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U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210  
*Submitted via www.regulations.gov*

September 2, 2025

Re: **Rescission of Executive Order 11246 Implementing Regulations  
(RIN 1250-AA17)**

**Proposed Revision of Information Collection Request; Complaint Involving  
Employment Discrimination By Federal Contractor or Subcontractor  
(OMB Control No. 1250-0002)**

We appreciate the opportunity to comment on the Department of Labor (“The Department”) Office of Federal Contract Compliance Programs (“OFCCP”)’s proposed rescission of the regulations implementing Executive Order 11246 – Equal Employment Opportunity.<sup>1</sup> See 90 Fed. Reg 28,472 (July 1, 2025). We also offer comment here regarding the Department’s proposal to revise the CC-4: Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor. See 90 Fed. Reg. 29,892 (July 7, 2025).

The undersigned are scholars affiliated with the Williams Institute at the UCLA School of Law. The Williams Institute, dedicated to conducting rigorous and independent research, collects and analyzes original data, as well as analyzes governmental and private data to study the experiences of Lesbian, Gay, Bisexual and Transgender (“LGBT”) people in the U.S. and internationally. Scholars at the Williams Institute have long examined workplace discrimination and employment disparities among LGBT populations.<sup>2</sup> Scholars at the Williams Institute have also provided policy analysis regarding several issues affecting federal contractors, including an early estimate of the impact of extending workplace protections to LGBT employees of federal

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<sup>1</sup> Exec. Order 11246 creates affirmative obligations for federal and federal contractors to promote nondiscrimination. Equal Employment Opportunity, Exec. Order 11216, 30 Fed. Reg. 12,319 (Sept. 28, 1965). President Trump Revoked this Order on January 21, 2025. Ending Illegal Discrimination and Restoring Merit-Based Opportunity, Exec. Order 14,173, 90 Fed. Reg. 8633 (Jan. 31, 2025).

<sup>2</sup> See e.g. BRAD SEARS ET AL., WILLIAMS INST., LGBTQ PEOPLE’S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT (2024), <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>; The Equality Act: Hearing before the S. Comm. on the Judiciary, 117th Cong. (Mar. 22, 2021) (Written testimony of Williams Inst. Scholars) <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-State-Governments-Mar-2021.pdf>; The Equality Act: Hearing before the S. Comm. on the Judiciary, 117th Cong. (Mar. 22, 2021) (Written testimony of M.V. Lee Badgett), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-LGBT-Employment-Mar-2021.pdf>.

contractors,<sup>3</sup> the impact of paid sick leave for employees of federal contractors,<sup>4</sup> and the impact of religious exemptions to protections for LGBT employees of federal contractors,<sup>5</sup> and created a model policy for federal contractors regarding sexual orientation and gender identity non-discrimination protections.<sup>6</sup>

We write to provide further analysis about the impact of revoking Executive Order 11246 and rescinding the implementing regulations for LGBT people in the U.S., including the revocation of the CC-4 form, which is a crucial means by which to report federally prohibited discrimination.

## **I. Executive Order 11246 Required Federal Contractors to Address Discrimination and Disparities in the Federal Contractor Workforce**

Executive Order 11246, originally signed by President Johnson in 1965 and amended several times, extended the government’s commitment to civil rights and nondiscrimination in employment by requiring federal contractors to take affirmative steps to proactively address potential bias and discrimination on the basis of race and sex.<sup>7</sup> In 2014, President Barack Obama extended the scope of Executive Order 11246 to include sexual orientation and gender identity.<sup>8</sup>

The Office of Federal Contract Compliance Programs (OFCCP) was created by President Jimmy Carter in 1977 under Executive Order 12086 to consolidate affirmative action programs under the Department of Labor.<sup>9</sup> The OFCCP’s mission was to “protect workers, promote diversity, and enforce the law.”<sup>10</sup> The OFCCP carried out its mission by enforcing laws and

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<sup>3</sup> M.V. LEE BADGETT, WILLIAMS INST., THE IMPACT OF EXTENDING SEXUAL ORIENTATION AND GENDER IDENTITY NONDISCRIMINATION REQUIREMENTS TO FEDERAL CONTRACTORS (2012), <https://williamsinstitute.law.ucla.edu/publications/sogi-nondiscrim-fed-contractor/>.

