
From: Wolfson, Jonathan A - ASP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C933D3C8E9624D7092E25B4A2B47F4CF-WOLFSON, JO]
Sent: 10/19/2020 9:37:08 PM
To: Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]; Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Freeman, Wilson C - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5edc0c3ef852474dbe55d544f7247fc3-Freeman, Wi]; Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]
Subject: EO 13950 Draft Secretary Order
Attachments: EO Directive to Agency Heads.docx

All,

Here is the draft Secretary Order that Wilson put together on EO 13950. Let us know if you have any questions or edits.

Jw

Jonathan A. Wolfson

Deputy Assistant Secretary
Office of the Assistant Secretary for Policy
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Wolfson.Jonathan.A@dol.gov

T: 202-
M: 202- (b) 6

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Sent: 10/20/2020 8:07:33 AM
To: Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
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Subject: Re: EO 13950 Draft Secretary Order

I don't see a deadline in the EO:

(c) Each agency head shall:

(i) issue an order incorporating the requirements of this order into agency operations, including by making compliance with this order a provision in all agency contracts for diversity training;

So we have time.

Jw

Jonathan Wolfson

T: 202 (b) 6
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Sent from my iPhone

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Thanks! When is this due again?

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DOL002635

Cc: Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>; Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>

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Sent: 10/20/2020 10:41:40 AM
To: Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]; Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]; Wolfson, Jonathan A - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c933d3c8e9624d7092e25b4a2b47f4cf-Wolfson, Jo]; Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
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Subject: RE: EO 13950 Draft Secretary Order
Attachments: Action Items - EO on Combating Race and Sex Stereotyping.docx

For reference, attached are the original deadlines presented to the Secretary and developed from the initial meeting with the Deputy.

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Deputy Solicitor
U.S. Department of Labor

o. 202.693 (b) 6

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- Secretary's Order re abiding / EO operation / political appointee (OASP)
 - Deadline for drafting 10/22/20
 - Deadline for SOL review 10/29/20
 - Deadline for Departmental clearance 11/05/20
 - Deadline for Red Folder clearance 11/12/20
 - Deadline for Submission to OFR 11/13/20

Alison (Ali) Kilmartin
(202) (b) 6

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Jonathan Wolfson

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M: 202

(b) 6

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Subject: EO 13950 Draft Secretary Order

All,

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Jonathan A. Wolfson
Deputy Assistant Secretary
Office of the Assistant Secretary for Policy
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Wolfson.Jonathan.A@dol.gov

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M: 202

(b) 6

Required Action Items

- Within 30 days, OFCCP must publish an RFI “seeking information from Federal contractors, Federal subcontractors, and employees of Federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees. The request for information should request copies of any training, workshop, or similar programing having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities.” (Section 4(c)).
- Within 60 days, all agency heads must submit a report to OMB outlining grant programs that could be conditioned on the requirement that grant recipients not use federal funds to violate the EO (Section 5).
- Within 90 days, all agency heads shall report to OMB FY2020 spending on employee training programs relating to diversity or inclusion (Section 7(c)).
- By Dec. 31, 2020 and then annually, all agency heads must ask agency IG to review agency compliance with the EO (Section 6(c)(ii)).
- [No time period specified] OFCCP must establish a hotline and investigate complaints received under both the EO as well as Executive Order 11246 alleging that a Federal contractor is utilizing training programs in violation of the contractor's obligations under those orders. (Section 4(b)).
- [No time period specified] All agency heads must ensure that their training abide by the EO (Section 6(a)(i)).
- [No time period specified] All agency heads must issue orders carrying the EO into operation (Section 6(c)(i)).
- [No time period specified] All agency heads must assign a senior political appointee to ensure EO compliance (Section 6(c)(iii)).

Proposed Schedules

- 30 day RFI (OSEC/OASP)
 - Deadline for policy decisions 09/25/20
 - Deadline for drafting 09/28/20
 - Deadline for staff review 09/29/20
 - Deadline for drafting/review 09/30/20
 - Deadline for Departmental clearance 10/05/20
 - Deadline for Red Folder clearance 10/07/20
 - Deadline for ROCIS 10/07/20
 - Deadline for Publication 10/22/20

- 60 day Report to OMB re Grants (OASP)
 - Deadline for Agency submissions 10/23/20
 - Deadline for drafting 11/06/20
 - Deadline for Departmental clearance 11/13/20
 - Deadline for Red Folder clearance 11/19/20
 - Deadline for Submission to OMB 11/20/20

- 90 day Report to OMB re FY2020 Training Spending (OASAM/DBC)
 - Deadline for Agency submissions 11/20/20
 - Deadline for drafting 11/04/20
 - Deadline for Departmental clearance 11/11/20
 - Deadline for Red Folder clearance 11/18/20
 - Deadline for Submission to OMB 12/21/20

- Hotline (OFCCP)
 - Deadline for website language to OSEC 09/28/20
 - Deadline for hotline going live 10/02/20

- Secretary's Order re abiding / EO operation / political appointee (OASP)
 - Deadline for drafting 10/22/20
 - Deadline for SOL review 10/29/20
 - Deadline for Departmental clearance 11/05/20
 - Deadline for Red Folder clearance 11/12/20
 - Deadline for Submission to OFR 11/13/20
 - *Upon publication, IG to be provided with copy of order along with cover letter requesting that IG begin reviewing Department compliance on annual basis*

From: Taylor, Timothy J - SOL [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=363C0A5D85CA453EB4D8A2A62A9C286F-TAYLOR, TIM]
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To: Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]; Wolfson, Jonathan A - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c933d3c8e9624d7092e25b4a2b47f4cf-Wolfson, Jo]; Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
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Subject: RE: EO 13950 Draft Secretary Order
Attachments: Implementation memo.docx

Here's a high-level implementation document that SOL and OASAM have shared with DSEC, and includes DSEC input. It is close hold; please do not distribute further. A lot of the steps are being undertaken by OASAM, with SOL concurrence. I'm taking a bit more of a coordination role in this project given my EO compliance officer second hat.

Note the October 23 deadline, but obviously we need time for red folder. Optional whether we wait for official FR publication before posting online.

Timothy Taylor
Deputy Solicitor
U.S. Department of Labor
o. 2021 (b) 6

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To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
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Subject: RE: EO 13950 Draft Secretary Order

Works for me, and Wolfson already reviewed for OASP before circulating. Is there a specific date DSEC is now targeting that I can craft timelines toward?

Alison (Ali) Kilmartin
(202) (b) 6

From: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
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To: Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
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Subject: Re: EO 13950 Draft Secretary Order

I can send to CRLM with a noon tomorrow turnaround (hopefully) along with our own SOL FO review. It's short and I think straightforward.

Timothy Taylor
Deputy Solicitor, USDOL

202 (b) 6

From: Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>
Sent: Tuesday, October 20, 2020 10:42:46 AM
To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
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Subject: RE: EO 13950 Draft Secretary Order

The draft Order was circulated this morning. I don't see any reason why we cannot move faster if the folks on this email are committed to making that happen.

And yes, Tim, I about spit my coffee out when I read your email ☺

Alison (Ali) Kilmartin

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Sent: Tuesday, October 20, 2020 8:08 AM
To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
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Subject: Re: EO 13950 Draft Secretary Order

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So we have time.

Jw

Jonathan Wolfson

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Sent from my iPhone

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Thanks! When is this due again?

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Subject: EO 13950 Draft Secretary Order

All,

Here is the draft Secretary Order that Wilson put together on EO 13950. Let us know if you have any questions or edits.

Jw

Jonathan A. Wolfson
Deputy Assistant Secretary
Office of the Assistant Secretary for Policy
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Wolfson.Jonathan.A@dol.gov

T: 202-

M: 202-

(b) 6

From: Wolfson, Jonathan A - ASP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C933D3C8E9624D7092E25B4A2B47F4CF-WOLFSON, JO]
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Subject: RE: EO 13950 Draft Secretary Order
Attachments: EO 13950 Secretary Order Draft.docx

Here's the updated draft in the "right" format. Happy for others to make edits as needed, or for us to get CRLM to clear by tomorrow at noon and then for the team to review after that.

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Timothy Taylor
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Subject: RE: EO 13950 Draft Secretary Order

The draft Order was circulated this morning. I don't see any reason why we cannot move faster if the folks on this email are committed to making that happen.

And yes, Tim, I about spit my coffee out when I read your email ☺

Alison (Ali) Kilmartin

(202) (b) 6

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Subject: RE: EO 13950 Draft Secretary Order

Also +Grant, who's been working on these issues.

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C - ASP <Freeman.Wilson.C@dol.gov>

Subject: RE: EO 13950 Draft Secretary Order

We've been discussing timelines on this and other aspects of the EO with DSEC. Our timelines I believe we're viewing as much tighter, since we're viewing the Secretary's Order as the trigger for certain other actions. Brett was the last one who suggested timelines. Brett, any update?

It is not lost on me that this is the first time in the history of this agency that SOL is pushing ASP for shorter timelines.

Timothy Taylor
Deputy Solicitor
U.S. Department of Labor
o. 202. (b) 6

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To be clear, the schedule I just circulated (and pasted below again for easy reference) is self-imposed, not driven by the EO.

- Secretary's Order re abiding / EO operation / political appointee (OASP)
 - Deadline for drafting 10/22/20
 - Deadline for SOL review 10/29/20
 - Deadline for Departmental clearance 11/05/20
 - Deadline for Red Folder clearance 11/12/20
 - Deadline for Submission to OFR 11/13/20

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Subject: EO 13950 Draft Secretary Order

All,

Here is the draft Secretary Order that Wilson put together on EO 13950. Let us know if you have any questions or edits.

Jw

Jonathan A. Wolfson

Deputy Assistant Secretary

Office of the Assistant Secretary for Policy

United States Department of Labor

200 Constitution Avenue, NW

Washington, DC 20210

Wolfson.Jonathan.A@dol.gov

T: 202-

M: 202-

(b) 6

DOL002655

*Deliberative Draft
Not to be Disseminated*

Secretary's Order Re: Implementation of Executive Order 13950

1. **Purpose.** This Secretary's Order (Order) establishes the Department's implementation and execution of the President's Executive Order to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating. This Order identifies the responsibilities of different components of the Department in relation to the Executive Order.
2. **Authorities.** This Order is established pursuant to the following authority.
 - A. Executive Order 13950, Combating Race and Sex Stereotyping
3. **Background.** The fundamental creed of the United States is best expressed in the Declaration of Independence, which states: "We hold these truths to be self-evident, that all men are created equal." This creed is the driving force behind President Trump's Executive Order 13950 on Combating Race and Sex Stereotyping. The Executive Order seeks to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating. This directive's effectuates those goals within the Department of Labor.

As the Executive Order explains, in recent years, many have begun to advance a vision of the United States that runs contrary to the ideals embodied in the Declaration. This vision is based on collective identities rather than in the inherent and equal dignity of every person. Ultimately, these ideas are based on beliefs that America is irredeemably racist and sexist; that some people, simply on account of their race or sex, are oppressors; and that racial and sexual identities are more important than our common status as human beings and Americans. These beliefs are false and undermine the founding ideals of our Republic.

The President's Executive Order identifies several specific "divisive concepts" which are the focus of this directive. Those concepts are:

- The concept that one race or sex is inherently superior to another race or sex;
- The concept that an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- The concept that an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- The concept that members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- The concept that an individual's moral character is necessarily determined by his or her race or sex;
- The concept that an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

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- The concept that any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or
- The concept that meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

In order to combat these false and divisive concepts, the Executive Order requires that all federal agencies take certain steps meant to ensure the fair and equal treatment of individuals within federal workplaces. In particular, the Executive Order requires that agency workplace training comply with the values underlying the Executive Order, and avoid the divisive concepts which threaten those values.

4. **Responsibilities.** Accordingly, and in compliance with Section 6 of the Executive Order, I hereby direct all agency heads within the Department to ensure that all trainings, workshops, forums, or similar programming to agency employees do not teach, advocate, act upon, or promote any of the divisive concepts listed above. Agencies should continue all training which will foster a workplace that is respectful of all employees. Furthermore, all agency heads must, in any diversity and inclusion efforts undertaken by that agency, first and foremost, encourage employees not to judge each other by their color, race, ethnicity, sex, or any other characteristic protected by Federal law. Finally, each agency head must make compliance with this order a provision of all contracts for diversity training.
 - A. **Deputy Secretary.** The Deputy Secretary is delegated authority to oversee implementation of those requirements, with further delegation to and consultation with OASAM and SOL as necessary and appropriate.
 - B. **Agency Heads.** Ensuring compliance with the Secretary's Order, the Executive Order, and OMB Memo M-20-37's training-review requirement is the responsibility of the senior appointed official so designated under § 6(c)(iii). To ensure that this Department complies with Executive Order 13950, the leadership of each Department component should undertake promptly to review any training materials currently in use within their component to ensure that they do not teach any of the above-listed concepts. Further, agency heads should take, on an ongoing basis, any action as may be necessary to ensure, to the greatest extent practicable and permitted by law, that the Department's trainings comply with the Executive Order. Any future contracts for diversity training must reflect the Executive Order's requirement that they include a provision requiring compliance with the Order. Agencies may consult with the Office of Personnel Management (OPM), pursuant to 5 U.S.C. § 4116, in carrying out these objectives.
 - C. **DOL Employees.** Employees are encouraged to report noncompliance to the inspector general.
5. **Exceptions; Administrative Matters.** The requirements of this Order are intended to be general in nature, and accordingly shall be construed and implemented consistent with more specific requirements of any statute, Executive Order, or other legal authority governing the Department, its agencies, or particular administrative areas. In the event of a conflict, the specific statute, Executive Order, or other legal authority shall govern. The

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Office of Inspector General is excepted from this Order. Further exceptions may be directed by the Deputy Secretary or mutually agreed upon between the agency and ASAM, although nothing in this Order prohibits future integration for previously made exceptions upon either the joint agreement of the agency and ASAM or as directed by the Deputy Secretary.

6. **Re-delegation of Authority.** Except as otherwise provided by law, all of the authorities delegated in this Order may be re-delegated to serve the purposes of this Order.
7. **Effective Date.** This Order is effective immediately.

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Subject: RE: EO 13950 Draft Secretary Order
Attachments: EO 13950 Secretary Order Draft CRLM.docx

CRLM has only one comment. I'm reviewing myself this afternoon and will have edits.

Timothy Taylor
Deputy Solicitor
U.S. Department of Labor
o. 202. (b) 6 m. 2024 (b) 6

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Thanks, will plan to review when it comes back from CRLM then.

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Thanks. I'll send it down. I'm going to give them until 2:00 to keep at a 24-hour turnaround.

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Deputy Solicitor
U.S. Department of Labor

o. 2021 (b) 6 n. 2021 (b) 6

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Sent: Tuesday, October 20, 2020 10:42:46 AM
To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>; Johnson, Grant L - SOL <Johnson.Grant.L@dol.gov>
Subject: RE: EO 13950 Draft Secretary Order

The draft Order was circulated this morning. I don't see any reason why we cannot move faster if the folks on this email are committed to making that happen.

And yes, Tim, I about spit my coffee out when I read your email 😊

Alison (Ali) Kilmartin
(202) (b) 6

From: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Sent: Tuesday, October 20, 2020 10:41 AM
To: Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>; Johnson, Grant L - SOL <Johnson.Grant.L@dol.gov>
Subject: RE: EO 13950 Draft Secretary Order

Also +Grant, who's been working on these issues.

From: Taylor, Timothy J - SOL
Sent: Tuesday, October 20, 2020 10:37 AM
To: Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>; Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@dol.gov>; Freeman, Wilson C - ASP <Freeman.Wilson.C@dol.gov>
Subject: RE: EO 13950 Draft Secretary Order

We've been discussing timelines on this and other aspects of the EO with DSEC. Our timelines I believe we're viewing as much tighter, since we're viewing the Secretary's Order as the trigger for certain other actions. Brett was the last one who suggested timelines. Brett, any update?

It is not lost on me that this is the first time in the history of this agency that SOL is pushing ASP for shorter timelines.

Timothy Taylor
Deputy Solicitor
U.S. Department of Labor
o. 202 (b) 6 n. 202 (b) 6

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DOL002661

From: Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>

Sent: Tuesday, October 20, 2020 8:11 AM

To: Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>;

Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Leen,

Craig - OFCCP <Leen.Craig@DOL.gov>; Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>

Subject: RE: EO 13950 Draft Secretary Order

To be clear, the schedule I just circulated (and pasted below again for easy reference) is self-imposed, not driven by the EO.

- Secretary's Order re abiding / EO operation / political appointee (OASP)
 - Deadline for drafting 10/22/20
 - Deadline for SOL review 10/29/20
 - Deadline for Departmental clearance 11/05/20
 - Deadline for Red Folder clearance 11/12/20
 - Deadline for Submission to OFR 11/13/20

Alison (Ali) Kilmartin

(202) (b) 6

From: Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>

Sent: Tuesday, October 20, 2020 8:08 AM

To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>;

Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Leen,

Craig - OFCCP <Leen.Craig@DOL.gov>; Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>; Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>

Subject: Re: EO 13950 Draft Secretary Order

I don't see a deadline in the EO:

(c) Each agency head shall:

(i) issue an order incorporating the requirements of this order into agency operations, including by making compliance with this order a provision in all agency contracts for diversity training;

So we have time.

Jw

Jonathan Wolfson

T: 202
M: 202 (b) 6

Sent from my iPhone

On Oct 20, 2020, at 7:55 AM, Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov> wrote:

Thanks! When is this due again?

From: Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>
Sent: Monday, October 19, 2020 9:37 PM
To: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Freeman, Wilson C - ASP <freeman.wilson.c@dol.gov>; Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>
Subject: EO 13950 Draft Secretary Order

All,

Here is the draft Secretary Order that Wilson put together on EO 13950. Let us know if you have any questions or edits.

Jw

Jonathan A. Wolfson
Deputy Assistant Secretary
Office of the Assistant Secretary for Policy
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
Wolfson.Jonathan.A@dol.gov

T: 202

M: 20

(b) 6

DOL002663

From: Spencer, Glenn <(b) 6>
Sent: 10/21/2020 4:29:58 PM
To: Emily Holubowich <(b) 6> Bradley, Neil <(b) 6>
CC: Weissman, David <(b) 6>
Subject: RE: Diversity EO: Heads Up, and Advice

Hi Emily. For DOL I'd send to Craig Leen at OFCCP and Dean Heyl in OSEC. That's heyld.dean.a@dol.gov and leen.craig@dol.gov

From: Emily Holubowich <(b) 6>
Sent: Wednesday, October 21, 2020 4:05 PM
To: Bradley, Neil <(b) 6>
Cc: Spencer, Glenn <(b) 6>; Weissman, David <(b) 6>
Subject: Re: Diversity EO: Heads Up, and Advice

Thank you all!

This is a big priority for Am Heart Association. If you're planning anything more (post election?) would love to coordinate if we can!

Emily J. Holubowich
Vice President, Federal Advocacy
American Heart Association

From: Bradley, Neil <(b) 6>
Sent: Wednesday, October 21, 2020 4:03:38 PM
To: Emily Holubowich <(b) 6>
Cc: Spencer, Glenn <(b) 6>; Weissman, David <(b) 6>
Subject: RE: Diversity EO: Heads Up, and Advice

*** CAUTION: This email originated from outside of the American Heart Association. Do not click links or open attachments unless you recognize the sender and know the content is safe. ***

Awesome! Copying Glenn and David who can share the right persons to send to.

From: Emily Holubowich <(b) 6>
Sent: Wednesday, October 21, 2020 3:33 PM
To: Bradley, Neil <(b) 6>
Subject: Diversity EO: Heads Up, and Advice

Neil,

I hope you are well! First, I wanted to thank you for the Chamber's efforts to mobilize the private sector in opposition to the diversity training Executive Order—and letting us opt in.

