



January 27, 2020

Craig E. Leen, Director  
Harvey D. Fort, Deputy Director, Division of Policy and Program Development  
Office of Federal Contract Compliance Programs  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

**RE: Nondiscrimination Obligations of Federal Contractors and  
Subcontractors: Procedures to Resolve Potential Employment  
Discrimination (RIN 1250-AA10)**

Dear Mr. Leen and Mr. Fort:

The Leadership Conference on Civil and Human Rights and the undersigned 31 organizations request that the Department of Labor (“the Department”) extend the comment period for responding to the Notice of Proposed Rulemaking (NPRM), RIN 1250-AA10, Nondiscrimination Obligations of Federal Contractors and Subcontractors: Procedures to Resolve Potential Employment Discrimination, by 30 days.

The Department issued the above-referenced NPRM on December 30, 2019, during the holiday season, and set January 29, 2020 as the deadline for public comment. This truncated timeframe, which includes two major federal holidays and encompassed several days when many members of the public are traveling or are otherwise occupied, is insufficient for gathering meaningful public comment on this proposal.

The NPRM potentially affects the right of federal contract workers to be free from unlawful employment discrimination by setting out new standards for when the Office of Federal Contract Compliance Programs (OFCCP) will issue a Predetermination Notice or a Notice of Violation after conducting a compliance evaluation. As the Department notes, statistical evidence plays a crucial role in OFCCP enforcement, and the Department appropriately requests comments on setting parameters for statistical evidence. For this complex undertaking, however, that implicates the basic civil rights of millions of workers, the Department gives the public effectively less than 30 days to respond.

OFCCP’s enforcement powers are critical to ensuring nondiscrimination, supporting legal requirements to take affirmative action, and securing proactive compliance with Executive Order 11246 and federal civil rights laws that prohibit discrimination in employment based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Millions of individuals who work for federal contractors and subcontractors rely on OFCCP to protect the civil rights that provide access to economic security for themselves and their families. It is critical, then, that the Department provide

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ample time to the public, including advocacy groups, to evaluate and respond to any proposed clarifications or changes to how OFCCP identifies or resolves potential employment discrimination.

Extending the comment period by 30 days would not unduly delay or harm OFCCP, but a truncated comment period does potentially harm millions of working people and casts a shadow on the integrity of the comment process. Executive Order 13563 calls on agencies to base their proposed regulations on input provided by affected stakeholders and the public. Section 2 of Executive Order 13563 specifically requires agencies, “to the extent feasible and permitted by law,” to “afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.”<sup>i</sup> OFCCP provides no reason in its NPRM why a comment period of 60 days is not feasible or would be contrary to law.

As organizations committed to protecting the civil rights of all working people in the United States, we respectfully request that the Department of Labor extend the comment period for this NPRM by 30 days. For questions, please contact Gaylynn Burroughs, Senior Policy Counsel at The Leadership Conference on Civil and Human Rights, at (202) 466-3311 or burroughs@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights  
Alianza Nacional de Campesinas, Inc  
American Association for Access, Equity and Diversity  
Asian Pacific American Labor Alliance, AFL-CIO  
Economic Policy Institute  
Equal Rights Advocates  
Freedom Network USA  
Futures Without Violence  
Government Information Watch  
Kentucky Equal Justice Center  
Lawyers' Committee for Civil Rights Under Law  
Legal Aid at Work  
Legal Aid Society of MFS  
Mississippi Workers' Center for Human Rights  
NAACP  
National Association of Government Employees  
National Center for Transgender Equality  
National Disability Rights Network  
National Employment Law Project  
National Employment Lawyers Association (NELA)  
National Organization for Women  
National Partnership for Women & Families  
National Urban League  
National Women's Law Center



People's Parity Project  
Restaurant Opportunities Centers United  
Service Employees International Union  
Shriver Center on Poverty Law  
Women Employed  
Women's Law Project  
Workplace Fairness  
Worksafe

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<sup>ii</sup> Exec. Order 13563, 76 Fed. Reg. 3821-22 (2011).