<sup>4</sup> Williams Institute Scholars, Comment Letter on Notice of Proposed Rulemaking Regarding Establishing Paid Sick Leave for Federal Contractors, RIN 1235-AA13, 81 Fed. Reg. 13,306 (Mar. 14, 2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Comment-Paid-Sick-Leave-Fed-Contract-Apr-2016.pdf>,

<sup>5</sup> Williams Institute Scholars, Comment Letter on Proposal to Rescind Implementing Legal Requirements Regarding the Equal Opportunity Clause’s Religious Exemption, RIN 1250-AA09, 86 Fed. Reg. 62,115 (Nov. 9, 2021), <https://williamsinstitute.law.ucla.edu/publications/ofccp-federal-contractors-comment/>.

<sup>6</sup> CHRISTY MALLORY, ADAM P. ROMERO & BRAD SEARS, WILLIAMS INST., MODEL EMPLOYMENT POLICIES FOR FEDERAL CONTRACTORS RELATED TO SEXUAL ORIENTATION AND GENDER IDENTITY (2015), <https://williamsinstitute.law.ucla.edu/publications/model-policy-fed-contractor-sogi/>.

<sup>7</sup> Equal Employment Opportunity, Exec. Order 11216, 30 Fed. Reg. 12,319 (Sept. 28, 1965); Amending Executive Order No. 11246, Relating to Equal Employment Opportunity, Exec. Order 11,375, 32 Fed. Reg. 14,303 (Oct. 17, 1967); Office of Equal Opportunity & Diversity, U.C. Irvine, A Brief History of Affirmative Action, [https://www.oecd.uci.edu/policies/aa\\_history.php](https://www.oecd.uci.edu/policies/aa_history.php) (last visited Sept. 1, 2025).

<sup>8</sup> Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors, Exec. Order 13672, 79 Fed. Reg. 72,985 (Dec. 9, 2014).

<sup>9</sup> Consolidation of Contract Compliance Functions for Equal Employment Opportunity, Exec. Order 12086, 43 Fed. Reg. 46,501 (Oct. 5, 1978).

<sup>10</sup> See Overcoming Barriers to Employment of Veterans with Disabilities, Meeting of the U.S. E.E.O.C., (Nov. 16, 2011) (Testimony of Claudia Gordon, Special Assistant to the Director, Office of Federal Contract Compliance Programs, U.S. Dep’t of Labor), <https://www.eeoc.gov/meetings/meeting-november-16-2011/gordon%2C%20esq>.

policies, including EO 11246; issuing regulations; and conducting education and outreach.<sup>11</sup> The OFCCP's ability to prevent discrimination was powerful because its enforcement mechanisms included prohibiting entities from receiving future federal contracts if they were found to have discriminated in violation of federal law.

On January 21, 2025, President Donald Trump revoked Executive Order 11246, among other orders relating to employment protections.<sup>12</sup> This effectively ended the obligation for federal contractors to take specific actions to address disparities and prevent discrimination against LGBT employees, employees of color, and other protected classes. President Trump's January 20 executive order specifically prohibited the OFCCP from taking actions to ensure diversity and equal opportunity in federal contractor employment.

The revocation of Executive Order 11246 and the rescission of the implementing regulations mean that LGBT employees of federal contractors, among other formerly protected populations, can no longer rely on the federal government to take actions to prevent and address disparities and discrimination in employment.<sup>13</sup>

## II. LGBT People are Part of the Federal Contractor Workforce

LGBT people are a substantial population in the U.S. We estimate that there are approximately 18 million LGBT adults (aged 18 and older) in the United States,<sup>14</sup> including 2.1 million adults who identify as transgender.<sup>15</sup> We estimate that over 106,000 LGBT people in the U.S. work for a federal contractor.<sup>16</sup> This estimate does not include employees of federal subcontractors, who would also be protected under Executive Order 11246.<sup>17</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> Ending Illegal Discrimination and Restoring Merit-Based Opportunity, Exec. Order 14,173, 90 Fed. Reg. 8633 (Jan. 31, 2025).