Piggy-backing on your efforts, myself and a couple of colleagues did a "nonprofit sector" letter (attached) that we will send today. That said, we're not really sure to whom to send! Any advice on points of contact in White House, DoL, and OMB are welcome.

THANK YOU!!!



Emily J. Holubowich, MPP
Vice President, Federal Advocacy
American Heart Association
1150 Connecticut Ave. | NW Suite 300
Washington | D.C. | 20036

(b) 6

Please consider joining my Heart Walk Team [HERE!](#)

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From: Taylor, Timothy J - SOL [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=363C0A5D85CA453EB4D8A2A62A9C286F-TAYLOR, TIM]
Sent: 10/22/2020 2:59:38 PM
To: Johnson, Grant L - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbeff76932544f5e8008ab5599626e96-Johnson, Gr]; Wolfson, Jonathan A - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c933d3c8e9624d7092e25b4a2b47f4cf-Wolfson, Jo]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Slater, Bryan - ASAM [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25d6ba93c9c24315adc663cac1b5db6c-Slater, Bry]; Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]; Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]
Subject: EO 13950 materials
Attachments: Agency Head memo.docx; EO 13950 Secretary Order Draft CRLM osec +tjt2.docx; Interim Guidance on Diversity and Inclusion Training.pdf

Good afternoon everyone,

Attached is a draft of the Secretary's Order required by EO 13950, and an accompanying implementation memo. The memo is based on a DOJ document, also attached as background.

Below is a plan for review. Please send me your comments/edits on these two documents by COB tomorrow. Please keep within leadership for now, thank you. Wider review will proceed next week.

1. Informal leadership review through COB tomorrow, 10/22/20 (SOL, ASP, DSEC, OSEC, OASAM, OFCCP)
2. DOL clearance Monday–Tuesday next week, 10/26/20–10/27/20, administered by Exec Sec
 - All agencies review the Secretary's Order
 - SOL, ASP, DSEC, OSEC, OASAM, OFCCP review the implementation memo
3. Red folder on Thursday (defer on timing from there)

Timothy Taylor

Deputy Solicitor

U.S. Department of Labor

o. 2021 (b) 6 im. 2021 (b) 6

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[Solicitor's Office letterhead]

MEMORANDUM FOR: DOL AGENCY HEADS

FROM: TIMOTHY TAYLOR
DEPUTY SOLICITOR OF LABOR

SUBJECT: Implementation of Executive Order 13950 and Secretary's
Order XX-2020

The Executive Branch has recently issued several directives related to federal employee training:

- Office of Management and Budget (OMB) Memorandum M-20-34, *Training in the Federal Government* (Sept. 4, 2020);
- Executive Order (E.O.) 13950, *Combating Race and Sex Stereotyping* (Sept. 22, 2020);
- OMB Memorandum M-20-37, *Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All* (Sept. 28, 2020); and
- U.S. Office of Personnel Management (OPM), Memorandum to all Executive Departments and Agencies, *Mandatory Review of Employee Training under E.O. 13950* (Oct. 2, 2020).

Pursuant to section 6(c)(i) of E.O. 13950, the Secretary issued Secretary's Order ■-2020 on October ■, 2020, directing the implementation of the E.O. This memorandum is issued to provide further guidance to agency heads regarding their responsibilities as set out in section 4.D of the Secretary's Order.

To ensure compliance with requirements specific to diversity-and-inclusion (D&I) training for employees, agency heads are instructed, to the extent they have not done so already, to suspend all D&I-related training that employees are required or permitted to attend while on duty status. Under section 6(a)(i) of E.O. 13950, training is construed broadly to mean "training, workshops, forums, or similar programming." "Similar programming" would thus include, for instance, webinars, continuing-education materials, lunch-and-learns, and educational or discussion material recommended or offered by agency training committees and D&I committees.

Pending approval of D&I training materials by OPM, all requirements for employees to complete D&I training are temporarily paused. OASAM is working to ensure that employees are temporarily relieved of any D&I-related mandatory training requirements as they may appear in DOL LearningLink and other DOL-provided training as part of the employees' learning work plans. Similarly, agency heads should ensure that D&I training materials on their intranets and in shared directories for access by employees are temporarily made inaccessible pending approval.

For the Department to resume D&I training, we must submit training materials to OPM for review and approval, even if the training has been used before. OPM has instructed that materials should be submitted in "one complete and all-inclusive submission." OASAM is in the process of collecting these materials for review and submission to OPM. Please assist OASAM in that effort.

Going forward and in accordance with the Executive Order, guidance from OMB and OPM, and the Secretary's Order, agency heads must review and approve in advance any expenditure on Federal employee D&I training (via contract or SF-182), and shall do so only after certifying that the curriculum meets the standard of fair and equal treatment of individuals. OFCCP's recently issued FAQs on contractor compliance with EO 13950¹ may be instructive to agency heads as to the material that does or does not meet that standard. Pursuant to the Secretary's Order, the Deputy Solicitor in his capacity as E.O. 13950 Compliance Official, and with the assistance of OASAM, must also approve and certify agency D&I training.

Finally, pursuant to OMB's Memorandum M-20-37, agency heads must take all appropriate actions to align their public-facing information with the requirements for training federal employees outlined in E.O. 13950. "Public-facing information" primarily means the agency's webpages, but is not limited to those. Agencies should pay special attention to their materials related to recruitment, employment, and diversity to ensure that they maintain our fundamental values of fair and equal treatment of employees; fostering a workplace that is respectful of all employees; encouraging employees not to judge each other on the basis of characteristics protected under federal law; and not promoting the divisive concepts defined in section 2(a) of E.O. 13950.

Should you have any questions relating to employee training or this memorandum, please contact [OASAM???]. Questions may be elevated as necessary and appropriate to the Assistant Secretary for Administration and Management; the Deputy Solicitor of Labor; the Deputy Secretary of Labor; or, under the Deputy Secretary of Labor's direction, the Office of Personnel Management. Additional guidance to agency heads will issue as needed.

Finally, if an agency provides external, publicly directed training or similar programs that include or refer to the topics identified in the Executive Order and OMB guidance, the agency must contact the Deputy Solicitor before conducting any such programs.

¹ See OFCCP, Frequently Asked Questions, Executive Order 13950 — Combating Race and Sex Stereotyping, [dol.gov/agencies/ofccp/faqs/executive-order-13950](https://www.dol.gov/agencies/ofccp/faqs/executive-order-13950).

*Deliberative Draft
Not to be Disseminated*

Secretary's Order Re: Implementation of Executive Order 13950

1. **Purpose.** To ensure that the Department of Labor (Department), its employees while on duty status, and its contractors do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in section 2(a) of Executive Order 13950, *Combating Race and Sex Stereotyping*.
2. **Authorities.** This Order is established pursuant to the following authorities.
 - A. 5 U.S.C. § 301
 - B. 5 U.S.C. § 302
 - C. 5 U.S.C. § 4103
 - D. 29 U.S.C. § 551 *et seq.*
 - E. Executive Order 13950, 85 Fed. Reg. 60685 (Sept. 28, 2020)
3. **Background.** On September 22, 2020, President Trump signed Executive Order 13950. The Executive Order seeks to promote economy and efficiency in Federal contracting; to promote unity, efficiency, and Merit System Principles in the Federal workforce; to ensure the fair and equal treatment of individuals; and to combat offensive and anti-American race and sex stereotyping and scapegoating. On September 28, 2020, the Director of the Office of Management and Budget (OMB) issued memorandum M-20-37 containing additional instruction related to the Executive Order. This directive effectuates the Executive Order and OMB's memorandum within the Department.

Executive Order 13950 emphasizes the importance of the Federal Government's Merit System Principles, which call for all employees to "receive fair and equitable treatment in all aspects of personnel management without regard to" race or sex "and with proper regard for their ... constitutional rights." 5 U.S.C. § 2301. The Department of Labor remains fully and deeply committed to those principles. Consistent with its responsibility to promote the working conditions of the American workforce, the Department seeks to ensure that its own employees are valued, respected, and protected from discrimination, no matter how discrimination may be labeled and sold.

The Executive Order contains several requirements that the Department, through this Order, is incorporating into its operations. These requirements include the following:

- That employee training relating to diversity and inclusion, before being used, be reviewed by the Office of Personnel Management for compliance with section 6 of Executive Order 13950;
- That Department diversity-and-inclusion efforts first and foremost encourage employees not to judge each other by any characteristic protected by Federal law;
- That Department contracts for diversity training include a provision requiring compliance with Executive Order 13950;
- That Department workplace trainings, workshops, forums, and similar programming emphasize the value of every individual and not contain the divisive concepts defined in section 2(a) of Executive Order 13950;

*Deliberative Draft
Not to be Disseminated*

- That the Department review its grant programs and submit a report to the Office of Management and Budget identifying which programs may include conditions requiring that Federal funds not be used to promote those divisive concepts; and
- That the Department prepare a report to the Office of Management and Budget its fiscal year 2020 spending on employee training programs relating to diversity or inclusion.

4. **Responsibilities.**

- A. **Deputy Secretary.** The Deputy Secretary is delegated authority to oversee implementation of Executive Order 13950's requirements.
- B. **Compliance Official.** Ensuring compliance with this Order, Executive Order 13950, and OMB Memo M-20-37's training-review requirement is the responsibility of the senior appointed official so designated under section 6(c)(iii) of Executive Order 13950 (the Compliance Official).
- C. **The Assistant Secretary for Administration and Management.** The Assistant Secretary of Administration and Management, in consultation with the Compliance Official, shall ensure the Department's compliance with sections 4, 5, and 7(c) of Executive Order 13950.
- D. **Agency Heads.** Agency heads shall, in compliance with further instructions provided by the Deputy Secretary or the Compliance Official:
1. Promptly review their training materials to ensure that they do not teach divisive concepts, and that training materials related to diversity and inclusion undergo the required review by the Office of Personnel Management before they are used;
 2. Take, on an ongoing basis, any action as may be necessary to ensure, to the greatest extent practicable and permitted by law, that the Department's trainings comply with Executive Order 13950;
 3. Consult as needed, under the direction of the Deputy Secretary, the Office of Personnel Management in carrying out these objectives, pursuant to 5 U.S.C. § 4116; and
 4. Take all appropriate actions to align their public-facing information with the requirements for training Federal employees outlined in Executive Order 13950, pursuant to OMB Memorandum M-20-37.
- E. **DOL Employees.** Employees are encouraged to report noncompliance with this Order or Executive Order 13950 to the inspector general.
- F. **Solicitor of Labor.** The Solicitor of Labor is responsible for providing legal advice to DOL on all matters arising from the implementation and administration of this Order.

Deliberative Draft
Not to be Disseminated

5. **Administrative Matters.** The requirements of this Order are intended to be general in nature, and accordingly shall be construed and implemented consistent with more specific requirements of any statute, Executive Order, or other legal authority governing the Department, its agencies, or particular administrative areas. In the event of a conflict, the specific statute, Executive Order, or other legal authority shall govern.
6. **Re-delegation of Authority.** Except as otherwise provided by law, all of the authorities delegated in this Order may be re-delegated to serve the purposes of this Order.
7. **Effective Date.** This Order is effective immediately.



U.S. Department of Justice

Justice Management Division

OCT - 8 2020

Washington, D.C. 20530

MEMORANDUM TO EXECUTIVE OFFICERS OF DOJ COMPONENTS

From: Lee J. Lofthus
Assistant Attorney General
for Administration

Subject: Interim Guidance on Diversity and Inclusion Training

Last month, the Administration issued the following guidance documents related to training: Office of Management and Budget (OMB) Memorandum M-20-34, *Training in the Federal Government* (Sept. 4, 2020); Executive Order 13950 *Combating Race and Sex Stereotyping* (Sept. 22, 2020); and OMB Memorandum M-20-37, *Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All* (Sept. 28, 2020). In addition, the U.S. Office of Personnel Management (OPM) on October 2, 2020, issued a memorandum to all Executive Departments and Agencies, "Mandatory Review of Employee Training under E.O. 13950."

The Department is working to develop and issue guidance to DOJ Components that addresses the various directives set forth in these documents. To ensure compliance with requirements specific to Diversity and Inclusion (D&I) training for employees, DOJ Components are instructed to suspend all D&I related training, programs, activities, and events that employees are required or permitted to attend while on Government-paid time.

Pending approval of D&I training materials by OPM, all requirements for employees to complete D&I training, including the Department's annual mandatory D&I training for managers and supervisors, are suspended. DOJ Components that use LearnDOJ or any other Learning Management System should remove D&I related mandatory training requirements that have been assigned to employees as part of their learning work plans. Similarly, DOJ Components that store D&I training materials in shared directories for access by employees should remove them pending approval.

In order for the Department to resume D&I training, we must submit training materials to OPM for review and approval, even if the training has been used before. Going forward, a DOJ senior political appointee or appointees will be identified to review and approve in advance any expenditure on Federal employee D&I training (via contract or SF-182) based on the Executive Order and guidance from OMB and OPM. A number of process questions have been raised with OPM for which the Department and other agencies, are awaiting answers. Upon receiving answers to these questions, the Justice Management Division (JMD) will provide additional guidance outlining the process for DOJ Components to submit training materials for review and

approval. In the meantime, DOJ Components may begin taking steps to conform training materials to the new requirements prior to submission for approval.

Should you have any questions relating to employee training, please contact Richard Toscano, Director, JMD Equal Employment Opportunity Staff, or Shawn Flinn, Director, JMD Human Resources, via email at richard.toscano@usdoj.gov and shawn.flinn@usdoj.gov, respectively.

Finally, if a component provides externally (publicly) directed training or similar programs that include or refer to the topics identified in the Executive Order and OMB guidance, the component must contact Monty Wilkinson, Deputy Assistant Attorney General, at Monty.Wilkinson@usdoj.gov, before conducting any such programs.

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/22/2020 6:40:44 PM
To: Barbara Kelly [(b) 6]
CC: Co-Chair David Fortney [(b) 6]; David Cohen [(b) 6]; Mickey Silberman [(b) 6]; Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aadb6b7613f2f9041f3-Gean, Lisse]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]
Subject: OFCCP/IWE Forum Regarding EO 13950

Barbara,

Thanks to you and IWE for hosting a very interactive session today. I was really pleased to join and appreciated the invitation. I'm happy to do more of them in the future if you'd like.

As mentioned today, I wanted to share Secretary Scalia's recent remarks where he addressed EO 13950. The remarks are well worth reading and very instructive in understanding the approach of DOL/OFCCP to enforcement of EO 13950. OFCCP is acting in accordance with these remarks.

The last paragraph of the relevant text (copied below) also specifically and constructively addresses a number of the questions I received today, emphasizing the importance of affirmative action and workplace training that is consistent with equal employment opportunity principles, including the nondiscrimination obligation. I was hoping that you could provide this email to all the participants in the forum today so they see that such EEO efforts should continue, and in the case of affirmative action, such efforts must continue for federal contractors.

Here is the relevant text:

President Trump signed an Order last month that bars race and sex stereotyping and scapegoating in training programs at federal workplaces and of federal contractors. By this we mean workplace training programs that attribute particular traits or status to someone because of his or her race or sex, as well as training programs that assign blame or bias to someone just because, again, of that person's race or sex. The Order makes clear that ascribing racist or sexist intentions to a worker just because of his race or sex is not only hurtful but a violation of law, which requires—in the case of federal employees, for example—that all “receive fair and equitable treatment in all aspects of personnel management without regard to’ race or sex.”

Under the President's Order, the Department of Labor's Office of Federal Contract Compliance Programs will implement the requirement that federal contractors not engage in race or sex stereotyping or scapegoating. We've already set up a hotline to receive complaints from concerned employees, and we'll soon be issuing a public request for information to learn more about the types of training and workshops provided to employees of federal contractors.

I should be clear about what the President's new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President's Order does not prohibit trainings about pre-

conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that’s not intended. What the Order does prohibit, though, is instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.

Here is the link:

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Thanks again and have a nice evening,
Craig

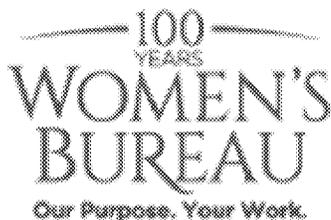
Craig E. Leen
Director, Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-(b) 6 (Phone)
(202) 693-1304 (Fax)



From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/23/2020 11:48:07 AM
To: Smith, Ja'Ron K. EOP/WHO [Ja'Ron.K.Smith@who.eop.gov]
CC: Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]
Subject: FW: OFCCP/IWE Forum Regarding EO 13950

Hi Ja'Ron. I've been doing a lot of outreach events. They've been going well. I wanted to share this very positive feedback with you. Best, Craig

Craig E. Leen
OFCCP Director



From: Barbara Kelly <(b) 6 >
Sent: Thursday, October 22, 2020 10:27 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Co-Chair David Fortney <(b) 6 >; David Cohen <(b) 6 >; Mickey Silberman <(b) 6 >; Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6 @dol.gov>; Gean, Lissette - OFCCP <(b) 6 @dol.gov>; Williams, Tina T - OFCCP <(b) 6 @dol.gov>; H. Juanita Beecher <(b) 6 >; Laura Mitchell <(b) 6 >; Jerilyn Kinderdine <(b) 6 >
Subject: RE: OFCCP/IWE Forum Regarding EO 13950

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Sincerely,

Barbara

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>

Sent: Thursday, October 22, 2020 4:41 PM

To: Barbara Kelly <(b) 6>

Cc: Co-Chair David Fortney <(b) 6>; David Cohen <(b) 6>; Mickey Silberman <(b) 6>; Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>; Gean, Lissette - OFCCP <(b) 6@dol.gov>; Williams, Tina T - OFCCP <(b) 6@dol.gov>

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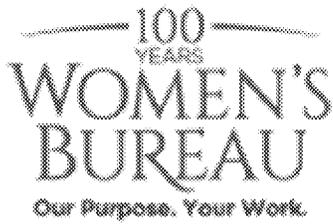
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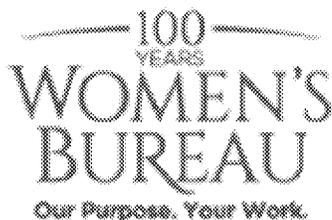
From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/23/2020 11:50:57 AM
To: Barbara Kelly [(b) 6]
CC: Co-Chair David Fortney [(b) 6]; David Cohen [(b) 6]; Mickey Silberman [(b) 6]; Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aad6b7613f2f9041f3-Gean, Lisse]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]; H. Juanita Beecher [(b) 6]; Laura Mitchell [(b) 6]; Jerilyn Kinderdine [(b) 6]
Subject: RE: OFCCP/IWE Forum Regarding EO 13950

Barbara,

Thank you for your very kind words. They mean a lot to me, as my goal is to be as accessible and engaged as possible. I'm happy to do more of these events as well. Thanks to you and IWE for giving me this great opportunity to speak with so many stakeholders.

