



September 12, 2016

Dear Representative:

We write to oppose language in H.R. 5936, the “Veterans Care Agreement and West Los Angeles Leasing Act of 2016,” which would diminish civil rights protections by undermining the Office of Federal Contract Compliance Programs’ jurisdiction when the Department of Veterans Affairs (VA) enters into federal contracts for veterans’ health care services. The language in this bill would strip critical equal employment opportunity protections from the men and women serving these veterans. We urge you to amend the language to ensure that OFCCP has full jurisdiction to protect against employment discrimination and promote equal employment opportunities.

The antidiscrimination rules enforced by OFCCP ensure that federal contract dollars further equal employment opportunity and are not used to subsidize unlawful discrimination. OFCCP plays a unique and vital role in combating unlawful employment discrimination by federal contractors on the basis of sex, race, national origin, color, sexual orientation, gender identity, and disability. It also enforces the Vietnam Era Veterans Readjustment Assistance Act, or VEVRAA, which requires nondiscrimination and affirmative action for special and disabled veterans of any war, campaign, or expedition in which a campaign badge has been authorized. In addition, OFCCP guides contractors and subcontractors on affirmatively promoting equal opportunity in the workplace and promotes fair and nondiscriminatory federal contractor workplaces. Many of its regulations require contractors to take affirmative steps to expand the pool of individuals from which it recruits, and evaluate their own practices to identify and address conduct that limits equal employment opportunities for protected classes of workers. By conducting compliance audits and systemic investigations, through its data collection and investigative authority, OFCCP can aid contractors in identifying and resolving practices that limit equal employment opportunities, without relying solely on individuals who are willing to risk retaliation to challenge unfair employment practices. OFCCP’s historic and current role in ensuring artificial barriers do not restrict employment based on sex, race, color, national origin, religion, sexual orientation, gender identity, disability, or veteran status has improved opportunities for a wide range of workers across the country and has ensured that federal tax dollars do not subsidize discrimination.

Carving out the VA provider agreements from these antidiscrimination protections, affirmative action rules, or data reporting requirements will have the effect of narrowing employment opportunities for women, people of color, people with disabilities, veterans, and LGBT individuals and removing critical tools for ending employment discrimination and harassment. Weakening these protections ultimately threatens harm not only to workers, but to those who depend on them for care.

There is no appreciable administrative burden that justifies suspending these protections and requirements. Federal contractors and subcontractors with less than 50 employees and \$50,000 in contracts or subcontracts are not covered by OFCCP’s affirmative action requirements. 41 C.F.R. § 60-2.1(b). More than 94 percent of health care and social assistance firms had fewer

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than 50 employees in 2009. *See* NWLC calculations based on 2009 County Business Patterns Data, Microsoft Excel file *available at* <http://www.census.gov/econ/susb/>. The larger providers, those with 50 or more employees and \$50,000 or more in federal contracts, should be well-equipped to meet the minimal administrative obligations associated with maintaining an affirmative action plan.

The carve-out of VA contractors from the employment discrimination rules applicable to federal contractors not only will have a detrimental impact on the workforces affected, but sends a disturbing message that ensuring fair treatment for women, people of color, LGBT people, veterans and people with disabilities is unnecessary and inconsequential. It sets a precedent for future carve-outs and represents a step backward from equal opportunity. We strongly urge you to remove the provisions in H.R. 5936 that weaken these protections and to ensure continued OFCCP jurisdiction to enforce the antidiscrimination rules and other equal employment opportunity protections for these providers.

For further information, please contact Fatima Goss Graves of the National Women's Law Center at (202) 588-5180 or fgraves@nwl.org, or Nancy Zirkin of the Leadership Conference on Civil and Human Rights at (202) 263-2880 or Zirkin@civilrights.org.

Sincerely,

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National Partnership for Women & Families
Human Rights Campaign