<sup>13</sup> See, generally, BRAD SEARS, WILLIAMS INST., IMPACT OF EXECUTIVE ORDER REVOKING NON-DISCRIMINATION PROTECTIONS FOR LGBTQ FEDERAL EMPLOYEES AND EMPLOYEES OF FEDERAL CONTRACTORS (2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Federal-ND-Protects-EO-Jan-2025.pdf>.

<sup>14</sup> JODY L. HERMAN & ANDREW R. FLORES, WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS LGBT IN THE UNITED STATES? (2025) (forthcoming); JODY L. HERMAN & ANDREW R. FLORES, WILLIAMS INST., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? (2025), <https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>.

<sup>15</sup> HERMAN & FLORES, HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES?, *supra* note 14.

<sup>16</sup> BRAD SEARS, WILLIAMS INST., IMPACT OF PROPOSED CUTS TO FEDERAL WORKFORCE ON LGBTQ EMPLOYEES 6, (2025), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Federal-Workforce-Reduction-Jan-2025.pdf>.

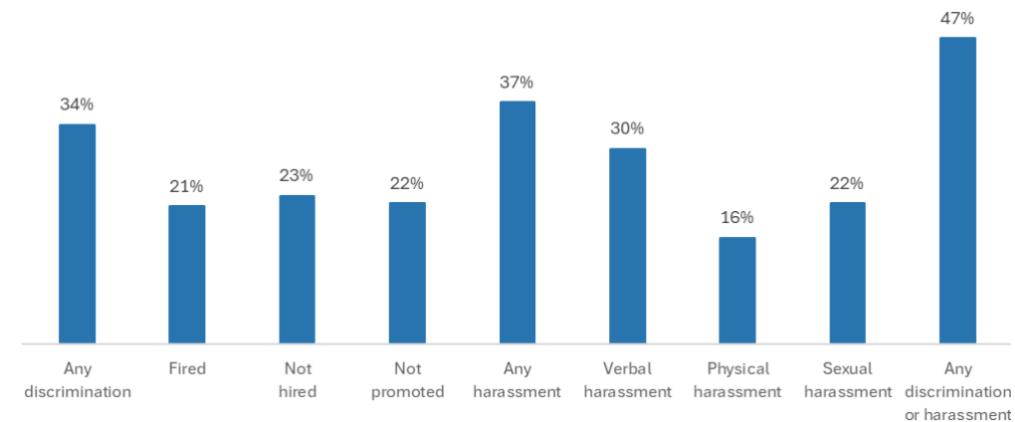
<sup>17</sup> *Id.*

### III. LGBTQ Employees Experience Discrimination and Harassment in the Workplace and These Experiences Negatively Impact their Health and Wellbeing

As a result of the Supreme Court's decision in *Bostock v. Clayton County*, employment discrimination on the basis of sexual orientation and gender identity is clearly prohibited by federal law nationwide.<sup>18</sup> However, in at least 16 states, state laws do not prohibit employment discrimination on these bases.<sup>19</sup> Without robust and consistent federal investment in investigating and remediating incidents of discrimination, this creates a patchwork of remedies and the potential for unlawful discrimination to go unaddressed.<sup>20</sup>

In a series of reports, the Williams Institute has explored the workplace experiences of LGBTQ employees.<sup>21</sup> These reports have found that workplace discrimination and harassment against LGBT employees continue to be persistent and widespread. In 2023, almost half (47%) of LGBT employees reported experiencing unfair treatment at work, including being fired, not hired, not promoted, or harassed because of their sexual orientation or gender identity during their lifetime.