Best,
Craig

Craig E. Leen
OFCCP Director



From: Barbara Kelly [(b) 6]
Sent: Thursday, October 22, 2020 10:27 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Co-Chair David Fortney <[(b) 6]>; David Cohen <[(b) 6]>; Mickey Silberman <[(b) 6]>; Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <[(b) 6@dol.gov>; Gean, Lissette - OFCCP <[(b) 6@dol.gov>; Williams, Tina T - OFCCP <[(b) 6@dol.gov>; H. Juanita Beecher <[(b) 6@fortneyscott.com>; Laura Mitchell <[(b) 6]>; Jerilyn Kinderdine [(b) 6]n>
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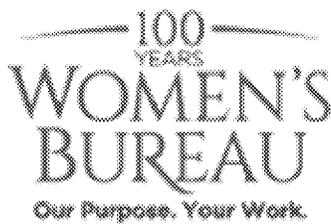
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Craig E. Leen
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(202) 693-(b) 6 Phone
(202) 693-1304 (Fax)



From: Gaglione, Robert J - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1488B4650B734927906FED5870AB9642-GAGLIONE, R]
Sent: 10/23/2020 1:42:49 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aadb6b7613f2f9041f3-Gean, Lisse]
Subject: FW: Message from Director Leen to Town Hall Attendees - OFCCP/IWE Forum Regarding EO 13950

FYI. Bob

From: Barbara Kelly <Barbara.Kelly@theinstitute4workplaceequality.org>
Sent: Friday, October 23, 2020 1:28 PM
To: Barbara Kelly <Barbara.Kelly@theinstitute4workplaceequality.org>
Cc: Craig Albright <craig@bsa.org>; Ani Huang <ahuang@excomp.org>; Freedman, Marc <mfreedman@uschamber.com>; Gspencer <Gspencer@uschamber.com>; Tim Bartl <tbartl@hrpolicy.org>; mwilson <mwilson@hrpolicy.org>; Matt Nusbaum <MNusbaum@biddle.com>; David Cohen <dcohen@dciconsult.com>; Co-Chair David Fortney <dfortney@fortneyscott.com>; Co-Chair Mickey Silberman <msilberman@silbermanlawpc.com>; H. Juanita Beecher <nbeecher@fortneyscott.com>; Jerilyn Kinderdine <jkinderdine@dciconsult.com>; Laura Mitchell <Laura.Mitchell@jacksonlewis.com>; Rachel Martin <rachel.martin@theinstitute4workplaceequality.org>
Subject: Message from Director Leen to Town Hall Attendees - OFCCP/IWE Forum Regarding EO 13950

Dear Town Hall Attendees:

Thank you for joining us at our virtual town hall yesterday, we hope you enjoyed hearing from Director Leen and our trade association partners.

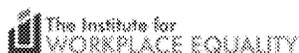
Director Leen has asked that we share the following email which includes Secretary Scalia's recent remarks addressing EO 13950.

All questions submitted through Zoom will be shared with your member association representatives, they will not include any identifying information. If you have additional questions you would like to submit please feel free to send them our way or to any of your association leaders.

Please let us know if you have any feedback for us. We look forward to having you attend future events.

Sincerely,

Barbara L. Kelly, Director
The Institute for Workplace Equality
1920 I Street NW
Washington, DC 20006
(303) 304-7200; (202) 293-2220 D.C. office
[E-mail](#) | [Website](#)



From: Leen, Craig - OFCCP

Sent: Thursday, October 22, 2020 4:41 PM

To: Barbara Kelly <Barbara.Kelly@theinstitute4workplaceequality.org>

Cc: Co-Chair David Fortney; David Cohen; Mickey Silberman; Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP; Gean, Lissette - OFCCP; Williams, Tina T - OFCCP

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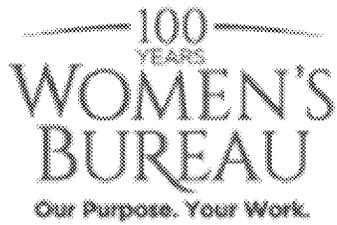
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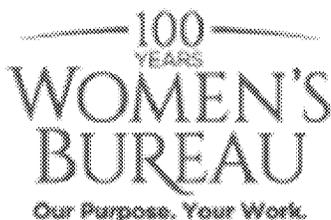
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Sent: 10/23/2020 11:45:29 AM
To: Pizzella, Patrick - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=020a6a73fa4b4dc696cec40e29784dbe-Pizzella, P]; OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]
Subject: FW: OFCCP/IWE Forum Regarding EO 13950

Just an FYI.

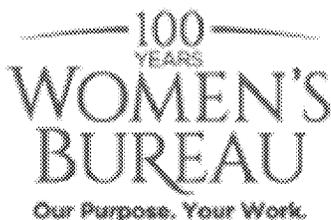
Craig E. Leen
OFCCP Director



From: Leen, Craig - OFCCP
Sent: Friday, October 23, 2020 11:45 AM
To: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@dol.gov>; Holland, Eric W - OPA <Holland.Eric.W@dol.gov>
Subject: FW: OFCCP/IWE Forum Regarding EO 13950

I wanted to share this positive feedback with you. Our outreach events are going very well.

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OFCCP Director



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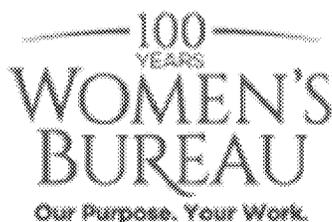
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Craig

Craig E. Leen
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U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-(b) 6 Phone
(202) 693-1304 (Fax)



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Sent: 10/23/2020 11:46:39 AM
To: Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
Subject: FW: OFCCP/IWE Forum Regarding EO 13950

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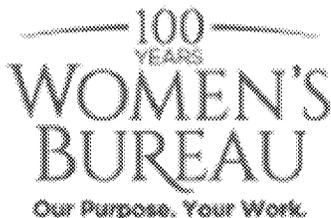
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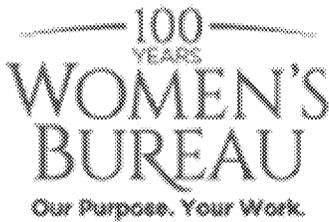
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Sent: 10/23/2020 11:52:31 AM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
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Chief of Staff
Office of the Secretary
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Sent: 10/23/2020 11:52:58 AM
To: Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
Subject: RE: OFCCP/IWE Forum Regarding EO 13950

My pleasure.

From: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Sent: Friday, October 23, 2020 11:53 AM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Subject: Re: OFCCP/IWE Forum Regarding EO 13950

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Rachel E. Mondl
Chief of Staff
Office of the Secretary
United States Department of Labor
(202) 693-6085

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Subject: RE: OFCCP/IWE Forum Regarding EO 13950

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From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Friday, October 23, 2020 11:52 AM
To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Subject: RE: OFCCP/IWE Forum Regarding EO 13950

Thanks! I do believe they are. The outreach and engagement has helped a lot.

Craig E. Leen
OFCCP Director



From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Sent: Friday, October 23, 2020 11:48 AM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Subject: RE: OFCCP/IWE Forum Regarding EO 13950

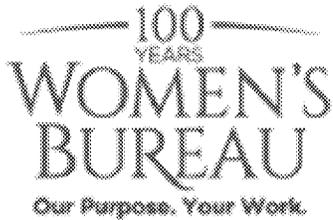
Booyah! (and way to plug the Secretary's speech again!)

Do you think the contracting community is starting to understand?

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To: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
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Sent: Thursday, October 22, 2020 4:41 PM
To: Barbara Kelly <(b) 6>
Cc: Co-Chair David Fortney <(b) 6>; David Cohen <(b) 6>; Mickey Silberman <(b) 6>; Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>; Gean, Lissette - OFCCP <(b) 6@dol.gov>; Williams, Tina T - OFCCP <(b) 6@dol.gov>
Subject: OFCCP/IWE Forum Regarding EO 13950

Barbara,

Thanks to you and IWE for hosting a very interactive session today. I was really pleased to join and appreciated the invitation. I'm happy to do more of them in the future if you'd like.

As mentioned today, I wanted to share Secretary Scalia's recent remarks where he addressed EO 13950. The remarks are well worth reading and very instructive in understanding the approach of DOL/OFCCP to enforcement of EO 13950. OFCCP is acting in accordance with these remarks.

The last paragraph of the relevant text (copied below) also specifically and constructively addresses a number of the questions I received today, emphasizing the importance of affirmative action and workplace training that is consistent with equal employment opportunity principles, including the nondiscrimination obligation. I was hoping that you could provide this email to all the participants in the forum today so they see that such EEO efforts should continue, and in the case of affirmative action, such efforts must continue for federal contractors.

Here is the relevant text:

President Trump signed an Order last month that bars race and sex stereotyping and scapegoating in training programs at federal workplaces and of federal contractors. By this we mean workplace training programs that attribute particular traits or status to someone because of his or her race or sex, as well as training programs that assign blame or bias to someone just because, again, of that person's race or sex. The Order makes clear that ascribing racist or sexist intentions to a worker just because of his race or sex is not only hurtful but a violation of law, which requires—in the case of federal employees, for example—that all “receive fair and equitable treatment in all aspects of personnel management without regard to’ race or sex.”

Under the President's Order, the Department of Labor's Office of Federal Contract Compliance Programs will implement the requirement that federal contractors not engage in race or sex stereotyping or scapegoating. We've already set up a hotline to receive complaints from concerned employees, and we'll soon be issuing a public request for information to learn more about the types of training and workshops provided to employees of federal contractors.

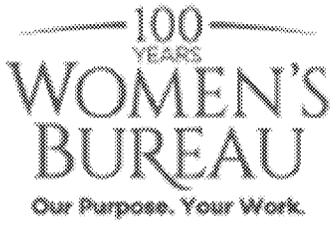
I should be clear about what the President's new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President's Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that's not intended. What the Order does prohibit, though, is instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.

Here is the link:

<https://www.dol.gov/sites/dolgov/files/OPA/Remarks-by-Secretary-Eugene-Scalia-on-Columbus-Day-and-Our-American-Heritage-at-Franciscan-University-of-Steubenville-20201012.pdf>

Thanks again and have a nice evening,
Craig

Craig E. Leen
Director, Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-6000 (Phone)
(202) 693-1304 (Fax)



From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 10/26/2020 12:57:04 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870a Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a Williams, T]; Seely, Christopher - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b2b2010aaf743ceb373a758390001a1-Seely, Chri]
CC: Tretheway, Andrea - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4bcdc1bd011a4f19a909b742d2b454dc-Tretheway,]
Subject: RE: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors
Attachments: 20270_ProvidingPersonalOpinion_Suggestion_forDiversityTrainingProgram_forFedAgencies_andContractors_IncomingDoc1023

Good day,

We are attaching a CTS incoming document from Aubrey Shines of the CCC Diversity Training **FYI only**. The response to the correspondence is assigned to OASAM. We received an informational copy.

Thanks,
Lissette

From: admin@cmp.dol.gov <admin@cmp.dol.gov>

Sent: Monday, October 26, 2020 10:42 AM

Subject: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors



This is an *"Information Only"* Notification from the **Correspondence Tracking System** indicating that an assignment was made to OASAM as the Action Agency.

Info Copy Notification

CTS # 20270: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors
Correspondence Type: General Correspondence
Action Agency: OASAM
Correspondence Due Date: 11/6/2020
ExecSec Clearance Required: Yes

Please review this Correspondence and determine if any action is required on your behalf.

The Correspondence will appear on the **Search** tab or you can access it directly through the hyperlink/url below:

Follow this link

Thank you,
DOL CMP Team

(b) 6 @dol.gov

*****This is a system generated message. Please do not reply to this email.*****



October 23, 2020

Hon. Eugene Scalia, Secretary of Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Scalia:

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We're also in the process of reaching out to high level Executive Offices and federal agencies including the White House, the Department of Education, and the Office of Management and Budget to discuss our method.

Please let us know if you can be available to meet. We will do our best to work around your schedule.

Sincerely,

Aubrey Shines, Founder & Chairman

CCC Diversity Training
A Project of Conservative Clergy of Color
One Highland Oaks
10150 Highland Manor Drive
Suite 200
Tampa FL 33610
www.ccdiversitytraining.com

From: [Executive Secretariat](#)
To: [Schweitzer, Sho - EXECSEC](#)
Cc: [Cassidy, Sybil - EXECSEC](#)
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia
Date: Friday, October 23, 2020 3:36:56 PM
Attachments: [CCC Diversity Training Department of Labor Letter 10.23.20.pdf](#)

From: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Sent: Friday, October 23, 2020 3:02 PM
To: Executive Secretariat <m-Executive.Secretaria@dol.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

From: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Sent: Friday, October 23, 2020 2:55 PM
To: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Cc: Stewart, J. Ross - OPA <stewart.j.ross@DOL.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

This came to me but likely is more controlled through ExecSec

From: William Hadden <[\(b\) 6](#)>
Sent: Friday, October 23, 2020 2:38 PM
To: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Cc: Reich, Egan - OPA <[\(b\) 6](#)>; Vaught, Grant E - OPA <[\(b\) 6](#)>
Subject: Letter from CCC Diversity Training to Hon. Eugene Scalia

Good afternoon, attached you will find a letter from Aubrey Shines, Chairman and Founder of CCC Diversity Training, to the Hon. Eugene Scalia on a new diversity training program his organization has developed. Thanks!

William Hadden
Shirley & McVicker Public Affairs

O: 703 <[\(b\) 6](#)>
C: 706 <[\(b\) 6](#)>

<[\(b\) 6](#)>



October 23, 2020

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United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

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From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 10/28/2020 9:32:02 AM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb15-Davidson, P]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]; Seely, Christopher - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b2b2010aaf743ceb373a7583900-Seely, Chri]; Tretheway, Andrea - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4bcdc1bd011a4f19a909b742d2b454dc-Tretheway,]
Subject: RE: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors
Attachments: 20270_ProvidingPersonalOpinion_Suggestion_forDiversityTrainingProgram_forFedAgencies_andContractors_IncomingDoc1023

Hi Craig,

The instructions for OFCCP on this CTS item changed from *FYI only* to: "OFCCP please consider coordinating with OASAM regarding meeting with organization. Letter is a dual control as an invitation to the Secretary - see CTS Invite # 20272."

I see that OSEC contacted you directly about the meeting. I had been in contact with OASAM to coordinate, but I'll hold off now that OSEC is working on this.

Thanks,
Lissette

From: Gean, Lissette - OFCCP
Sent: Monday, October 26, 2020 12:57 PM
To: Leen, Craig - OFCCP (Leen.Craig@dol.gov) <Leen.Craig@dol.gov>; Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>; Williams, Tina T - OFCCP <(b) 6@dol.gov>; Seely, Christopher - OFCCP <(b) 6@dol.gov>
Cc: Tretheway, Andrea - OFCCP <Tretheway.Andrea.L@dol.gov>
Subject: RE: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors

Good day,

We are attaching a CTS incoming document from Aubrey Shines of the CCC Diversity Training **FYI only**. The response to the correspondence is assigned to OASAM. We received an informational copy.

Thanks,
Lissette

From: admin@cmp.dol.gov <admin@cmp.dol.gov>
Sent: Monday, October 26, 2020 10:42 AM
Subject: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors

DOL002711



This is an *"Information Only"* Notification from the **Correspondence Tracking System** indicating that an assignment was made to OASAM as the Action Agency.

Info Copy Notification

CTS # 20270: Providing Personal Opinion / Suggestion for
Diversity Training Program for Federal Agencies and Contractors
Correspondence Type: General Correspondence
Action Agency: OASAM
Correspondence Due Date: 11/6/2020
ExecSec Clearance Required: Yes

Please review this Correspondence and determine if any action is required on your behalf.

The Correspondence will appear on the **Search** tab or you can access it directly through the hyperlink/url below:

[Follow this link](#)

Thank you,
DOL CMP Team
(b) 6 [\[redacted\]@dol.gov](mailto: [redacted]@dol.gov)

*****This is a system generated message. Please do not reply to this email.*****



October 23, 2020

Hon. Eugene Scalia, Secretary of Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Scalia:

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www.ccdiversitytraining.com

From: [Executive Secretariat](#)
To: [Schweitzer, Sho - EXECSEC](#)
Cc: [Cassidy, Sybil - EXECSEC](#)
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia
Date: Friday, October 23, 2020 3:36:56 PM
Attachments: [CCC Diversity Training Department of Labor Letter 10.23.20.pdf](#)

From: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Sent: Friday, October 23, 2020 3:02 PM
To: Executive Secretariat <[REDACTED]@dol.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

From: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Sent: Friday, October 23, 2020 2:55 PM
To: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Cc: Stewart, J. Ross - OPA <stewart.j.ross@DOL.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

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From: William Hadden <[REDACTED]>
Sent: Friday, October 23, 2020 2:38 PM
To: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Cc: Reich, Egan - OPA <[REDACTED]>; Vaught, Grant E - OPA <[REDACTED]>
Subject: Letter from CCC Diversity Training to Hon. Eugene Scalia

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William Hadden
Shirley & McVicker Public Affairs

O: 703.5
C: 706.5

[REDACTED]

[REDACTED]



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Sent: 10/28/2020 9:38:05 AM
To: Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aad6b7613f2f9041f3-Gean, Lisse]
CC: Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]; Seely, Christopher - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b2b2010aaf743ceb373a758390001a1-Seely, Chri]; Tretheway, Andrea - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4bcdd1bd011a4f19a909b742d2b454dc-Tretheway,]
Subject: Re: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors

Hi Lissette. As discussed with OSEC, once they put us in contact this afternoon, please set up a meeting for us with the organization. Please see if Tina and DPPD are familiar with the organization. Please invite OASAM if they'd like to attend. Thanks.

Sent from my iPhone

On Oct 28, 2020, at 9:32 AM, Gean, Lissette - OFCCP <(b) 6@dol.gov> wrote:

Hi Craig,

The instructions for OFCCP on this CTS item changed from *FYI only* to: "OFCCP please consider coordinating with OASAM regarding meeting with organization. Letter is a dual control as an invitation to the Secretary - see CTS Invite # 20272."

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Cc: Tretheway, Andrea - OFCCP <Tretheway.Andrea.L@dol.gov>
Subject: RE: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors

Good day,

We are attaching a CTS incoming document from Aubrey Shines of the CCC Diversity Training **FYI only**. The response to the correspondence is assigned to OASAM. We received an informational copy.

DOL002718

Thanks,
Lissette

From: admin@cmp.dol.gov <admin@cmp.dol.gov>

Sent: Monday, October 26, 2020 10:42 AM

Subject: [Info Copy Notification] CTS #20270: OASAM: Shines, Aubrey: Providing Personal Opinion / Suggestion for Diversity Training Program for Federal Agencies and Contractors



This is an *"Information Only"* Notification from the **Correspondence Tracking System** indicating that an assignment was made to OASAM as the Action Agency.

Info Copy Notification

CTS # 20270: Providing Personal Opinion / Suggestion for
Diversity Training Program for Federal Agencies and Contractors
Correspondence Type: General Correspondence
Action Agency: OASAM
Correspondence Due Date: 11/6/2020
ExecSec Clearance Required: Yes

Please review this Correspondence and determine if any action is required on your behalf.

The Correspondence will appear on the **Search** tab or you can access it directly through the hyperlink/url below:

[Follow this link](#)

Thank you,
DOL CMP Team

(b) 6 [@dol.gov](#)

*****This is a system generated message. Please do not reply to this email.*****

<20270_ProvidingPersonalOpinion_Suggestion_forDiversityTrainingProgram_forFedAgencies_andContractors_IncomingDoc10232020.pdf>

DOL002719

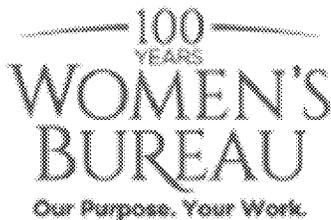
From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/26/2020 6:04:06 PM
To: Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]
CC: Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]
Subject: FW: EO 13950 Hotline/Inquiries Weekly Report
Attachments: Executive Order 13950 Summary Detail Report - 2020-26-10_Redacted.pdf

FYI, please see attached and below.

This is close hold. Please do not share beyond OSEC and SOL FO.

