Other Significant

Agenda Stage of Rulemaking: Proposed Rule

Major: No

Unfunded Mandates: Undetermined

CFR Citation: 41 CFR 60 (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: sec 201, EO 11246, 30 FR 12319 and EO 11375, 32 FR 14303, as amended by EO 12086

Legal Deadline: None**Regulatory Plan:****Statement of Need:****Legal Basis:****Alternatives:****Costs and Benefits:****Risks:****Timetable:**

Action	Date	FR Cite
NPRM	08/00/2013	

Regulatory Flexibility Analysis Required: Undetermined **Government Levels Affected:** No**Federalism:** No**Energy Affected:** Undetermined**Agency Contact:** Debra A. Carr

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Department of Labor (DOL)**Office of Federal Contract Compliance Programs (OFCCP)****RIN:** 1250-AA00 [View Related Documents](#)**Title:** Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Protected Veterans**Abstract:** This Rulemaking would revise the regulations in 41 CFR parts 60-250 and 60-300 implementing the nondiscrimination and affirmative action provisions of Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA). This Rulemaking would strengthen the affirmative action requirements for Federal contractors and subcontractors. The rule would amend the regulations to require that Federal contractors and subcontractors conduct more substantive analyses of recruitment and placement actions taken under VEVRAA and would require the use of benchmarks to measure the effectiveness of affirmative action efforts. The rule would also make revisions to recordkeeping requirements.**Priority:** Other Significant**Agenda Stage of Rulemaking:** Final Rule**Major:** No**Unfunded Mandates:** No**CFR Citation:** 41 CFR 60-250; 41 CFR 60-300 (To search for a specific CFR, visit the [Code of Federal Regulations](#))**Legal Authority:** 29 USC 793; 38 USC 4211 (2001) (amended 2002); 38 USC 4212 (2001) (amended 2002); EO 11758 (3 CFR 1971 to 1975 Comp. p 841)**Legal Deadline: None****Regulatory Plan:****Statement of Need:****Legal Basis:****Alternatives:****Costs and Benefits:****Risks:****Timetable:**

Action	Date	FR Cite
NPRM	04/26/2011	76 FR 23358
NPRM Comment Period Extended	06/22/2011	76 FR 36482

NPRM Comment Period End	07/11/2011	
Final Rule	04/00/2013	

Regulatory Flexibility Analysis Required: Undetermined **Government Levels Affected:** No

Federalism: No

Energy Affected: No

Related RINs: Previously Reported as 1215-AB80

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Department of Labor (DOL)
Office of Federal Contract Compliance Programs (OFCCP)

RIN: 1250-AA02

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Title: Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities

Abstract: This rulemaking would amend 41 CFR part 60-741, the nondiscrimination and affirmative action provisions of section 503. This rulemaking would strengthen the affirmative action requirements for Federal contractors and subcontractors. The rule would amend the regulations to require that Federal contractors and subcontractors increase conduct more substantive analyses of recruitment and placement actions taken under section 503. The rule would also increase the contractor's data collection obligations, make revisions to recordkeeping requirements, and establish a utilization goal to assist in measuring the effectiveness of the contractor's affirmative action efforts. In addition, the rule will incorporate changes to the nondiscrimination provisions necessitated by the passage of the ADA Amendments Act of 2008.

Priority: Other Significant

Agenda Stage of Rulemaking: Final Rule

Major: No

Unfunded Mandates: No

CFR Citation: 41 CFR 60-741 (To search for a specific CFR, visit the [Code of Federal Regulations](#))

Legal Authority: 29 USC 706; 29 USC 793; EO 11758 (3 CFR 1971 to 1975 Comp p 841)

Legal Deadline: None

Regulatory Plan:

Statement of Need:

Legal Basis:

Alternatives:

Costs and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	07/23/2010	75 FR 43116
ANPRM Comment Period End	09/21/2010	
NPRM	12/09/2011	76 FR 77056
NPRM Comment Period End	02/07/2012	
Final Rule	04/00/2013	

Regulatory Flexibility Analysis Required: Undetermined **Government Levels Affected:** No

Federalism: No

Energy Affected: No

RIN Information URL: www.dol.gov/ofccp

Public Comment URL: www.regulations.gov

Related RINs: Previously Reported as 1215-AB77

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Department of Labor (DOL)
Office of the Secretary (OS)

RIN: 1290-AA26

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Title: Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges

Abstract: The Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, 29 CFR part 18, subpart A, provide procedural guidance to administrative law judges, claimants, employers, and Department of Labor representatives seeking to resolve disputes under a variety of employment and labor laws. The Office of Administrative Law Judges (OALJ) promulgated these regulations in 1983. The rules were modeled on the Federal Rules of Civil Procedure (Federal Rules) and have proved extraordinarily helpful in providing litigants with familiar rules governing hearing procedure. Since 1983, the Federal Rules have been amended many times. Moreover, in 2007 the Federal Rules were given a complete revision to improve style and clarity. The nature of litigation has also changed in the past 27 years, particularly in the areas of discovery and electronic records. Thus, OALJ needs to revise the part 18, subpart A rules to make them more accessible and useful to parties, and to harmonize administrative hearing procedures with the current Federal Rules. Our goal is amending the regulations to provide clarity through the use of consistent terminology, structure, and formatting so that parties have clear direction when pursuing or defending against a claim. In addition to revising the regulations to conform to modern legal procedure, the rules need to be modified to reflect the types of claims now heard by OALJ. When the rules were promulgated in 1983, OALJ primarily adjudicated occupational disease and injury cases. Presently, and looking ahead to the future, OALJ is and will be increasingly tasked with hearing whistleblower and other workplace retaliation claims, in addition to the occupational disease and injury cases. These types of cases require more structured management and oversight by the presiding administrative law judge and more sophisticated motions and discovery procedures than our current regulations provide. In order to best manage the complexities of whistleblower and discrimination claims, OALJ needs to update its rules to address the procedural questions that arise in these cases.

Priority: Info./Admin./Other

Agenda Stage of Rulemaking: Proposed Rule

Major: Undetermined

Unfunded Mandates: No

CFR Citation: 29 CFR 18A (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

Legal Authority: 5 USC 553; 5 USC 554; 5 USC 556; 5 USC 557; 5 USC 571 et seq

Legal Deadline: None

Regulatory Plan:

Statement of Need:

Legal Basis:

Alternatives:

Costs and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/04/2012	77 FR 72141
NPRM Comment Period End	02/03/2013	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: No

Small Entities Affected: No

Federalism: No

Energy Affected: No

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