#### Lifetime experiences of discrimination and harassment against LGBTQ employees



<sup>18</sup> *Bostock v. Clayton Cty.*, 590 U.S. 644 (2020); Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e - 2000e-17 (as amended).

<sup>19</sup> See *Employment Discrimination*, MOVEMENT ADVANCEMENT PROJECT, [https://www.lgbtmap.org/equality-maps/employment\\_non\\_discrimination\\_laws](https://www.lgbtmap.org/equality-maps/employment_non_discrimination_laws) (last visited Aug. 28, 2025);

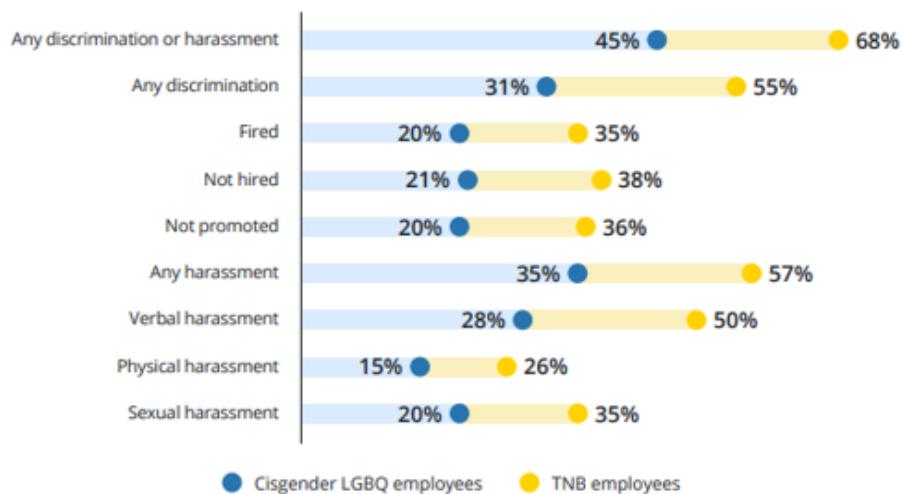
<sup>20</sup> See, generally, KERITH J. CONRON & SHOSHANA K. GOLDBERG, WILLIAMS INST., LGBT PEOPLE IN THE U.S. NOT PROTECTED BY STATE NON-DISCRIMINATION STATUTES 3, (April 2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-nondiscrimination-statutes/> (Before *Bostock*, protections for LGBT people in employment were a patchwork, resulting in nearly half of LGBT people in the U.S. having no remedy for employment discrimination).

<sup>21</sup> BRAD SEARS ET AL., WILLIAMS INST., LGBTQ PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT (2024), available at <https://williamsinstitute.law.ucla.edu/publications/lgbt-workplace-discrimination/>. The term 'LGBTQ' is used in this study to refer to individuals who indicated that they were a sexual minority.

Within the past year, more than one in ten LGBTQ employees reported that they had been fired, not hired, or not promoted because of their sexual orientation or gender identity (11%) or had experienced at least one form of harassment at work (12%).

Notably, across all six primary measures of lifetime experiences of discrimination and harassment, transgender and non-binary employees reported higher rates than cisgender employees, people of color reported higher rates than white employees, and those who were out reported higher rates than those who were out to no one in the workplace.<sup>35</sup>

### **Lifetime experiences of discrimination and harassment based on LGBTQ status among LGBTQ employees by gender identity**



The repeal of Executive Order 11246 and its implementing regulations will particularly impact subpopulations of LGBTQ workers that are most vulnerable to discrimination and harassment. Most LGBTQ employees have multiple marginalized identities because of their race, sex, gender, religion, disability status, and other personal characteristics. The complete repeal of Executive Order 11246 therefore leaves many LGBTQ workers vulnerable to discrimination on multiple bases – not just because of their sexual orientation or gender identity.