Thanks,
Craig

Craig E. Leen
OFCCP Director



From: Williams, Tina T - OFCCP <(b) 6@dol.gov>
Sent: Monday, October 26, 2020 5:29 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>
Subject: EO 13950 Hotline/Inquiries Weekly Report

Craig – here is the weekly report. Policy is attempting to get our Adobe software upgraded to properly redact, so in the interim certain information is just deleted.

Last week (10/19/2020 – 10/23/2020), OFCCP received a total of 34 inquiries;

- 21 named complaints
- 7 anonymous complaints
- 5 requesting compliance assistance
- 1 opposed

Examples of inquiries received this week:

- Complaint – employee required to take diversity and inclusion training that promotes white guilt.
- Complaint – employer continues to promote "Diversity Initiatives" that speak on topics of 'White Privilege', 'White Fragility', 'Black Excellence'.

- Complaint – employees required to take "Critical Race Theory" training; employer hosting large events that are pro-BLM
- Compliance Assistance – requesting information if Executive Order 13950 applies to just actual training of employees, or does it also apply to company sponsored discussions or discussion groups.
- Compliance Assistance – requesting guidance on submitting training materials through the RFI; should they expect that OFCCP will respond to them that their training is okay under the EO or if they need to make changes.

General Bullets of all unique inquiries received this far:

- OFCCP has received a total of 132 unique inquiries on the EO 13950 Hotline.
- Of these 132 inquiries, there are 109 complaints: 70 from named complainants and 39 from anonymous sources reporting information about organizations purported to be in violation of EO 13950.
- 18 of the inquiries are from individuals seeking compliance assistance.
- 5 of the inquiries are written to oppose EO 13950.

Tina Williams | Director

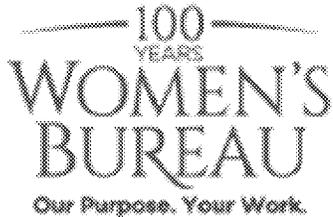
Division of Policy and Program Development

Office of Federal Contract Compliance Programs

200 Constitution Avenue, NW, Room C-3325 | Washington, DC 20210

Direct: 202- (b) 6 Fax: 202-693- 1305

Email (b) 6 @dol.gov



All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020

#	Date/Time Opened	Inquiry Category	Industry	Description
1	10/18/2020 8:51 PM	Named Complaints	Academic Institution	<p>I am a concerned [redacted] or [redacted], having read of the college's program called the Engaged Pluralism Initiative (EPI), which sounds very much like extended "diversity, inclusion and equity" rhetoric. It is a [redacted] funded by a grant from [redacted] and some [redacted] money.</p> <p>When on [redacted] myself last year, I asked a couple of [redacted]s what they could tell me about this program, but neither of them confessed to knowing much about or having participated. I do not know the details of this program, except what I see on the [redacted]s website and in occasional email bulletins about it. It seems very much in line with so much of the current indoctrination that we observe in institutions across the nation.</p> <p>https://engagedpluralism [redacted]</p> <p>My sense is that this program warrants investigation, although the verbiage may have recently cleaned up since EO 13950 was issued.</p> <p>[redacted]</p>
2	10/18/2020 8:54 PM	Named Complaints	Technology	<p>I was forced to take insulting training that called me a racist. That was earlier this year. So is [redacted] continuing with this insulting training after being told to stop? Well, it is indeed still available in the catalog of training classes.</p> <p>MS Word doc "Racist training.docx" attached and pasted into this email.</p> <p>Reference the other email I sent out earlier today.</p> <p>Below is a snapshot taken [redacted] on unconscious bias training after 9/22/20 executive order stopping this.</p> <p>It seems that [redacted] has not stopped the training as required by Presidential Executive Order and by a memo from the Director of the Office of Management and Budget (Sept. 28).</p> <p>[redacted] still offers the courses</p> <p>[redacted]</p> <p>[redacted]</p>
3	10/18/2020 8:56 PM	Named Complaints	Technology	<p>Labor Department,</p> <p>I am grateful that President Trump issued an executive order to halt defense contractors from forcing employees to be subjected to company training and indoctrination that tell us that we are racists.</p> <p>I have attached samples of what we were subjected to in an accompanying MS Word document, [redacted] "propaganda.docx."</p> <p>Here is a snippet that I object to strongly.</p> <p>I hope [redacted] has halted this objectionable political propaganda, as directed by President Trump's executive order.</p> <p>You might check to make sure they have halted use of the course, "Unconscious Bias in the Workplace."</p> <p>You might also investigate to see if this "training" material was prepared by people with connections to the [redacted] administration.</p> <p>Are former members of the [redacted] administration in executive positions in [redacted], promoting the Democratic Party agenda with corporate money?</p> <p>I will also mention that [redacted] has declared that it has donated signif</p>
4	10/18/2020 8:58 PM	Named Complaints	None	<p>To whom it concerns,</p> <p>I have been hearing reports of our government actually spending our tax dollars on an evil and pernicious ideology: critical race theory. This type of anti-patriot vitriol is NOT appropriate for any forum - including our public schools and our government. I reject any attempts to include this or similar doctrines into our society and certainly into our government.</p> <p>Sincerely,</p> <p>[redacted]</p>

**All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020**

#	Date/Time Opened	Inquiry Category	Industry	Description
5	10/18/2020 8:59 PM	Anonymous Complaints	Academic Institution	<p>Forgot to provide the link to the [redacted] president's announcement: https://www.[redacted]/news/587581</p> <p>Re these rules:</p> <p>1. The contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.</p>
6	10/18/2020 9:00 PM	Named Complaints	School District	<p>Hello,</p> <p>I am writing to inform you that just today, October 18th, 2020 [redacted] hired Dr. [redacted] to be the [redacted] "key note" speaker for a [redacted] "training" that was touting the [redacted], and attempting to explain how white privilege is to blame for the problems in [redacted]. He also said inflammatory things such as "this is not an [redacted]"</p> <p>Furthermore it offends me deeply that my state and federal taxes were used as the funds to pay for this speaker to come and insult the character of all [redacted] present who believe in the ethical treatment of all [redacted] and human beings for that matter, based solely on our will as a good people and not the color of our skin. I am appalled that my (the public's) money was used to insult our integrity and frankly try to force us to feel guilty for who we are when by nature we have given our lives to educate children. We should be teaching ab</p>
7	10/18/2020 9:02 PM	Anonymous Complaints	Retail Beverage	<p>https://www.[redacted]/articles/[redacted]-11602710707</p> <p>Sent from my T-Mobile 4G LTE Device</p>
8	10/18/2020 9:02 PM	Anonymous Complaints	Hospital	<p>I think [redacted] could qualify as a federal contractor, and they are advertising for a voluntary conference that involves potential CRT trainings. They have a website [redacted]. I'm not sure if they qualify due to taking Medicare. Also this training has already occurred for management within Kaiser</p> <p>Sent from Mail for [redacted]</p>
9	10/18/2020 9:03 PM	Named Complaints	School District	<p>Videos of the REQUIRED [redacted] that took place 10/19/20...</p> <p>Please help us, this is inappropriate and an illegal use of our tax dollars.</p> <p>----- Forwarded Message -----</p> <p>[redacted]</p> <p>Sent: Tuesday, October 13, 2020, 05:35:11 PM CDT Subject: [redacted]</p> <p>Sent via the [redacted] capable smartphone</p>
10	10/18/2020 9:05 PM	Anonymous Complaints	Financial Services	<p>This is my company's latest critical race theory communication. Its [redacted] It talks about [redacted] learning unconscious bias training. How can I send you the training? Its a series of videos whose content violates the executive order.</p> <p>Thank you</p> <p>From: From the Desk of [redacted] Sent: Tuesday, October 13, 2020 Subject: Committing to Inclusion and Diversity through Bold Goals</p> <p>Committing to Inclusion and Diversity through Bold Goals</p> <p>[redacted] strives to be the [redacted] that people -- all people -- most value and trust. As we have shared over the past few months, [redacted] is committed to supporting and promoting diversity, equality and equity, both within the [redacted] and in our communities. We want to be clear on the actions we are taking to work toward these aims.</p> <p>In addition to living our Core Values, operating our business ethically and treating employees with respect, we are focused on six bold goals to su</p>
11	10/18/2020 9:06 PM	Named Complaints	School District	<p>Earlier this week, the [redacted] in [redacted] had a day off for [redacted], these are some of the [redacted] were taught.</p> <p>In one of the classes, "The [redacted] was said to be a social institution that has artificially and historically constructed White Supremacy." This is ludicrous, and would be of great surprise to the [redacted] and the [redacted]. This also goes against the President's executive order banning critical race theory. Please investigate and put a stop to it.</p> <p>I am [redacted], I am opposed to racism, and agree we can do better in [redacted]. But this is anti-religious freedom. And quite frankly nonsense.</p>

**All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020**

#	Date/Time Opened	Inquiry Category	Industry	Description
12	10/18/2020 9:07 PM	Named Complaints	School District	<p>DOL,</p> <p>On October 15, 2020, the [REDACTED] unanimously voted to enter into a contract (http://[REDACTED]/f/goto?open&id=BU5J544ACD0E) to inculcate [REDACTED] in bias and racism training in clear violation of Executive Order 13950, issued 9.22.2020.</p> <p>I have attached the scope of work for the contract they [REDACTED] Below is their contact information. (https://[REDACTED]sp?ID2=1000200)</p> <p>[REDACTED]</p> <p>District Name: [REDACTED]</p> <p>[REDACTED]</p>
13	10/21/2020 1:17 PM	Compliance Assistance Request	None	My workplace is recently requiring Diversity & Inclusion training. Do I have the right to decline?
14	10/23/2020 1:17 PM	Named Complaints	Academic Institution	<p>Violation Of EO 13950 By The [REDACTED] Hello,</p> <p>I am writing to submit to the Office of Federal Contract Compliance Programs a formal complaint that the [REDACTED] is in violation of Executive Order 13950. The [REDACTED] receives student loans pursuant to federal [REDACTED] federal research grants.</p> <p>The [REDACTED] published multiple pieces of writing that engage in racial stereotyping and scapegoating. The [REDACTED] has promoted racial stereotyping and scapegoating in their Statement and Resources Regarding Racism and Systemic Oppression in Black Communities. At this URL, https://[REDACTED]-resources-regarding-racism-and-systemic-oppression-in-black-communities/, the official website promotes resources, and what the website describes as "ways to get involved," that openly advocate for</p>
15	10/23/2020 1:23 PM	Anonymous Complaints	Commercial Printing	<p>Executive Order Violations</p> <p>Dear Compliance Officer:</p> <p>[REDACTED] across the U.S. is a federal contractor that performs work for the [REDACTED] other federal agencies is in violation of the Executive Order that prohibits diversity and inclusion training that is rooted in the pernicious and false belief that America is an irredeemably racist and sexist country. Many employees have requested the CEO and executive leadership group to put an end to this training immediately. Our requests have been ignored, and the company has continued this training in knowing violation of the Executive Order.</p> <p>Please put a stop to this training and violation of our rights immediately.</p> <p>Sincerely, [REDACTED]</p>
16	10/23/2020 2:06 PM	Named Complaints	Academic Institution	<p>To Whom It May Concern,</p> <p>I would like to file a complaint with your office regarding a violation of Executive Order 13950. Please see the attached document "DIVERSITY, EQUITY, AND INCLUSION PLAN" by the [REDACTED]. I believe the goals in the document violate Executive Order 13950, because it contains language that constitutes race and sex stereotyping. In addition, the document also sets up race quotas for students, faculty, and staff. Please see the contact information of the institutional official below.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Thank you.</p> <p>[REDACTED]</p> <p>(Attachment)</p>

**All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020**

#	Date/Time Opened	Inquiry Category	Industry	Description
23	10/23/2020 2:48 PM	Anonymous Complaints	Packaged Software	<p>I WISH TO REMAIN ANONYMOUS OUT OF FEAR OF LOSING MY JOB DURING THE LOCKDOWNS!</p> <p>██████████ is a federal contractor working on some large and very important things for both the gov and the military. ██████████ is still holding huge meetings in the ██████████ organization to talk about "unconscious bias" and "privilege". As outlined in the following executive orders: presidential-actions/executive-order-combating-race-sex-stereotyping briefings-statements/president-trump-fighting-harmful-ideologies-cause-division-federal-workplaces</p> <p>These trainings fall into the category of "Critical Race Theory" and thus constitute a breach of federal contract if allowed to continue.</p> <p>Please at least issue a warning to the company's leadership about this, as they're the ones driving a lot of this by hosting large events that are pro-BLM, and allow all our important whole-org meetings to be coopted by people pushing ideologies that are overtly discriminatory and divisive based on both race and</p>
24				<p>Comments on 13950</p> <p>I have great respect for the OFCCP for promoting affirmative action since the 1960s but I'm saddened that your agency has been put in the position of implementing EO13950 which, in many ways, is the antithesis of EO11246. Strong diversity training programs are one way that contractors can implement affirmative action and EO13950 weakens these programs.</p> <p>Although I can write an entire essay, I want to focus on one point: the assertion that some people or groups are "inherently racist or sexist." None of the programs and books that I know of make this claim. Instead, they talk about the differential power of various groups. In our society, whites are the dominant group relative to people of color. That doesn't mean that whites are inherently racist but it does mean that they, as a group, have more power. So whites, as a group, benefit from this racial hierarchy. The solution is to equalize systems of power.</p>
	10/23/2020 2:50 PM	Opposes EO 13950	None	<p>EO13950 distorts this and other points, probably intention</p>
25				<p>Good afternoon, Does Executive Order 13950 apply to just actual training of employees, or does it also apply to company sponsored discussions or discussion groups?</p> <p>My company is a federal contractor. I am part of a volunteer group set up by management to discuss Diversity, Inclusion, and Equity. We are paid by the company for the time we use in group discussions. Some of the materials sent to our group to review and serve as "discussion starters" seem very divisive. This is in preparation for our next meeting on Friday, 10/23/2020.</p> <p>This is the web address of the referenced material for discussion: https://www.██████████.ure-characteristics.html</p> <p>I referred the HR representative to Executive Order 13950, "Executive Order Combating Race and Sex Stereotyping,". His response was this: "In regards to the EO, this is not a training, but an optional and volunteer-based engagement activity. In addition, the Department of Labor has given guidance t</p>
	10/23/2020 3:21 PM	Compliance Assistance Request	Geospatial Data	<p>"In regards to the EO, this is not a training, but an optional and volunteer-based engagement activity. In addition, the Department of Labor has given guidance t</p>
26				<p>Is the required posting available for EO 13950? I don't see it on the OFCCP website?</p> <p>██████████ ██████████ ██████████ ██████████ ██████████ ██████████</p>
	10/23/2020 3:25 PM	Compliance Assistance Request	Information Technology Services	<p>██████████ small business.</p>
27	10/23/2020 3:27 PM	Named Complaints	Performing Arts	<p>Discriminatory Training at ██████████ (Org)</p> <p>Hello,</p> <p>I work at ██████████ and was compelled by my manager and colleagues (who were also compelled to pressure others to join) in emails to sign up for a ██████████ by what was previously our marketing consultant agency ██████████</p> <p>This workshop is a thinly veiled one-way conversation on the necessity organizational institution of enforcing ideas promoted by Critical Race Theory and is, I believe, in violation of the recent Executive Order on Combating Race and Sex Stereotyping. I hope someone will review our grants from the National Endowment for the Arts as well as any continuing federal aid we may be receiving.</p> <p>The first obvious mention of this is here: ██████████ in the video, linked directly) and it continues here: https://www.██████████</p> <p>and has persisted through the first of this two-day training session.</p> <p>This is racist, un-Americ</p>

All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020

#	Date/Time Opened	Inquiry Category	Industry	Description
28	10/23/2020 3:29 PM	Named Complaints	Healthcare	<p>COMBAT RACE AND SEX STEREOTYPING BY FEDERAL CONTRACTORS</p> <p>I'm writing to inform you about something [REDACTED] is doing in relation to the topic. I hope you can bring light to this subject as this is un-american and indites all white american's. They are setting up conference call to discuss race and our white privilege. Of course it optional, but if you don't attend we all know it will be held against you and they will terminate you for this reason of some other down the road.</p> <p>[REDACTED] supplies items the federal government and wonder if this could be a way to prevent this ridiculous topic being shoved onto every bodies. Please don't disclose my email or other information as I don't want to lose my job.</p> <p>Here are a few of the links sent out to us for looking over and then discussing.</p> <p>https://www.[REDACTED].are&app=desktop</p> <p>https://gr[REDACTED].SA/m[REDACTED]</p>
29	10/23/2020 3:35 PM	Named Complaints	School District	<p>Critical Race Theory and Social Justice Curriculum in [REDACTED]</p> <p>Good Morning,</p> <p>My name is [REDACTED] I spoke last night during the citizens comments about my concerns with the new curriculum. It was disheartening to see that after I left the meeting, my concerns and the concerns of many other [REDACTED]s were largely dismissed by the board. The reason I came to the [REDACTED] because not only are you the ones responsible for the hiring of all administrative personnel from [REDACTED], but when I raised my concerns with the [REDACTED] at [REDACTED] School I was told that there wasn't anything she could do and then she proceeded to defend the curriculum in question. I have since requested a meeting with [REDACTED] who I believe are the curriculum writers for the [REDACTED] but was only sent an email 3 minutes prior to the time when [REDACTED] said she could call. This is unacceptable. The sheer fact that [REDACTED]</p>
30	10/23/2020 3:38 PM	Named Complaints	Defense Technology	<p>Good Afternoon,</p> <p>While in this instance, it is not mandatory, I believe that some of the courses are mandatory for upper leadership. While I can see where some members are coming from with wanting this to be a standard, it is fairly damaging to "getting the mission accomplished". Please, if you have any questions, feel free to reach out to me.</p> <p>r/s, [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Greetings Everyone,</p> <p>I have two opportunities coming up for in-person learning (practice social distancing & mask wear) over the next few weeks for the Human Resources Advisor [REDACTED]</p>
31	10/23/2020 4:12 PM	Named Complaints	Construction	<p>To whom it may concern,</p> <p>I am concerned that my company, [REDACTED] is promoting mandatory race training that is harmful and counterproductive to race relations in the United States. I believe this mandatory training, which occurs monthly, is in violation of Executive Order 13958.</p> <p>I've attached a sample of one of trainings as an example of the rhetoric used. Upon request I can supply the full training(s) to provide further context. I believe this training promotes divisiveness and that the United States is fundamentally racist and sexist.</p> <p>I look forward to hearing back as to any next steps or educational material that may help in this endeavor.</p> <p>Thank You, [REDACTED]</p> <p>(Attachment)</p>

All Inquiries for Executive Order 13950
Weekly Report
October 26, 2020

#	Date/Time Opened	Inquiry Category	Industry	Description
32	10/23/2020 4:15 PM	Named Complaints	Defense Technology	<p>The [redacted] group, a company [redacted] group, often sends out and posts training to show how inferior certain races are and to show validity to the employees on their self described Myths as it relates to race superiority and inferiority.</p> <p>Today's email invites employees to call in to be told about The model Minority Myth, among other topics now banned by such a Federal Contractor as [redacted]</p> <p>Just the headline from the official corporate email Please join Professional [redacted] and [redacted] to [redacted] for their next [redacted] Up session. This month's session focused on the Model Minority Myth, [redacted] and [redacted] welcome anyone to join and share stories, learn from others, and brainstorm actions to address the impacts of this myth.</p> <p>For more relevant information WHEN Thursday, [redacted], ET 9:10 am PT</p> <p>WHO Everyone is Welcome [redacted] Employees, Leaders WHERE Virtual via Zoom Join Meeting</p> <p>Link rema</p>
33	10/23/2020 4:19 PM	Compliance Assistance Request	None	<p>I understand that up until recently the federal govt was requiring all contractors of federal contracts to bring in an employee and lecture to the employees how the white race was all racists. I find such horrible discrimination to be offensive, obscene and completely out of order.</p> <p>I understand that that regulation has now been changed. th edamage done to the white race from that federal regulation put into action unde [redacted] is offensive to all and has only recently come into public view. It has totally damaged relations between the races and payments should be made to employees who were hurt by this out of order bullying discriminatory action by the federal govt, particularly [redacted] the public had no idea this was taking place as it was very secretive. damages need to be paid to employees who were hurt from this totally racist action by the federal govt and it certainly needs to be stopped and banned forever. I find such actions obscene to the maximum. this comment is for [redacted]</p>
34	10/23/2020 4:47 PM	Compliance Assistance Request	Law Firm	<p>Ms. [redacted], she was a part the audience with [redacted]. This a question to be passed on per [redacted] who has directed all question from his meeting this morning are to be given to [redacted]. If a contractor submit training materials through the RFI should they expect that OFCCP will respond to them that their training is okay under the EO or if they need to make changes [redacted] trying to understand, that if the information that is submitted will there be a confirmation whether or not that they are in compliance. Or if OFCCP will confirm that their training materials are not okay will OFCCP. What to expect... [redacted] address is [redacted]</p> <p>Thank you. [redacted]</p>

From: Swearingen, Brett A - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=446467C1ACD144B4BDDD78130ECD530D-SWEARINGEN,]
Sent: 10/26/2020 5:55:18 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]
Subject: Diversity Training letter
Attachments: Pages from Reading File_10.26.2020.pdf

Craig, are you familiar with this group that sent the Secretary the attached letter Friday offering its services?



