



January 24, 2025

NAMC Update: Trump Executive Order vs. DEI & SBA

NAMC Members,

Before the confirmation of former Georgia Senator Kelly Loeffler as Trump's pick to lead the Small Business Administration, I feel the need to address member uncertainty about the SBA and 8(a) programs.

SBA Contractors: Merit-Based Employment

Make no doubt about it, change is coming. Senator Loeffler is a Trump reformer and will want to cost cut and reshape SBA as much as possible. One good development— because of the Federal district court decision in the case of *Ultima Services Corporation v. U.S. Department of Agriculture et al*, No. 2:2020cv00041 - Document 86 (E.D. Tenn. 2023), the 8(a) Program was under injunction, but now the SBA 8(a) application process has reopened applications to new participants, ensuring a vast, talented pool of vendors are available to federal agencies.

The 8(a) Program has more than a 50-year track record of making contracting with the U.S. government more accessible for thousands of small businesses who in turn provide critical products and services to advance agency missions.

We should not be misled; the new process under EO will be harder and have little to no flexibility, no self-certification, and no presumption of disadvantaged status.

DEI: Executive Order Implementing Merit-Based Employment

President Donald Trump has issued an executive order (EO) targeting affirmative action and diversity, equity, and inclusion (DEI) programs within the federal government. The provisions of the January 21, 2025, EO ending presumption of illegal discrimination and restored merit-based employment. In reference to employment, he aims to give him more control over the federal workforce – whom he has long vilified as the “deep state” life-long workers who could not be fired.

- Revoke EO 11246. This 1965 order prohibited discrimination by federal contractors and required affirmative action to ensure equal employment opportunity. Among other requirements, it required **federal contractors with at least 50 employees and a single contract of \$50,000** or more to develop an Affirmative Action Program (AAP).
- Place Further Restrictions on the Office of Federal Contract Compliance Programs (OFCCP). The Trump EO similarly **prohibits OFCCP from promoting diversity or encouraging Federal contractors and subcontractors to engage in workforce balancing** based on race, color, sex, sexual preference, religion, or national origin.
- Prohibit OFCCP From Enforcing Affirmative Action Requirements. **The Vietnam Era Veterans' Readjustment Assistance Act and Section 503 of the Rehabilitation Act** require affirmative action by most federal contractors to promote job opportunities for veterans and persons with disabilities. These statutes remain in effect following the Trump EO; however, the EO instructs OFCCP to “immediately cease holding Federal contractors and subcontractors responsible for taking “affirmative action”, which means that these obligations will presumably not be enforced during the Trump administration, but they could be enforced by a future administration.

Members can contact the national office with any questions or comments.

Respectfully,

Wendell R. Stemley, CMAA

National President

National Association of Minority Contractors (NAMC)