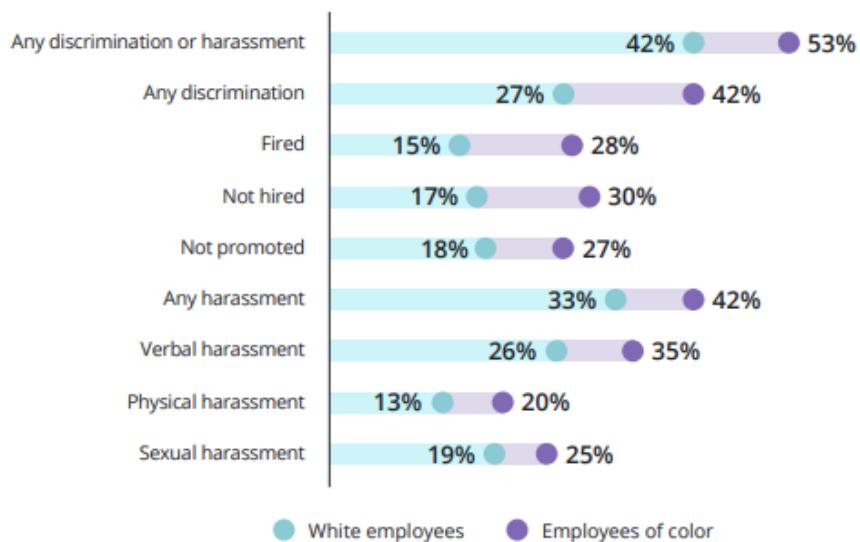
Most LGBTQ employees are women, and nearly half are people of color. The Williams Institute study of workplace experiences of LGBTQ employees found that 52% of LGBTQ employees are LBTQ women, and 7% are nonbinary.<sup>22</sup> Further, almost half of LGBTQ employees are people of color (46%), including 26% who are Latinx, 11% who are Black, 4% who are Asian, and 4% are another race or multiracial.<sup>23</sup>

<sup>22</sup> BRAD SEARS ET AL., LGBTQ PEOPLE’S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT, *supra* note 21 at 6; Additional analysis on file with authors.

<sup>23</sup> BRAD SEARS ET AL., LGBTQ PEOPLE’S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT, *supra* note 21 at 7.

Williams Institute research indicates that LGBTQ people with multiple marginalized identities face higher rates of sexual orientation and gender identity discrimination in the workplace and that this discrimination is frequently intersectional.<sup>24</sup> In other words, the person or people discriminating against them verbalize that the harassment and discrimination is not only based on their sexual orientation but their race, sex, gender, religion, or other identities as well.

### Lifetime experiences of discrimination and harassment based on LGBTQ status among LGBTQ employees by race/ethnicity



Discrimination and harassment in the workplace also negatively affect the health and well-being of LGBTQ employees. Evidence suggests that employment discrimination and harassment may lead to disparities among LGBT employees, such as lower overall earnings,<sup>25</sup> higher rates of job loss or quitting,<sup>26</sup> and higher rates of negative health outcomes such as stress

<sup>24</sup> Id.

<sup>25</sup> See e.g. Sara Estep & Haley Norris, *The 2024 LGBTQI+ Wage Gap*, CTR. FOR AM. PROGRESS (June 17, 2025), <https://www.americanprogress.org/article/the-2024-lgbtqi-wage-gap/>; BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE (2011), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Effects-LGBT-Employ-Discrim-Jul-2011.pdf>.

<sup>26</sup> BRAD SEARS ET AL., LGBTQ PEOPLE'S EXPERIENCES OF WORKPLACE DISCRIMINATION AND HARASSMENT, *supra* note 21.

and depression.<sup>27</sup> In general, LGBT people also report higher rates of poverty,<sup>28</sup> food insecurity,<sup>29</sup> and housing instability<sup>30</sup> compared with non-LGBT people.