October 23, 2020

CTS: 20270 Letter
CTS: 20272 Invite

Hon. Eugene Scalia, Secretary of Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Scalia:

Our organization read with great interest President Trump's September 4 memorandum and his September 22 Executive Order regarding the use of human resources training aligned with the principles of Critical Race Theory by federal agencies and federal contractors respectively. We believe the President was right to take these actions.

The goal of our organization and the Department of Labor is to ensure that America's government runs efficiently and its economy continues to grow harnessing the depth of the diversity our workforce provides. CCC Diversity Trainings seeks to encourage federal agencies and contractors of all sizes to continue to provide valuable diversity training to employees and managers.

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Please let us know if you can be available to meet. We will do our best to work around your schedule.

Sincerely,

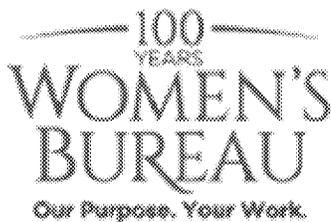
Aubrey Shines, Founder & Chairman

CCC Diversity Training
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One Highland Oaks
10150 Highland Manor Drive
Suite 200
Tampa FL 33610
www.ccdiversitytraining.com

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/26/2020 6:28:12 PM
To: Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]
CC: Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]
Subject: RE: Diversity Training letter

I have a longstanding open door policy regarding meeting with stakeholder groups (which OLC/Ethics strongly supports as it ensures there is no favoritism). They didn't ask to meet with me though, so I'm fine waiting if you prefer. I am also available to meet with them if you'd like.

Craig E. Leen
OFCCP Director



From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Sent: Monday, October 26, 2020 6:20 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>
Subject: RE: Diversity Training letter

They look like they may be a brand new group, but consistent with our approach to D&I training. Here's their website:

<https://gettingtoalllivesmatter.com>

Andrew, not sure if you have any concerns with Craig meeting with them. Their letter says they're also reaching out to the White House, Education, and OMB.

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Monday, October 26, 2020 6:00 PM
To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Cc: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>
Subject: RE: Diversity Training letter

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Craig E. Leen
OFCCP Director



From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>

Sent: Monday, October 26, 2020 5:55 PM

To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>

Cc: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>

Subject: Diversity Training letter

Craig, are you familiar with this group that sent the Secretary the attached letter Friday offering its services?

From: Kilberg, Andrew G - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=285BFB7C58734E858F9CBD77C1BCF3C7-KILBERG, AN]
Sent: 10/27/2020 7:11:33 AM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]
Subject: RE: Diversity Training letter

I think it's fine to meet with them as a stakeholder, but probably makes sense to wait until ExecSec assigns the response to OFCCP. Also, beware that the tone of the letter suggests they may try to sell their services, which of course is not OFCCP's role (except, perhaps, as a purchaser of services for its own personnel).

Andrew G. I. Kilberg
Counselor to the Secretary
U.S. Department of Labor
202. (b) 6

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Sent: Monday, October 26, 2020 6:28 PM
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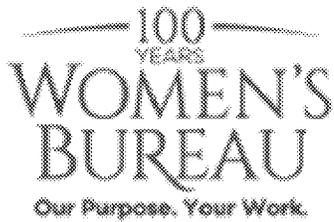
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From: Couch, Stephanie M - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D424F9CF8D66450CB5DE4C4674F3EF0B-COUCH, STEP]
Sent: 10/27/2020 11:21:58 AM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Sumbrum, Abbie C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3680d90cf7d94f78a05c05b2047b466f-Sumbrum, Ab]
Subject: OFCCP Invitation Review: October 27
Attachments: Invitations Cover Sheet for ID 20272 Conservative Clergy.docx; 20272_ExecSec_Incoming Document - Conservative Clergy.pdf

Good morning Craig,

Please see the attached invitation for review. Please give me a call once you've had a moment to review and we will discuss further.

Thank you,



Stephanie Couch | Assistant Scheduler
Office of the Secretary | U.S. Department of Labor
Desk: 202- (b) 6 | Cell: 202- (b) 6
couch.stephanie.m@dol.gov



October 23, 2020

Hon. Eugene Scalia, Secretary of Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Scalia:

Our organization read with great interest President Trump's September 4 memorandum and his September 22 Executive Order regarding the use of human resources training aligned with the principles of Critical Race Theory by federal agencies and federal contractors respectively. We believe the President was right to take these actions.

The goal of our organization and the Department of Labor is to ensure that America's government runs efficiently and its economy continues to grow harnessing the depth of the diversity our workforce provides. CCC Diversity Trainings seeks to encourage federal agencies and contractors of all sizes to continue to provide valuable diversity training to employees and managers.

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Getting to All Lives Matter is a scalable, one-day training program for companies that consists of six modules based on the idea that human beings are inherently good. Our program helps trainees see the value in every member of their team and avoid dangerous behaviors like making broad negative assumptions based on race, political views, religion or other characteristics.

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America's workers are made up of many ethnic and philosophical backgrounds. Our country was built by and has profited from the exploits of men and women from many walks of life. Such diversity is to be celebrated, but in the current climate we fear that the rush to adopt employee training derived from CRT could lead to detrimental effects in shops, factories, and construction yards across the country. Fortunately, the Department of Labor can use the alternative we have so carefully developed to ensure this does not happen. My colleagues and I would appreciate the opportunity to meet in person to discuss our approach and how it can help the Department of Labor advance its goal of supporting real diversity training for our nation's workplaces. We will be in Washington, D.C. next week and can discuss the program in more detail.

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Sincerely,

Aubrey Shines, Founder & Chairman

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10150 Highland Manor Drive
Suite 200
Tampa FL 33610
www.cccdiversitytraining.com

From: [Executive Secretariat](#)
To: [Schweitzer, Sho - EXECSEC](#)
Cc: [Cassidy, Sybil - EXECSEC](#)
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia
Date: Friday, October 23, 2020 3:36:56 PM
Attachments: [CCC Diversity Training Department of Labor Letter 10.23.20.pdf](#)

From: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Sent: Friday, October 23, 2020 3:02 PM
To: Executive Secretariat <m-Executive.Secretaria@dol.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

From: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Sent: Friday, October 23, 2020 2:55 PM
To: Robinson, Caroline H - OSEC <Robinson.Caroline.H@dol.gov>
Cc: Stewart, J. Ross - OPA <stewart.j.ross@DOL.gov>
Subject: FW: Letter from CCC Diversity Training to Hon. Eugene Scalia

This came to me but likely is more controlled through ExecSec

From: William Hadden <[\(b\) 6@sbpublicaffairs.com](mailto:(b) 6@sbpublicaffairs.com)>
Sent: Friday, October 23, 2020 2:38 PM
To: Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Cc: Reich, Egan - OPA <Reich.Egan@dol.gov>; Vaught, Grant E - OPA <Vaught.Grant.E@dol.gov>
Subject: Letter from CCC Diversity Training to Hon. Eugene Scalia

Good afternoon, attached you will find a letter from Aubrey Shines, Chairman and Founder of CCC Diversity Training, to the Hon. Eugene Scalia on a new diversity training program his organization has developed. Thanks!

William Hadden
Shirley & McVicker Public Affairs

O: 703
C: 706

(b) 6

(b) 6 @sbpublicaffairs.com



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Aubrey Shines, Founder & Chairman

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Tampa FL 33610
www.ccdiversitytraining.com

Status as of 10/26/2020 12:28 PM EDT

DEPARTMENT OF LABOR

Executive Secretariat

CTS ID: 20272

SECRETARY OF LABOR INVITATION

FUNCTION TYPE: Meeting

FUNCTION FROM: 10/26/2020

FUNCTION TO: 10/30/2020

ORIGINATOR: Shines, Aubrey (Founder & Chairman)

ORGANIZATION: Conservative Clergy of Color (CCC) Diversity Training

DATE OF INVITATION: 10/23/2020

RECEIVED DATE: 10/23/2020

SUBJECT: Request Meeting to Discuss Diversity Training Program for Federal Agencies

INVITATION TYPE: Organization

INVITATION LOCATION:

INFO COPIES TO: OSEC; DSEC; OPA

REMARKS: The Conservative Clergy of Color (CCC) requests a meeting with the Secretary in regards to their Diversity Training program for federal agencies. The CCC's meeting request is for the week of October 26-30, 2020. Letter is a dual control - see CTS 20270.

ACTION:

NRN

ACCEPT

By Phone

By Letter

By Card

DATE: _____

REGRET

By Phone

By Letter

By Card

DATE: _____

For official use only. The attached may contain PII or sensitive material and must be handled in accordance with Departmental policy. Any reference to the correspondent's political affiliation or views contained herein should be ignored; the attached should be handled as if any such statement was not made.

DOL002742

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/27/2020 11:36:24 AM
To: Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]; Huwa, Kyle J - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d0e9eacc1e9541d1b3bc0214ca398cae-Huwa, Kyle]
CC: Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]; Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; Wolfson, Jonathan A - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c933d3c8e9624d7092e25b4a2b47f4cf-Wolfson, Jo]
Subject: Fwd: EO 13950 Comment Summary
Attachments: EO 13950 Comment Summary 10.27.2020.xlsx; EO 13950 Comments PDF 10.27.2020.pdf

Here is the updated summary of all comments. We will also do a weekly list on Thursdays as agreed. Thanks.

Get [Outlook for iOS](#)

From: Seely, Christopher - OFCCP <(b) 6@dol.gov>
Sent: Tuesday, October 27, 2020 11:30 AM
To: Leen, Craig - OFCCP
Cc: Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP; Williams, Tina T - OFCCP; Gean, Lissette - OFCCP
Subject: EO 13950 Comment Summary

Craig,

Attached are a PDF with all of the comments received thus far and the full Excel spreadsheet with all of the raw data we are collecting to analyze. Note that the hyperlinks to regulations.gov only work in Excel and not in the PDF.

Here is a quick summary:

1. As of October 27, 2020, OFCCP has received 27 comments on the *Request for Information: Race and Sex Stereotyping and Scapegoating*. Of the 27 comments received, 23 supported Executive Order 13950. Of the supportive comments, 20 specifically mentioned Critical Race Theory. Only 2 comments have requested an OFCCP assessment of attached training materials.
2. None of the comments have been submitted on behalf of an employer yet.

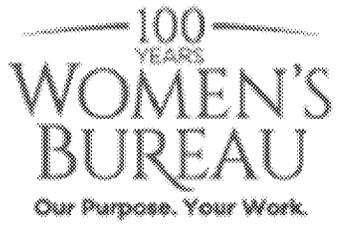
Thanks,

Chris Seely
Acting Deputy Director
Division of Policy and Program Development
Office of Federal Contract Compliance Programs
U.S. Department of Labor

202 (b) 6 (mobile)

DOL002743

Pronouns: he/him/his



Comment Number	Name	Comment	Submitted on Behalf of Employer?
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.	
OFCCP-2020-0002-0003		CRT is racist and should be banned	
OFCCP-2020-0002-0004		Anonymous	Critical Race Theory is anti-white propaganda. Its racist towards whites, and it needs to be stopped. We can only coexist with other races if everyone is treated the same and no one is demeaned.
OFCCP-2020-0002-0005	(b) 6	Critical race theory should be banned from all government funded institutions	
OFCCP-2020-0002-0006		I am 100 percent AGAINST the idea of CRT. This is a hateful indoctrination and should be banned IMMEDIATELY from all public and private schools, Government and Corporations. CRT is anti white and racist and contrary to all the good which America stands for. BAN CRT NOW!!!!	
OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We most hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.	
OFCCP-2020-0002-0008		Good EO. Critical Race Theory is dangerous. Needs to go further. California is about to legalize discrimination based on race, gender, etc. This must be stopped.	
OFCCP-2020-0002-0009		Critical Race Theory is modern day segregation and speaks to a perverse view of collectivism versus individualism. I am completely against CRT training in the workplace and schools. Thank you.	
OFCCP-2020-0002-0010		Critical race theory is a trojan horse that threatens our future. It is institutionalized racism and is the exact stuff that should be stamped out. We are not a racist country, but this perverted ideology could take us back there	
OFCCP-2020-0002-0011		The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.	

Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.

OFCCP-2020-0002-0012

I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."

OFCCP-2020-0002-0013

(b) 6

I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.

OFCCP-2020-0002-0014

I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.

OFCCP-2020-0002-0015

You are all insane!!!! What do you really want? What blacks want besides looting?

OFCCP-2020-0002-0016

Anonymous

Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

OFCCP-2020-0002-0017

(b) 6

I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of <https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> I think critical race theory is horrible. It needs to be out of all government and schools.

OFCCP-2020-0002-0018

OFCCP-2020-0002-0019

OFCCP-2020-0002-0020

(b) 6

<https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.

I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.

OFCCP-2020-0002-0021 Anonymous

Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.

OFCCP-2020-0002-0022

(b) 6

Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob

OFCCP-2020-0002-0023 John Doe

Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.

OFCCP-2020-0002-0024

(b) 6

OFCCP-2020-0002-0025 Anonymous

The Human Resources departments for all federal contractors need to make their employees aware of the hotline.

up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shuod not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearly we can all work under this dol proposal.

OFCCP-2020-0002-0026

(b) 6

OFCCP-2020-0002-0027

See attached pic..... segregation in their government training..... Plessy vs furgouson is moot?

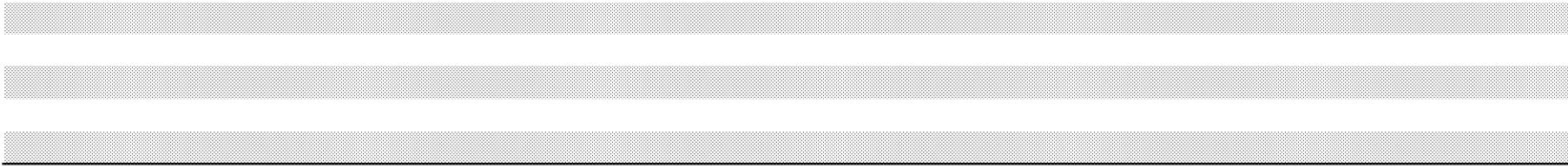
OFCCP-2020-0002-0028

The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950?
Thank you

[Redacted content]



[Redacted content]



Employer (if Named in Comment)	Employer identified as a 'non-contractor?'	Request for OFCCP assessment of training	Attachment?	Location of Commenter	Oppose/Support EO 13950	Mention Critical Race Theory
				NC	Support	Y
				PA	Support	Y
					Support	Y
				TN	Support	Y
				NJ	Support	Y
				WA	Support	Y
				CA	Support	Y
				WI	Support	Y
				CA	Support	Y
				CA	Support	Y

NY Support Y

NC Support Y

Support

King County WA Library System N Y Y AZ

City of Palmer N Y Y AK





























Comment Number	Name	Comment
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.
OFCCP-2020-0002-0003		CRT is racist and should be banned
OFCCP-2020-0002-0004	Anonymous	Critical Race Theory is anti-white propaganda. Its racist towards whites, and it needs to be stopped. We can only coexist with other races if everyone is treated the same and no one is demeaned.
OFCCP-2020-0002-0005	(b) 6	Critical race theory should be banned from all government funded institutions
OFCCP-2020-0002-0006		I am 100 percent AGAINST the idea of CRT. This is a hateful indoctrination and should be banned IMMEDIATELY from all public and private schools, Government and Corporations. CRT is anti white and racist and contrary to all the good which America stands for. BAN CRT NOW!!!!
OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We must hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.
OFCCP-2020-0002-0008		Good EO. Critical Race Theory is dangerous. Needs to go further. California is about to legalize discrimination based on race, gender, etc. This must be stopped.
OFCCP-2020-0002-0009		Critical Race Theory is modern day segregation and speaks to a perverse view of collectivism versus individualism. I am completely against CRT training in the workplace and schools. Thank you.
OFCCP-2020-0002-0010		Critical race theory is a trojan horse that threatens our future. It is institutionalized racism and is the exact stuff that should be stamped out. We are not a racist country, but this perverted ideology could take us back there

OFCCP-2020-0002-0011		<p>The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.</p>
OFCCP-2020-0002-0012	(b) 6	<p>Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.</p>

OFCCP-2020-0002-0013		I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."
OFCCP-2020-0002-0014	(b) 6	I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.
OFCCP-2020-0002-0015		I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.
OFCCP-2020-0002-0016	Anonymous	You are all insane!!!! What do you really want? What blacks want besides looting?
OFCCP-2020-0002-0017	(b) 6	Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

OFCCP-2020-0002-0018		<p>I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of choosing a different set of politics - usually, one which is less self-interested and more moderate. CRT is an aberration, not an elevated and evolved version of the civil rights movement.</p>
OFCCP-2020-0002-0019	<p>(b) 6</p>	<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ I think critical race theory is horrible. It needs to be out of all government and schools.</p>
OFCCP-2020-0002-0020		<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.</p>

OFCCP-2020-0002-0021	Anonymous	I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.
OFCCP-2020-0002-0022	(b) 6	Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.
OFCCP-2020-0002-0023	John Doe	Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob
OFCCP-2020-0002-0024	(b) 6	Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.
OFCCP-2020-0002-0025	Anonymous	The Human Resources departments for all federal contractors need to make their employees aware of the hotline.
OFCCP-2020-0002-0026	(b) 6	up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shoud not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearly we can all work under this dol proposal.
OFCCP-2020-0002-0027	(b) 6	See attached pic..... segregation in their government training..... Plessy vs furgouson is moot?

OFCCP-2020-0002-0028

(b) 6

The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950? Thank you

From: Kilberg, Andrew G - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2858FB7C58734E858F9CBD77C1BCF3C7-KILBERG, AN]
Sent: 10/29/2020 1:34:53 PM
To: Nicholson, Mattie L - OPA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e57e90a07dd74c1880260da706d772d8-Nicholson,]; Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]; Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]
CC: Sweeney, Megan P - OPA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a593a75cefbb4de5b883c3f1df09e44c-Sweeney, Me]; Sidney, Sabin R - OPA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57ff1f749e784a7fb5598a532d675791-Sidney, Sab]; Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]
Subject: RE: RAPID RESPONSE: Press Inquiry 29
Attachments: 2020-10-29 NUL v. Trump - Complaint - FINAL.pdf

Adding Rachel

Andrew G. I. Kilberg
Counselor to the Secretary
U.S. Department of Labor
202. (b) 6

From: Kilberg, Andrew G - OSEC
Sent: Thursday, October 29, 2020 1:33 PM
To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@dol.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

Here's a draft response for consideration. Because this relates to a new lawsuit, SOL definitely needs to approve.

(b) 5

Andrew G. I. Kilberg
Counselor to the Secretary
U.S. Department of Labor
202. (b) 6

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>
Sent: Thursday, October 29, 2020 1:23 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen,

Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RAPID RESPONSE: Press Inquiry 29

All – Please see the below inquiry

Outlet: Washington Post

Reporter: Eli Rosenberg

Inquiry:

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

--

Mattie Nicholson

From: Rosenberg, Eli <(b) 6@washpost.com>

Sent: Thursday, October 29, 2020 1:18 PM

To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

The Washington Post

m: (510) (b) 6

d: (202) (b) 6
@emrosenberg

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Tuesday, October 27, 2020 12:29 PM

To: Rosenberg, Eli <(b) 6@washpost.com>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: hi from the Washington Post

Eli,

On background, attributable to a DOL Spokesperson:

The allegations you have described are nonsense. The Department of Labor is 100% committed to OFCCP's mission of ensuring equal employment opportunity among federal contractors. Race and sex stereotyping and scapegoating are

discriminatory and harmful. Our country's long efforts to eradicate racial discrimination are stunted, not furthered, when employers promote race and sex stereotyping and scapegoating. By prohibiting race and sex stereotyping and scapegoating in federal contractors' training, Executive Order 13950 furthers OFCCP's mission and is entirely consistent with Executive Order 11246. Both Secretary Scalia and Director Leen have made it clear that EO 13950 does not prohibit run-of-the-mill implicit-bias training. But it does prohibit the types of egregious training cited in EO 13950. For example, no reasonable observer would say that it is acceptable for a federal contractor to teach its employees that "rational linear thinking" and "hard work" are "aspects" of one race, but not another.

From: Rosenberg, Eli <(b) 6 >
Sent: Tuesday, October 27, 2020 11:25 AM
To: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

Hi,

We are planning to publish the story tomorrow morning. One follow up inquiry:

Does the DOL have any response to critics who say the EO and the OFCCP's efforts at implementation are "part of a larger strategy by this administration to foster fear," and chill momentum for advancing racial equity? Who say that the new EO and OFCCP's efforts are "an affront to the purpose and history of Executive Order 11246," and an overreach of its duties? That the new EO is based on shaky legal precepts?

Deadline is the end of the day. Let me know if you have any questions

(b) 6

Thank you,
Eli Rosenberg

The Washington Post
m: (510) (b) 6
d: (202) (b) 6
[@emrosenberg@cc02.safelinks.protection.outlook.com](mailto:emrosenberg@cc02.safelinks.protection.outlook.com)

From: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Sent: Friday, October 23, 2020 11:27 AM
To: Rosenberg, Eli <(b) 6@washpost.com>
Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: Re: hi from the Washington Post

CAUTION: EXTERNAL SENDER

Eli-

Background, attributable to a DOL Spokesperson:

DOL002853

OFCCP has received 98 inquiries, 81 of which are complaints.

OFCCP has never set up a hotline tied to an Executive Order.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL URBAN LEAGUE,
80 Pine Street, 9th Floor,
New York, NY 10005

NATIONAL FAIR HOUSING ALLIANCE,
1331 Pennsylvania Avenue NW, #650,
Washington, DC 20004

Plaintiffs,

v .

Case No. _____

DONALD J. TRUMP,
in his official capacity as
President of the United States;
1600 Pennsylvania Avenue NW,
Washington, DC 20500

EUGENE SCALIA,
in his official capacity as
United States Secretary of Labor;
200 Constitution Ave NW,
C-2318
Washington, DC 20210

U.S. DEPARTMENT OF LABOR,
200 Constitution Ave NW,
S-2521
Washington, DC 20210

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs National Urban League and National Fair Housing Alliance, on behalf of themselves and all others similarly situated (collectively, “Plaintiffs”), bring this civil rights class action for injunctive and declaratory relief against Defendants President Donald J. Trump; Eugene Scalia, United States Secretary of Labor; and the United States Department of Labor (collectively, “Defendants”) for violations of the First and Fifth Amendments to the United States Constitution.

PRELIMINARY STATEMENT

1. Every nation’s history includes unsettling truths that many would prefer to forget or deny. But true patriotism demands confronting the truths of our history—no matter how embarrassing or dishonorable—and undertaking the difficult work of learning from the lessons of our past in order to move forward. For the United States, that work requires reckoning with our shameful legacy of racial subjugation of Black people in this country— from slavery and Jim Crow to mass incarceration and police violence—as well as our long history of express discrimination against other people of color, women, and LGBTQ persons.

2. Without uninhibited discussion and examination of that legacy, we are ill-equipped as a nation to address its ongoing manifestations in present-day forms of discrimination and bias. The First Amendment protection of free speech in the United States Constitution ensures that all Americans are empowered to engage freely in an exchange of ideas, truth-telling, and difficult conversations about this history. This protection extends equally to those who engage with the federal government, where the policies that affect the lives of all Americans are developed, enacted, and funded.

3. On September 22, 2020, President Trump issued Executive Order 13950, entitled “Executive Order on Combating Race and Sex Stereotyping” (“EO 13950” or “the Order”). Contrary to its title, the Order is an extraordinary and unprecedented act by the Trump Administration to undermine efforts to foster diversity and inclusion in the workplace. The Order

strikes at the heart of those critical efforts by government and nongovernment actors—including trainings and other forms of private speech in the workplace—to eradicate race and sex stereotyping and other continuing manifestations of entrenched discrimination and bias against people of color, women, and LGBTQ individuals.

4. EO 13950 prohibits the National Urban League, the National Fair Housing Alliance, and Class members (including current and prospective federal contractors and grant recipients) from discussing and promoting concepts like, among other things, systemic race and sex discrimination and implicit race and sex biases. In so doing, EO 13950 prevents Plaintiffs from effectively addressing the persistent harms, privileges, and disadvantages associated with systemic discrimination and implicit biases. This broad-based prohibition of private speech on matters of immense public concern and public welfare violates the guarantees of Free Speech, Equal Protection, and Due Process, which are fundamental to the rights secured in the United States Constitution. The depth and scope of EO 13950’s constitutional flaws are alarming and, if left unremedied, will erode the core principles of our democracy and the foundations of our pluralistic society.

5. The right to Free Speech, secured in the First Amendment, is foundational to a free and democratic republic. As stated by the United States Supreme Court, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *Texas v. Johnson*, 491 U.S. 397, 415 (1989) (quoting *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)).

6. Yet, in an exercise of authoritarian thought- and speech-control, EO 13950 imposes expansive restrictions on the National Urban League, the National Fair Housing Alliance, and the

Class based on President Trump’s inaccurate and discriminatory viewpoints, including his opinions that our Nation’s founders—many of whom enslaved Africans in bondage—founded the United States on principles of racial and gender equality; that discussions of the lingering and damaging effects of race and sex discrimination constitute “divisive concepts,” “race or sex stereotyping,” or “race or sex scapegoating”; and that discussing, acknowledging, or remedying the harms, privileges, and disadvantages attendant to systemic race and sex discrimination would negatively impact the “economy and efficiency in Federal contracting” and the “unity in the Federal workforce.”

7. EO 13950 presents a false rendering of our Nation’s history by misrepresenting the Founders as inspired by the “belief in the inherent equality of every individual” and “reject[ing] racialized views of America” that “our government ‘was made on the white basis’ ‘by white men, for the benefit of white men.’” It is beyond dispute that, at the time of our Nation’s founding, the Founders embraced a narrative of white supremacy, benefitted economically from the free labor of enslaved Africans, considered enslaved Africans to be three-fifths of a person in the United States Constitution, denied women and people of color the right to vote and other political rights, and passed laws that uniformly and expressly discriminated on the basis of race and sex.

8. Almost seven decades after the ratification of the United States Constitution, the United States Supreme Court in *Dred Scott v. Sanford*, 60 U.S. 393 (1857), concluded that Black people could not be “citizens” entitled to “the rights and privileges” under the United States Constitution because they “had for more than a century before” the Constitution’s adoption “been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect.” *Id.* at 404-07.

9. United States Supreme Court opinions, both before and after *Dred Scott*, have likewise acknowledged and sometimes endorsed racist views and opinions about other people of color. See, e.g., *Johnson & Graham's Lessee v. M'Intosh*, 21 U.S. 543, 590 (1823) (referring to Native Americans as “fierce savages, whose occupation was war and whose subsistence was drawn chiefly from the forest”); *Plessy v. Ferguson*, 163 U.S. 537, 561 (1896) (Harlan, J., dissenting) (disagreeing with *de jure* segregation, but noting that Chinese people are “a race so different from our own that we do not permit those belonging to it to become citizens of the United States”); *Hernandez v. Texas*, 347 U.S. 475, 479-80 (1954) (in first case recognizing Equal Protection rights for people of Mexican descent, noting that Mexican-American children had attended segregated schools, that a restaurant “prominently displayed a sign announcing ‘No Mexicans Served,’” and that “[o]n the courthouse grounds . . . , there were two men’s toilets, one unmarked, and the other marked ‘Colored Men’ and ‘Hombres Aqui’ (‘Men Here’)”). *Id.* at 479-80.

10. Sexism also has deep roots in our political and social history. For example, a concurring opinion in *Bradwell v. Illinois*, 83 U.S. 130 (1872), in which the United States Supreme Court refused to recognize a woman’s right to be admitted as a practicing attorney, considered it “a maxim of that system of jurisprudence that a woman had no legal existence separate from her husband, who was regarded as her head and representative in the social state The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother.” *Id.* at 141.

11. Discrimination against LGBTQ individuals has also featured prominently in our country’s laws. A concurring opinion in *Bowers v. Hardwick*, 478 U.S. 186 (1986), in which the United States Supreme Court refused to invalidate criminal sodomy laws in Georgia, noted that “the proscriptions against sodomy have very ‘ancient roots.’” Decisions of individuals relating to

homosexual conduct have been subject to state intervention throughout the history of Western civilization. Condemnation of those practices is firmly rooted in Judeo-Christian moral and ethical standards. . . . The common law of England, including its prohibition of sodomy, became the received law of Georgia and the other Colonies. In 1816, the Georgia Legislature passed the statute at issue here, and that statute has been continuously in force in one form or another since that time.” *Id.* at 196-97.

12. The Supreme Court has since discredited these racist, sexist, and homophobic views, and our Nation has made significant progress in recognizing and enforcing the equal rights of people of color, women, and LGBTQ individuals. But members of these protected groups continue to face substantial societal discrimination, including barriers to equal employment opportunities, and are still, to the present day, too often subject to hostile work environments.

13. By denying the longstanding discrimination against people of color, women, and LGBTQ individuals, EO 13950 is an invitation for revisionism and retrogression on matters of truth and equality. To the detriment of employees of color, women, and LGBTQ individuals, EO 13950 prohibits laudable and necessary efforts by Plaintiffs who want to counteract the effects of systemic discrimination and biases in the workplace. This, in turn, prevents Plaintiffs from creating and maximizing economic efficiencies by ensuring the satisfaction and inclusivity of all their employees, and reaping the full benefits of a diverse and productive workforce.

14. Despite the urgent need to address and remedy systemic discrimination and counter the harms stemming from implicit biases, EO 13950 unconstitutionally forces Plaintiffs to choose between censoring speech on these important issues or forfeiting any opportunity to enter into a federal contract for the provision of goods or services or to receive federal funds as a grant recipient. The infringement of Plaintiffs’ private speech on these matters of public concern and

public welfare is deeply troubling. But Defendants' actions are even more menacing given that issues of systemic race and sex discrimination have been at the forefront of public discourse throughout the Trump Administration. This censorship of Plaintiffs' speech by the federal government is anathema to a free democracy.

15. Furthermore, EO 13950 utilizes imprecise and ill-defined terms that reflect the factually inaccurate viewpoints and opinions of President Trump and are dependent on the speculative and subjective reactions of individuals to the protected speech. The difficulty—if not impossibility—of knowing precisely what is included in the wide swath of speech censored by EO 13950 has already had, and will continue to have, a broad chilling effect. To protect their status as federal contractors or grant recipients, Plaintiffs and the Class would have to err on the side of caution and interpret the EO 13950 broadly to ensure compliance with its vague and seemingly expansive mandates. When combined with the EO's encouragement that individuals report perceived violations of the Order's terms by calling a "hotline" telephone number at the Department of Labor, the uncertain boundaries of the speech purportedly prohibited by the Order creates a system of suppression as hostile to the First Amendment's core protections as can be imagined.

16. EO 13950 is, therefore, in clear violation of the First and Fifth Amendments to the United States Constitution, resulting in serious and irreparable injury to Plaintiffs National Urban League and National Fair Housing Alliance, as well as the Class.

PARTIES

17. The National Urban League (or "NUL") is a 501(c)(3) non-profit corporation headquartered in New York, New York. As a historic civil rights organization founded in 1910, NUL's mission is to collaborate with community leaders, policymakers and other partners to improve the standards of living for the Black community and other underserved groups across

America. The NUL has 90 affiliates serving 300 communities across 36 states and the District of Columbia. NUL works to spearhead and advocate for public policies that can close the equality gap, and NUL's local affiliates provide direct services that improve the lives of Americans in their communities. NUL has been, is and seeks to be in the future a federal contractor and federal grant recipient.

18. The National Fair Housing Alliance (or "NFHA") is a 501(c)(3) non-profit corporation headquartered in Washington, D.C. NFHA and its operating members aim to eliminate housing discrimination and ensure equal housing opportunities to all people through education, outreach, membership service, policy initiatives, consulting services, community development, advocacy and enforcement. The NFHA's members include over 200 private, non-profit fair housing organizations, state and local civil rights agencies and individuals across the United States. NFHA has over 70 operating member organizations nationwide that support fair housing work in their regions in 29 states and the District of Columbia. NFHA focuses on a variety of matters, including policy initiatives, research, education and outreach, and the operating members of the NFHA provide direct services to victims of housing discrimination. NFHA has been, is and seeks to be in the future a federal contractor and federal grant recipient.

19. Defendant Donald J. Trump is the President of the United States. He is sued in his official capacity. In that capacity, he issued the EO 13950 challenged in this lawsuit.

20. Eugene Scalia is the United States Secretary of Labor. He is sued in his official capacity.

21. EO 13950 directs The United States Department of Labor, through the Office of Federal Contract Compliance Programs (or "OFCCP"), to establish a hotline and investigate complaints received under the order alleging that a Federal contractor or grantee is utilizing

training programs in violation the Order. EO 13950 Sec. 4(b). The Department of Labor is instructed to “take appropriate enforcement action and provide remedial relief, as appropriate.”

Id.

JURISDICTION AND VENUE

22. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) because this action arises under the Constitution and the laws of the United States.

23. Venue is proper in this District under 28 U.S.C. § 1391(e) because plaintiff National Fair Housing Alliance resides within this District and/or because each Defendant is an agency of the United States or an officer or employee of the United States or any agency thereof acting and sued in their official capacities, at least one Defendant resides in this District, and a substantial part of the events or omissions giving rise to the claim occurred in this District.

24. The Court is authorized to award the requested declaratory and injunctive relief under 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

FACTUAL ALLEGATIONS

I. EO 13950 PROHIBITS AND CENSORS PROTECTED SPEECH.

A. The Text of EO 13950 Demonstrates Its Purpose to Prohibit, Censor, and Chill Speech and Viewpoints with Which the Trump Administration Disagrees.

25. On September 22, 2020, President Trump issued EO 13950, which prohibits the use of, or instruction on, certain defined “divisive concepts” by, *inter alia*, federal contractors and their subcontractors and vendors and federal grant recipients, including diversity or inclusion training programs in their workplaces (“Protected Speech”).

26. The very text of the Order confirms that its purpose is not to combat unlawful stereotyping, but to prohibit private entities’ expression of views on race, sex, and gender that take

into account the history and persistent discrimination of people of color, women, and the LGBTQ community in order to foster a diverse and inclusive workplace that values all employees.

27. EO 13950 imposes the inaccurate and ahistorical viewpoints of the Trump Administration on federal contractors and grantees simply because President Trump disagrees with the Protected Speech.

28. Among other things, EO 13950 takes exception to “people” advancing a “vision of America” that takes into account “collective social and political identities.” EO 13950 Sec. 1. The Order objects to an “ideology” that is grounded in particular portrayals of “our country’s history and its role in the world.” *Id.*

29. EO 13950 bans discussions of inequality grounded in the context of our Nation’s history and the lived experiences of those who have been most marginalized and discriminated against. The Order presents an ahistorical and counterfactual narrative that prohibits consideration of the structural barriers rooted in race and gender discrimination, thereby reinforcing and cementing existing inequalities into a permanent status quo.

30. EO 13950 restricts Protected Speech by proscribing the teaching of “divisive concepts” defined to include vague and subjective categories of speech that might cause an individual to feel “discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex” based on fact-based discussions about structural inequalities. *Id.* at Sec. 2(a).

31. To effectuate its categorical ban on the Protected Speech, EO 13950 requires government contracting agencies to place the following restrictions on any contractors they employ:

The contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of

race or sex scapegoating, including the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual's moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

Id. at Sec. 4.

32. Thus, for example, EO 13950 prohibits workplace training that discusses implicit biases and the collective responsibility of people of all races and sexes to counteract implicit biases, eradicate systemic discrimination, and ensure a hostility-free work environment.

33. In short, EO 13950 prohibits any federal contractor from engaging in speech, including the provision of certain training to its employees, that may foster belief in certain concepts that President Trump has deemed divisive, but which are widely-accepted, historically-based concepts that have been used for years in trainings and programs across the country in corporate, public sector, and educational settings.

34. If a contractor fails to comply with the Order, their contract “may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts.” EO 13950 Sec. 4(a)(3). The contractor may also be subjected to sanctions as authorized in Executive Order 11246, such as publication of the contractors’ names or recommendation that EEOC institute proceedings against the contractor under Title VII of the Civil Rights Act of 1964. *Id.* (citing Exec. Order No. 11,246 (Sept. 24, 1965), as amended by Exec. Order 12,086, 43 Fed. Reg. 46501 (Oct. 5, 1978).

35. EO 13950 sets forth similar restrictions for federal grant recipients. Under the Order, the heads of all government agencies must “identify programs for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote the concepts [(a) through (h) described above],” and they must submit this list to the Director of the Office of Management and Budget (or “OMB”) within sixty days. EO 13950 Sec. 5.

36. EO 13950 also threatens the prospect of enforcement against those who express viewpoints that the Trump Administration disfavors. Specifically, the Order directs the Attorney General to assess the extent to which “workplace training that teaches the divisive concepts” may contribute to a hostile work environment and give rise to liability under Title VII of the Civil Rights Act of 1964.

37. EO 13950 further permits contractors who become involved in, or are threatened with, litigation with a subcontractor or vendor as a result of compliance with EO 13950 to request that the United States enter the litigation to protect the interest of the United States. EO 13950 Sec. 4(a)(4).

B. Events Before and After President Trump Issued EO 13950 Illuminate the Administration’s Intent to Silence Viewpoints on Race and Gender with Which the Trump Administration Disagrees.