#### **IV. OCCFP Should Continue Collecting Data on Sexual Orientation, Gender Identity Discrimination, And All Other Categories Listed under Executive Order 11246**

The Department proposes to eliminate the regulations that address the requirement of providers to submit the EEO-1 form,<sup>31</sup> through which certain mandated private sector employers provide annual data on the demographic composition of their workforce.<sup>32</sup> The Department also proposes to remove the categories of discrimination covered by Executive Order 11246 from the CC-4 Form: Complaint of Employment Discrimination Involving a Federal Contractor or Subcontractor.<sup>33</sup> These removals, if implemented, would make it difficult or impossible to track anti-LGBT and other forms of discrimination and workforce disparities that may result from discrimination.

As described above, discrimination on the basis of sexual orientation and gender identity persists in employment contexts. These forms of discrimination, along with discrimination on the basis of race, sex, and other categories covered by Executive Order 11246, remain illegal.<sup>34</sup> They likely continue to contribute to measurable disparities in the workforce. Although Executive Order 11246 has been revoked, it is likely that employees of federal contractors may continue to experience, and need to report, discrimination on these still-protected bases. Therefore, the OFCCP should remain diligent in ensuring that federal contractors complete required forms such

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<sup>27</sup> BRAD SEARS & CHRISTY MALLORY, *supra* note 25; Caroline Medina, Lindsay Mahowald, & Rose Khatter, *Fact Sheet: LGBT Workers in the Labor Market*, CTR. FOR AM. PROGRESS (June 1, 2022), <https://www.americanprogress.org/article/fact-sheet-lgbt-workers-in-the-labor-market/>.

<sup>28</sup> BIANCA D.M. WILSON, ET AL., WILLIAMS INST., LGBT POVERTY IN THE UNITED STATES (2023), <https://williamsinstitute.law.ucla.edu/publications/lgbt-poverty-us/>.

<sup>29</sup> KERITH J. CONRON ET AL., WILLIAMS INST., FOOD INSUFFICIENCY AMONG LGBT ADULTS DURING THE COVID-19 PANDEMIC (2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Food-Insufficiency-Apr-2022.pdf>; BRAD SEARS, NATHAN CISNEROS, & JET HARBECK, WILLIAMS INST., FOOD INSECURITY AND RELIANCE ON SNAP AMONG LGBT ADULTS (2025), <https://williamsinstitute.law.ucla.edu/publications/lgbt-food-insecurity-snap/>.

<sup>30</sup> ADAM P. ROMERO, SHOSHANA K. GOLDBERG, & LUIS A. VASQUEZ, WILLIAMS INST., LGBT PEOPLE AND HOUSING AFFORDABILITY, DISCRIMINATION, AND HOMELESSNESS (2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-housing-instability/>; BIANCA D.M. WILSON, ET AL., WILLIAMS INST., HOMELESSNESS AMONG LGBT ADULTS IN THE U.S. (2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-homelessness-us/>.

<sup>31</sup> See 90 Fed. Reg 28,474; 90 Fed. Reg 28,478.

<sup>32</sup> See *EEOC Data Collection*, U.S. EQUAL EMP. OPPORTUNITY COMM’N., <https://www.eeodata.org> (last visited Aug. 28, 2025).

<sup>33</sup> 90 Fed. Reg. 29,892 (July 7, 2025); See also OMB 1250-0002 Nonsubstantive Change Request, OFF. OF FED. CONT. COMPLIANCE (Mar. 4, 2025), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=153692001> (last visited Aug. 28, 2025). These bases include: “race, national origin, color, religion, sex (including pregnancy), sexual orientation, gender identity, discussing pay, inquiring about pay, and disclosing pay.”

<sup>34</sup> *Bostock*, *supra* note 18; Title VII, *supra* note 18.

as the EEO-1, and the CC-4 form collected by OFCCP should continue to allow the reporting of employment discrimination under protected categories.

## **V. Conclusion**

Given that employment discrimination on the basis of sexual orientation and gender identity is prevented by law, but does persist, proactive efforts to remediate discrimination and its downstream effects are supported by the evidence. Without the interventions described in Executive Order 11246 and the implementation by the OFCCP, it is likely that anti-LGBT discrimination in the workplace and resulting disparities will worsen.

Thank you for the opportunity to submit this comment.

Respectfully Submitted,

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