38. The sequence of events leading up to the issuance of EO 13950 indicates that the Order was part of a reactionary effort by the Trump Administration to use the power of the federal government to force private entities to adopt its own narrative that denies or maligns any acknowledgement of the enduring consequences of slavery and the subsequent subjugation of Black people and other people of color in the United States.

39. On June 26, 2020, during the aftermath of George Floyd’s killing and in response to protests against monuments of men who enslaved Black people,¹ President Trump issued an Executive Order ensuring that any person or group that destroyed or vandalized a monument, memorial, or statue, would be prosecuted to the fullest extent, authorizing a penalty of up to ten years imprisonment for willful injury of Federal property. Exec. Order No. 13933, 85 C.F.R. 40081 (2020).

40. On July 3, 2020, in further response to protests against monuments of men who enslaved Black people, President Trump signed an Executive Order to re-erect monuments of these men in a National Garden of American Heroes. Exec. Order No. 13934, 85 C.F.R. 41165 (2020).

41. On August 12, 2020, Christopher F. Rufo, a director at the conservative think tank Discovery Institute, tweeted that Sandia National Laboratories hosted a mandatory training called “White Men’s Caucus on Eliminating Racism, Sexism, and Homophobia in Organizations.”² Mr. Rufo described this training as “a 3-day reeducation camp for ‘white-males,’ with the goal of exposing their ‘white privilege’ and deconstructing ‘white male culture.’” He then proceeded to post documents from what he described as “the race-segregated, taxpayer-funded session.”³ The next day, Mr. Rufo tweeted an update that “multiple congressional and White House officials ha[d] reached out to [him] about Sandia Lab’s white male reeducation camp.”⁴ That same day, Mr. Rufo appeared on *Tucker Carlson Tonight*, a program on the Fox News Network, and described

¹ Alan Taylor, *The Statues Brought Down Since the George Floyd Protests Began*, THE ATLANTIC (Jul. 2, 2020), <https://www.theatlantic.com/photo/2020/07/photos-statues-removed-george-floyd-protests-began/613774/>.

² Christopher F. Rufo (@realchrisrufo), TWITTER (Aug. 12, 2020, 1:40 PM), <https://twitter.com/realchrisrufo/status/1293603172842221570>.

³ *Id.*

⁴ Christopher F. Rufo (@realchrisrufo), TWITTER (Aug. 13, 2020, 8:50AM), <https://twitter.com/realchrisrufo/status/1293892725683568641>.

the Sandia Labs trainings as “a mandatory program for white male executives where they were supposed to essentially break down their white male identity and confess their sins to diversity trainers.”⁵

42. On September 1, 2020, Mr. Rufo returned to *Tucker Carlson Tonight* and described his new investigation into a Treasury Department diversity training, which “told Treasury employees that America is a fundamentally white supremacist country . . . [a]sking them to accept all of the baggage that comes with this reducible essence of whiteness.”⁶ Mr. Rufo further revealed “[t]he FBI is now holding weekly sessions on intersectionality, which is a hard-Left academic theory . . . with the white, straight male being at the very top of this pyramid of evil.”⁷ On Twitter, Mr. Rufo called on President Trump to “immediately issue an executive order abolishing critical race theory from the federal government.”⁸

43. Just three days later, on September 4, 2020, OMB Director Russell Vought released a memorandum that ended “agency spending related to any training on ‘critical race theory’ ‘white privilege, ‘or any other training or propaganda effort that teaches or suggests either (1) that the United States is an inherently racist or evil country or (2) that any race or ethnicity is inherently racist or evil.” Off. of Mgmt. & Budget, Exec. Off. of the President, Memorandum for the Heads of Executive Departments and Agencies No. M-20-34, *Training in the Federal Government* (Sept. 4, 2020). Director Vought announced the Administration’s measures “to halt critical race

⁵ Christopher Rufo, TUCKER CARLSON TONIGHT, FOX NEWS (Aug. 13, 2020), <https://www.foxnews.com/us/chris-rufo-one-man-war-race-theory>.

⁶ Christopher Rufo, TUCKER CARLSON TONIGHT, FOX NEWS (Sept. 1, 2020), <https://www.youtube.com/watch?v=rBXRdWfIV7M>.

⁷ *Id.*

⁸ Christopher F. Rufo (@realchrisrufo), TWITTER (Sept. 1, 2020, 10:31 PM), <https://twitter.com/realchrisrufo/status/1300984639108968449?s=20>.

theory trainings immediately” on Twitter.⁹ Director Vought described Critical Race Theory trainings as “indoctrination trainings that sow division and racism[.]”¹⁰

44. On September 5, 2020, a day after OMB’s Memorandum issued, President Trump tweeted that “Critical Race Theory” was a “sickness that cannot be allowed to continue” and directed people to “report any sightings so we can quickly extinguish!”¹¹ The President’s tweet linked to a Breitbart article entitled “Trump Orders Purge of ‘Critical Race Theory’ from Federal Agencies,” which described Critical Race Theory as a “leftist, racist doctrine that forms the intellectual underpinnings of Black Lives Matter, Antifa, and other radical organizations currently engaged in unrest on America’s streets.”¹²

45. On September 15, 2020, Director Vought responded to Mr. Rufo’s tweet about a scheduled CDC implicit bias training. Director Vought tweeted that the training had been “cancelled immediately,” “per @POTUS’s directive.” The training reportedly planned to “‘examine the mechanisms of systemic racism’ and address ‘[w]hite supremacist ideology.’”¹³

⁹ Russel Vought (@RussVought45), TWITTER (Sept. 4, 2020, 7:57 PM), <https://twitter.com/RussVought45/status/1302033078848753665>.

¹⁰ Russ Vought (@RussVought45), TWITTER (Sept. 4, 2020, 7:57 PM), <https://twitter.com/RussVought45/status/1302033078848753665>.

¹¹ Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 5, 2020, 7:52 AM), <https://twitter.com/realDonaldTrump/status/1302212909808971776>.

¹² Id.; Allum Bokhari, Party’s Over: Trump Orders Purge ‘Critical Race Theory’ From Federal Agencies, Breitbart, (September 4, 2020), <https://www.breitbart.com/tech/2020/09/04/partys-over-trump-orders-purge-of-critical-race-theory-from-federal-agencies/>.

¹³ Russell Vought (@RussVought45), TWITTER (Sept. 15, 2020, 11:08 AM), <https://twitter.com/RussVought45/status/1305886092361715713>.

That same day, Director Vought was reported as describing diversity trainings that include Critical Race Theory as “problematic and un-American.”¹⁴

46. On September 17, 2020, President Trump hosted the inaugural White House Conference on American History, where he maligned Critical Race Theory and *The 1619 Project*—an historical account of slavery in America by leading journalists published in the New York Times in 2019—as “crusade[s] against American history,” “toxic propaganda,” and “ideological poison, that, if not removed [would] . . . destroy our country.”¹⁵ The President explained that this was why he “banned trainings in this prejudiced ideology from the federal government and banned it in the strongest manner possible.” President Trump also announced that he would soon establish the 1776 Commission by Executive Order to “promote patriotic education.”¹⁶

47. Three days later, on September 22, 2020, President Trump issued EO 13950. President Trump explained in a tweet: “A few weeks ago, I BANNED efforts to indoctrinate government employees with divisive and harmful sex and race-based ideologies. Today, I’ve expanded that ban to people and companies that do business . . .¹⁷ . . . with our Country, the United States Military, Government Contractors, and Grantees. Americans should be taught to take

¹⁴ OMB Director Russell Vought on Defunding Critical Race Theory in Federal Agencies, *The Federalist* (Sept. 15, 2020), <https://thefederalist.com/2020/09/15/omb-director-russell-vought-on-defunding-critical-race-theory-in-federal-agencies/>.

¹⁵ Remarks by President Trump at the White House Conference on American History, National Archives Museum (Sept. 17, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-white-house-conference-american-history/>.

¹⁶ *Id.*

¹⁷ Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 22, 2020, 6:53 PM), <https://twitter.com/realDonaldTrump/status/1308539918075883523>.

PRIDE in our Great Country, and if you don't, there's nothing in it for you!"¹⁸ The White House announced the EO as one part of several previous executive actions intended to "Defend[] Our History."¹⁹ And Director Vought described it as "another important step that builds off [President Trump's] directive to agencies to stop trainings that push a radical anti-American agenda."²⁰

48. On September 23, 2020, Director Vought appeared on Fox News and further explained:

"[Critical Race Theory] is a theory that emanates from left-wing universities across the country that suggests that our institutions are fundamentally racist and need to be brought down. And it reflects itself in two primary thoughts. One is that the country itself, the founding, was flawed and that this country is racist to its core. And number two that all white people are fundamentally racist and that is just itself discrimination on the basis of race. . . . *And obviously we believe something different than that. . . . This is a specific effort to go after a specific leftist theory that we think is un-American.*"²¹

49. After the issuance of the EO and the preceding OMB Memorandum, the sequence of trainings cancelled by the Administration revealed a pattern of targeting trainings that discussed Critical Race Theory and related concepts intended to benefit people of color.

50. The same day EO 13950 was issued, Director Vought replied to a tweet by Mr. Rufo accusing the State Department, Environmental Protection Agency, and the Department

¹⁸ Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 22, 2020, 6:53 PM), <https://twitter.com/realDonaldTrump/status/1308539921829781504>.

¹⁹ The White House, Law & Justice Briefing Statement, *President Trump is Fighting Harmful Ideologies that Cause Division in Our Federal Workplaces* (Sept. 22, 2020), <https://www.whitehouse.gov/briefings-statements/president-trump-fighting-harmful-ideologies-cause-division-federal-workplaces/>.

²⁰ Russ Vought (@RussVought45), TWITTER (Sept. 22, 2020, 7:10 PM), <https://twitter.com/RussVought45/status/1308544280701612034>.

²¹ Russ Vought (@RussVought45), TWITTER (Sept. 23, 2020, 5:22 PM), <https://twitter.com/RussVought45/status/1308879418891345920>.

of Veterans Affairs of hosting trainings about “critical race theory,” that allegedly violated the Order by “pressuring staff to denounce their ‘white privilege,’ become ‘co-resistors’ against ‘systemic racism’ and sign ‘equality pledges.’” Director Vought responded that all three trainings were cancelled, despite there being no indication in the tweet that these trainings violated the text of EO 13950.²²

51. On October 8, 2020, in a sweeping action expanding the reach of EO 13950’s repression, Assistant Attorney General Lee Lofthus ordered the Department of Justice leaders to suspend not only diversity and inclusion trainings, but also any related “programs, activities, and events.”²³

52. A week later, during the first presidential debate, when asked why he ended “racial sensitivity training that addresses white privilege or Critical Race Theory,” President Trump responded, “I ended it because it’s racist ... [t]hey were teaching people to hate our country, and I’m not going to allow that to happen.”²⁴

53. The sequence of events leading to President Trump’s issuance of EO 13950, as well as his own statements, reveal the order’s clear purpose to restrict, if not, prohibit the expression of viewpoints with which he disagrees or, otherwise, deems “un-American.”

²² Russ Vought (@RussVought45), TWITTER (Sept. 22, 2020, 6:34 PM), <https://twitter.com/RussVought45/status/1308535115006570498>.

²³ Katie Benner, Justice Dept. Suspends All Diversity and Inclusion Training for Staff, N.Y. TIMES (Oct. 9, 2020), <https://www.nytimes.com/2020/10/09/us/politics/justice-department-diversity-training.html>.

²⁴ Donald J. Trump, *WATCH: Biden urges unity to ‘defeat racism’; Trump decries racial sensitivity training*, First Presidential Debate, YOUTUBE (Sept. 29, 2020), <https://www.youtube.com/watch?v=pqGyzLjXfjo> (footage from the First Presidential Debate).

C. EO 13950 Fails to Provide Fair Notice of What Conduct and Content Is Actually Prohibited.

54. Under the terms of EO 13950, there is no objective way to determine which activities are permitted and which are prohibited, creating a broad chilling effect and inviting unpredictable, uneven, and potentially selective enforcement.

55. For example, EO 13950 prohibits employers from holding “workplace training” that “inculcates” certain “divisive concepts” in employees. EO 13950 Sec. 4(a)(1). However, the Order never defines “workplace training,” which can occur in many contexts and for many reasons—such as an employee’s onboarding, part of the promotion process, ongoing professional education, or an effort to address workplace conduct issues.

56. In addition, the Order does not explain, or otherwise define, the prohibited act of “inculcat[ing].” There are no criteria in the Order for a federal contractor to understand whether training needs to reach a certain level of repetition, admonition, and insistence to be deemed to “inculcate[e]” employees or whether, for example, a single training that references a so-called “divisive concept” is enough to trigger the Order.²⁵

57. Nor are the prohibited “divisive concepts” sufficiently defined. For example, the Order prohibits training that “inculcates” the concept that “the United States is fundamentally racist or sexist.” But there is no description of what “fundamentally” racist or sexist means. Under the Order’s prohibitions, it is unclear if explaining this historical context (*e.g.*, discussing the Nation’s history of slavery, the Jim Crow laws, the Civil Rights Movement, the Women’s Liberation Movement, the Stonewall uprising, mass incarceration, pay equity or other topics

²⁵ Inculcate, *v.*, OXFORD ENGLISH DICTIONARY ONLINE (last visited October 28, 2020), www.oed.com/view/Entry/94107 (defining “inculcate” as “[t]o endeavor to force (a thing) into or impress (it) on the mind of another by emphatic admonition, or by persistent repetition . . . to teach forcibly”).

related to racial injustice, gender discrimination or inequity) and the foundational ways this history shapes present-day manifestations of discrimination and biases, would be considered an assertion that the United States is “fundamentally” racist or sexist.

58. The Order also prohibits training that “inculcates” the view that “members of one race or sex cannot and should not attempt to treat others without respect to race or sex.” EO 13950 Sec. 4(a)(1). But the Order provides no explanation for what it means “to treat others without respect to race or sex,” and the prohibition inexplicably flips basic anti-discrimination principles on their head. Indeed Title VII, the ADEA, and the Pregnancy Discrimination Act all expressly prohibit workplace conduct and decisions that perpetuate gender and age stereotypes under the guise of “protecting” or showing “respect” for the elderly, women, or pregnant people.

59. Employees’ words, gestures, jokes, or acts can be hostile and discriminatory when viewed in light of the “totality of the circumstances,” which may necessarily include “race or sex.” *See, e.g., Harris v. Forklift Sys.*, 510 U.S. 17, 23 (1993). But contrary to well-established doctrine under Title VII, the Order suggests that considerations of race and sex should *not* factor into an employee’s behavior—*i.e.*, that employees cannot be trained in a manner that restricts them from engaging in conduct “without respect to race or sex.” Because of the Order’s vague language, it is unclear what anti-discrimination workplace training comports with the Order’s restrictions.

60. The Order’s prohibition on inculcating “discomfort” and “guilt” is similarly inscrutable. The Order apparently prohibits training that includes the view that “any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex.” EO 13950 Sec. 4(a)(1). However, the Order leaves unclear whether any training that leads to feelings of discomfort by virtue of the nature of the subject matter is prohibited.

61. The Order also prohibits the concept that “meritocracy or traits such as a hard work ethic are racist or sexist.” EC 13950 Sec. 4(a)(1). Purported objective measures of merit, such as tests and evaluations, have been used historically to exclude qualified members of protected groups from employment opportunities. The Supreme Court has recognized that the disproportionate impact of these tools of purported meritocracy can undermine equality and fairness in the workplace and can, in fact, violate federal law. *See Griggs v. Duke Power Co.*, 401 U.S. 424, 430 (1971) (“[P]ractices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to ‘freeze’ the status quo of prior discriminatory employment practices.”). Under the Order, a reasonable employer has no way of knowing whether a seemingly appropriate discussion about the interplay between purportedly “meritocratic” standards and discriminatory impact—even a faithful explanation of the law—may be prohibited “inculcation” of the view of “meritocracy” as “racist.”

62. Nor does the Order provide objective standards for enforcement. There is no basis to determine whether any particular training program that discusses race relations, implicit bias, the historical foundations and context of discrimination, and racial sensitivity, would comply or violate the Order. The Order gives the Department of Labor (or “DOL”) unfettered discretion in enforcing the Order’s workplace training prohibitions.

63. The Order further states that grant recipients may need to certify that they will not use federal funds to “promote” the same vague and ill-defined concepts that are banned for federal contractors. EO 13950 Sec. 5. As with federal contractors, federal grant recipients are unable to discern what precisely would be a prohibited use of federal funds under EO 13950, thus risking their eligibility for federal grants.

64. In a letter to President Trump, dated October 8, 2020, the American Council on Education wrote that the Order “is creating concern, confusion, and uncertainty for federal contractors and grant recipients across the country.”²⁶ Among other issues, the Council noted that the Order “contains many ambiguities and gray areas”—including the definition of “divisive concepts”—“which means potentially substantial penalties for federal contractors and grantees will be based upon the subjective determinations of federal officials.”²⁷

65. On October 15, 2020 more than 150 businesses and nonprofit groups, including the U.S. Chamber of Commerce, wrote a letter to President Trump, stating that “[a]s currently written[,] . . . the E.O. will create confusion and uncertainty, lead to non-meritorious investigations, and hinder the ability of employers to implement critical programs to promote diversity and combat discrimination in the workplace.”²⁸ The groups noted that the definition of “divisive concepts” leaves “considerable ambiguity as to what content would not be permitted in diversity and inclusiveness . . . training” and “creates many gray areas and will likely result in multiple interpretations.”²⁹

66. In addition, Paulette Granberry Russell, the President of the National Association of Diversity Officers in Higher Education, has said that the Order relies on “vague” terms,

²⁶ Letter from Ted Mitchell, President, Am. Council on Educ., to President Donald J. Trump (Oct. 8, 2020), <https://www.acenet.edu/Documents/Letter-White-House-Race-and-Sex-Stereotyping-Executive-Order-100820.pdf>.

²⁷ See *id.*

²⁸ Coalition Letter on Executive Order 13950, U.S. Chamber of Com. (Oct. 15, 2020), <https://www.uschamber.com/letters-congress/coalition-letter-executive-order-13950>.

²⁹ See *id.*

including “race or sex stereotyping,” which the Order does not “concret[e]ly define.”³⁰ Likewise, the National Council of Nonprofits has noted that terms like “inculcates” and “workplace training” are vague and ambiguous, and the divisive concepts themselves are unclear.³¹

D. Other Executive Branch Guidance and Statements Have Only Added to the Lack of Clarity

67. On September 28, 2020, OMB published a Memorandum entitled “Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All” (Memorandum), which gave additional content to EO 13950’s directives. Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-20-37 (Sept. 28, 2020). The Memorandum expanded on the Order by highlighting terms, such as “critical race theory,” “white privilege,” “intersectionality,” “systemic racism,” “positionality,” “racial humility,” and “unconscious bias,” as key to identifying the targeted “divisive” diversity training programs. *Id.* at 2.

68. This Memorandum singled out specific terms and subject matter, such as critical race theory or white privilege, as targets of the Order even though they were not explicitly included in the definition of “divisive concepts” proscribed by the text of the Order.

³⁰ See Jeremy Bauer-Wolf, *3 colleges pause diversity efforts over Trump executive order*, EDUCATION DIVE (Oct. 9, 2020, 2:35 PM), <https://www.educationdive.com/news/3-colleges-pause-diversity-efforts-over-trump-executive-order/586593/>.

³¹ See Tim Delaney and David L. Thompson, *How Nonprofits Can Stop Trump’s Effort to Roll Back Diversity Training*, NONPROFIT QUARTERLY (Oct. 5, 2020), <https://nonprofitquarterly.org/how-nonprofits-can-stop-trumps-effort-to-roll-back-diversity-training/>.

69. On October 7, 2020, OFCCP released nine frequently asked questions addressing the EO.³² However, this guidance further contributed to the uncertainty surrounding the EO's enforcement. Regarding the EO's date of effectiveness, the OFCCP claimed that it could "investigate claims of sex and race stereotyping" now "pursuant to its existing authority under Executive Order 11246." However, OFCCP also instructed that EO 13950 applies to contracts entered into or modified after November 21, 2020.

70. On October 22, 2020, OFCCP published, in the Federal Register, a request for information ("RFI") pursuant to EO 13950, seeking "comments, information, and materials from Federal contractors, Federal subcontractors, and employees of Federal contractors and subcontractors concerning workplace trainings involving prohibited race or sex stereotyping or scapegoating."³³ According to the RFI, the president "directed that the request for information should request copies of any training, workshop, or similar programming having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities."³⁴

71. These interpretive documents from the federal government only reinforce how vague the terms of EO 13950 are and how expansively they can be interpreted for purposes of enforcement.

³² Executive Order 13950 – Combatting Race and Sex Stereotyping, Office of Federal Compliance Programs (Oct. 7, 2020), <https://www.dol.gov/agencies/ofccp/faqs/executive-order-13950>.

³³ Request for Information; Race and Sex Stereotyping and Scapegoating, 85 Fed. Reg. 67,375-67,378 (Oct. 22, 2020).

³⁴ *Id.*

E. EO 13950 Departs from Normal Procedures.

72. Presidents historically follow specific procedural steps for enacting executive orders, which ensure that they are properly reviewed, vetted, and implemented. One example of this procedure can be found in the provisions of 1 CFR § 19.2—“Routing and approval of drafts”—which lay out the procedure for review by the Office of Management and Budget, Attorney General, and Office of the Federal Register, in order to ensure legality and language, prior to submission to the President for signature. Other procedures ensure that the executive order is properly implemented.

73. These procedures have historically been found within the executive order itself with provisions for amendment to reconcile the executive order with past orders, as well as instructions to the relevant cabinet Secretary to draft rules and regulations for implementation. Finally, executive orders are, historically, submitted to the Federal Acquisition Regulatory Council and Office of Federal Contract Compliance Programs for implementation onto the Federal Register and insertion into federal government contracts.

74. EO 13950 reflects a radical departure from other executive orders and from these usual procedures. For example, unlike recent executive orders related to the federal workplace, such as, President Obama’s Executive Order 13672 (amending two prior executive orders to extend prohibitions against discrimination to also prohibit discrimination targeting sexual orientation or gender identity) and Executive Order 13665 (prohibiting retaliation for inquiring about, discussing, or disclosing compensation information), EO 13950 lacks any provision that purports to amend Executive Order 11246 (1965), which already addresses anti-discrimination requirements for federal contractors. Instead, EO 13950 excludes all contracts exempted by Executive Order 11246, section 204, and mandates that all federal government contracting agencies shall include specified contract language set forth in the Order. EO 13950 Sec. 4(a).

75. In addition, unlike prior workplace discrimination-related executive orders, the Order does not instruct the Secretary of Labor to prepare regulations to implement the requirements of the Order. Instead, the Order merely instructs the Department of Labor to establish a hotline and investigate complaints of purported violations of the Order. EO 13950 Sec. 4(b).

76. In another departure from the ordinary procedural attributes of executive orders concerning workplace discrimination, the Order lacks any mechanism for rulemaking by the Federal Acquisition Regulatory Council that would permit implementation and insertion of specific language into contracts by the OFCCP. Instead, the Order purports to require “the Director of OFCCP [to] publish in the Federal Register a request for information seeking information from Federal contractors, Federal subcontractors, and employees [thereof] regarding the training, workshops, or similar programming provided to employees” and, as described, mandates that all federal government contracting agencies include specified contract language set forth in the Order. EO 13950 Sec. 4.

II. THE PROTECTED SPEECH THAT EO 13950 CENSORS AND CHILLS IS OF IMMENSE PUBLIC CONCERN AND A MATTER OF PUBLIC WELFARE.

A. Discussions to Support and Advance Workplace Diversity, Inclusion, and Equality Are Important Speech Due to the Persistence of Employment Discrimination.

77. Of the many ways that racism has blighted our democracy, economic and employment-based injustice and exclusion rank among the most pervasive. Slavery involved the theft of Black labor. Even in the non-slave states, Black people in the antebellum era were relegated to menial employment positions. After the Civil War, Black Codes, the Convict Lease system, and a veritable reign of terror by white supremacist groups in the South was motivated, in part, by a desire to ensure a racialized employment hierarchy that forced Black people into the lowest status employment sectors.

78. For most of the twentieth century, state-sanctioned segregation in education and employment ensured that most Black people were maintained in low-paying jobs of domestic or agricultural work, and blue-collar factory and plant jobs in the South included strict racial hierarchies in which Black workers were held to the lowest rungs. The federal government itself practiced this racial hierarchy and, in the Woodrow Wilson administration, segregated or purged the few Black employees in low-level positions from federal service.³⁵ By the time that Title VII of the Civil Rights Act of 1964 was passed into law, employers regularly and overtly discriminated against Black employees in hiring, work assignments, and compensation.

79. While Title VII achieved much progress in equalizing employment opportunities, the historic subjugation of Black people and other people of color persists in implicit biases and structural inequalities that have led to their continued underrepresentation at the highest levels of corporate leadership.

80. For example, although Black people represent 13.4 percent of the U.S. population, within U.S. financial institutions, they account for only 2.4 percent of executive committee members, only 1.4 percent of managing directors, and only 1.4 percent of senior portfolio managers.³⁶ Black people represent just 1.9 percent of technology executives and 5.3 percent of technology professionals.³⁷

³⁵ Judson MacLaury, *The Federal Government and Negro Workers Under President, U.S. Dep't of Labor Woodrow Wilson*, <https://www.dol.gov/general/aboutdol/history/shfgpr00>; Dick Lehr, *The Racist Legacy of Woodrow Wilson*, *The Atlantic* (Nov. 27, 2015), <https://www.theatlantic.com/politics/archive/2015/11/wilson-legacy-racism/417549/>.

³⁶ Laura Morgan Roberts & Anthony J. Mayo, *Toward A Racially Just Workplace*, *Harv. Bus. Rev.* (Nov. 2019), <https://hbr.org/cover-story/2019/11/toward-a-racially-just-workplace>.

³⁷ *Id.*

81. Moreover, Asian Americans make up five percent of the U.S. population, but account for only 1.4% of *Fortune* 500 CEOs and 1.9% of corporate officers overall.³⁸ And more than one-third of Latinx people report having experienced discrimination in terms of either their job applications, compensation, or consideration for promotions for jobs they already have.³⁹

82. Studies indicate that the underrepresentation of people of color in the private and public sector is not an issue of merit, but rather, opportunity. For example, a Harvard Business School study found that people of color had to manage their careers more strategically than their white peers and were required to prove greater competence than their white peers before securing the same promotions.⁴⁰ Research by the Deans of Cornell University's Dyson School and Emory University's Goizueta Business School found that Black leaders in business are disproportionately given assignments with a high risk of failure.⁴¹ Another study of Black leaders found that, because of stereotyping, they were evaluated negatively regardless of their performance.⁴²

83. In addition to racial discrimination and harassment in the workplace, sexual harassment, gender discrimination, and discrimination on the basis of sexual orientation and gender identity are disconcertingly prevalent.

³⁸ Liza Mundy, *Cracking the Bamboo Ceiling*, THE ATLANTIC (Nov. 2014), <https://www.theatlantic.com/magazine/archive/2014/11/cracking-the-bamboo-ceiling/380800/>.

³⁹ Press Release, Harv. Sch. of Pub. Health, *Poll finds one-third of Latinos say they have experienced discrimination in their jobs and when seeking housing* (Nov. 1, 2017), <https://www.hsph.harvard.edu/news/press-releases/poll-latinos-discrimination/>.

⁴⁰ Roberts & Mayo, *Toward a Racially Just Workplace* (citing David A. Thomas & John J. Gabarro, *Breaking Through: The Making of Minority Executives in Corporate America* (1999)).

⁴¹ *Id.*

⁴² Andrew M. Carton & Ashleigh Shelby Rosette, *Explaining Bias against Black Leaders: Integrating Theory on Information Processing and Goal-Based Stereotyping*, 54 ACAD. OF MGMT. J., 1141, 1141 (2012).

84. In 2014, women who worked full time, year-round in the United States were paid only 79 cents for every dollar paid to their male counterparts.⁴³ This wage gap reflects a number of factors, including lower pay for women within the same employment positions, segregation of women into lower-paying jobs, bias against women caregivers as workers, and workplace policies that impose long-term economic penalties on workers who take time out of the workforce to care for their families.⁴⁴

85. Moreover, women—many of whom are supporting families—are over-represented in the low-wage workforce and comprise two-thirds of low-wage workers, despite making up slightly less than half of the workforce overall.⁴⁵

86. The intersectionality of race and gender exacerbates these dual biases for women of color. Nearly half of women in the low-wage workforce are women of color,⁴⁶ and women of color are disproportionately represented in the low-wage sector of the workforce.⁴⁷ For example, Black women are 6 percent of the overall workforce but their share of the low-wage workforce is

⁴³ See Nat'l Women's L. Ctr., Fact Sheet: FAQ About the Wage Gap 1 (Sept. 2015), https://nwlc.org/wp-content/uploads/2015/08/faq_about_the_wage_gap_9.23.15.pdf (comparing median earnings by women in full time, year round employment with median earnings by men in full time, year round employment).

⁴⁴ *Id.*

⁴⁵ See Anne Morrison & Katherine Gallagher Robbins, Nat'l Women's L. Ctr., *Women's Overrepresentation in Low-Wage Jobs* 1 (Oct. 2015), https://nwlc.org/wp-content/uploads/2015/08/chartbook_womens_overrepresentation_in_low-wage_jobs.pdf (defining low-wage jobs as those that typically pay \$10.50 per hour or less); Anne Morrison & Katherine Gallagher Robbins, Nat'l Women's L. Ctr., *The Women in the Low-Wage Workforce May Not Be Who You Think* 4 (Sept. 2015), https://nwlc.org/wp-content/uploads/2015/08/chartbook_women_in_the_low-wage_workforce_may_not_be_who_you_think.pdf.

⁴⁶ *Id.*

⁴⁷ Morrison & Robbins, *Women's Overrepresentation in Low-Wage Jobs*, at 6.

nearly double that at 11 percent.⁴⁸ Black and Hispanic women experience greater wage gaps—60 cents and 55 cents for every dollar paid to white, non-Hispanic men, respectively—than their white, non-Hispanic counterparts.⁴⁹

87. LGBTQ persons of color also are more than twice as likely to have experienced discrimination as compared to their white peers. Whereas 13% of white LGBTQ persons report having experienced discrimination based on their LGBTQ status during the job-application process, that figure is 32% for LGBTQ people of color.⁵⁰ Similarly, 27% of LGBTQ persons of color state that they are afraid to take time off work to care for a loved one for fear it would reveal their LGBTQ status at work (compared to 16% of white LGBTQ employees).⁵¹

88. The rates of workplace discrimination against transgender people—including 26% reporting they have been fired based on anti-transgender bias and 50% who have been harassed on the job—are even higher for transgender people of color, who face “up to twice or three times the rates of various negative outcomes” as compared to white transgender employees.⁵²

⁴⁸ *Id.*

⁴⁹ See Nat’l Women’s L. Ctr., Fact Sheet: The Wage Gap Is Stagnant for Nearly a Decade 1-2 (Sept. 2016), <https://nwlc.org/wp-content/uploads/2016/09/Wage-Gap-Stagnant-2016-3.pdf>.

⁵⁰ Nat’l Pub. Radio, et al., *Discrimination in America: Experiences and Views of LGBTQ Americans* 11 (Nov. 2017), <https://legacy.npr.org/documents/2017/nov/npr-discrimination-lgbtq-final.pdf>.

⁵¹ Human Rights Campaign Foundation, *LGBTQ Working People of Color Need Paid Leave* 8 (May 2018), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/HRC-PaidLeave-POCReport-FINAL.pdf?mtime=20200713133946&focal=none>.

⁵² Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* 3, 51 (2011) https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf; see also, e.g., Nat’l Ctr. for Transgender Equality, *Issues: Non-Discrimination Laws*, <https://transequality.org/issues/non-discrimination-laws> (last visited June 28, 2019); M.V. Lee Badgett et al., Williams Institute, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination* 3 (June 2007),

B. Discussions About Implicit Bias, Systemic Discrimination, and Racial and Gender Privilege Are Important Speech of Public Concern and Debate, About Which President Trump Has Expressed Disagreement.

89. As demonstrated by hostile environments in the workplace and persistent disparities in access to opportunities, the lasting effects of race and sex discrimination are deep and widespread. Such discrimination, which was normalized for generations, continues to shape our perceptions and assumptions about individuals and groups based on their race, sex, gender identity, and/or sexual orientation, resulting in both explicit and implicit biases at an individual and systemic level.

90. According to Professor Jennifer Eberhardt, one of the most preeminent experts of implicit bias and the recipient of the MacArthur “genius” fellowship, “categorization is a fundamental tool that our brains are wired to use”; beliefs we have about categorized social groups are “stereotypes,” and the attitudes we have about them are “prejudice.”⁵³ “Whether bad or good, whether justified or unjustified, our beliefs and attitudes can become so strongly associated with the category that they are automatically triggered, affecting our behavior and decision making The process of making these connections is called bias.”⁵⁴

91. The explicit discrimination against people of color, women, and LGBTQ individuals was grounded upon—and has further generated—entrenched stereotypes that fuel the explicit and implicit biases that affect our interactions and decision making, resulting in significant

<https://williamsinstitute.law.ucla.edu/wp-content/uploads/Bias-Workplace-SOGI-Discrim-Jun-2007.pdf> (reporting similar evidence of pronounced discrimination against LGBTQ employees of color); M.V. Lee Badgett et al., Ctr. for Emp. Equal., *Evidence from the Frontlines on Sexual Orientation and Gender Identity Discrimination* (July 2018), <https://www.umass.edu/employmentequity/evidence-frontlines-sexual-orientation-and-gender-identity-discrimination> (same).

⁵³ Jennifer Eberhardt, *Biased: Uncovering the Hidden Prejudice That Shapes What We See, Think, and Do* 31 (2019).

⁵⁴ *Id.*

disparities and inequality today. For example, one of the strongest and most pervasive stereotypes in the United States is the strong association between Blackness and criminality, which has had dire consequences in the criminal justice system.⁵⁵

92. Ongoing implicit biases also have severe ramifications in the workplace. A well-known study of the U.S. labor market sent out thousands of identical resumes with names that signaled the race of the applicant as white or Black, resulting in applications with “Black-sounding names” to be 50% less likely to get a callback.⁵⁶ Even increasing the qualifications of the Black applicants did not help—they were still less likely to be called back than less-qualified white applicants.⁵⁷

93. Women likewise face implicit biases in the workplace, such as being considered ill-fitted for high-powered positions, either too masculine or too feminine in male-dominated fields, and conflicted between their professional commitment and motherhood.⁵⁸ And women of color experience the intersectionality of both race and gender bias—*i.e.*, needing to prove themselves as both women and people of color.⁵⁹

94. LGBTQ employees also suffer from implicit biases in the workplace. In a study by the Human Rights Campaign, one-in-five LGBTQ employees (compared to one in 24 non-LGBTQ employees) were told by coworkers to dress in a more masculine or feminine way.⁶⁰ Forty-six

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 263-64.

⁵⁷ *Id.*

⁵⁸ Joan C. Williams, Double Jeopardy? An Empirical Study with Implications for the Debates over Implicit Bias and Intersectionality, 37 HARV. J. L. & GENDER 185, 189-93 (2014).

⁵⁹ *Id.* at 194.

⁶⁰ Human Rights Campaign, *Workplace Divided: Understanding the Climate for LGBTQ Workers Nationwide* 6 (2018), at

percent of non-LGBTQ workers state that they would not be very comfortable working with an LGBTQ colleague, and most of the discomfort stems from a desire not to hear about their LGBTQ colleagues' sex lives.⁶¹ And 46% of LGBTQ employees are still closeted at work.⁶² Intersectionalities with race and gender further exacerbate the implicit biases that LGBTQ employees confront.

95. Both explicit and implicit biases normalize conditions under which people of color, women, and LGBTQ people are underrepresented and undervalued. Thus, what may be perceived as natural, neutral, and objective is, to the contrary, a direct product of the legacy of discrimination that has become fully embedded in various aspects of our society, such as the educational system, the criminal justice system, housing, health care, and most certainly employment.

96. The absence of explicit forms of bias that are more easily identified and remedied within the contours of our anti-discrimination laws do not render more nuanced and structural inequalities any less harmful to the victims of such inequalities. It is in response to these structural inequalities that Critical Race Theory was born. Although Critical Race Theory is comprised of a wide variety of scholarship, it is “unified by two common interests”: (1) the pursuit of understanding how racial subordination originated and has been maintained in the United States, especially in relation to the legal system; and (2) a desire to change the legal system so that it no longer supports racial subordination.⁶³

https://assets2.hrc.org/files/assets/resources/AWorkplaceDivided-2018.pdf?_ga=2.11363569.430490975.1603766732-68969451.1603766732.

⁶¹ *Id.*

⁶² *Id.*

⁶³ Kimberlé Crenshaw, et al., *Critical Race Theory: The Key Writings That Formed the Movement* viii (The New Press, ed. 1995).

97. Although it largely resides within the field of legal academia, Critical Race Theory is an invaluable lens through which to understand how structural inequalities proliferate despite the Equal Protection Clause and civil rights and anti-discrimination laws. Moreover, the basic tenets of Critical Race Theory are very much aligned with the Black Lives Matter movement, which gained widespread support, including in the form of mass peaceful protests across the country and globe, following the police killing of George Floyd this past summer and has been the subject of popular discourse, as well as discussions in the workplace.

98. The mass protests against police violence in the Black community during the summer of 2020 have been widely reported as the largest movement in American history with dozens of millions of people of all races, both domestically and internationally, protesting against police violence and abuse against the Black community.⁶⁴ In one day alone—on June 6, 2020—about 500,000 people protested in 550 locations across the United States.⁶⁵

99. Support for eradicating anti-Black racism has increased significantly among multiple entities and across industries. Professional sports associations, such as the National Football League and NASCAR, that were previously reticent have publicly voiced their support for anti-racist efforts.⁶⁶

⁶⁴ Larry Buchanan, Quoc Trung Bui, and Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES, July 3, 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>.

⁶⁵ *Id.*

⁶⁶ Tonya Pendleton, *NASCAR Stands for 'Black Lives Matter' in Video*, THE GRIO, June 8, 2020, <https://thegrio.com/2020/06/08/nascar-black-lives-matter/>; Mark Maske and Adam Kilgore, *What Made Roger Goodell Say 'Black Lives Matter' and Where It Leaves the NFL*, WASH. POST, June 6, 2020, <https://www.washingtonpost.com/sports/2020/06/06/roger-goodell-black-lives-matter/>.

100. In July, several large banks spoke out against the Department of Housing and Urban Development’s decision to eviscerate the disparate impact standard under the Fair Housing Act, explaining that housing discrimination remains a reality for many Black Americans.⁶⁷ And numerous corporations have expressed support not only for racial justice protesters, but also for their own Black employees, by encouraging leadership to stand in solidarity with their Black friends and colleagues in the fight to eradicate racism.⁶⁸

101. Moreover, on June 4, 2020, all nine justices of the Washington State Supreme Court signed an open letter to the legal community in response to George Floyd’s death and the subsequent mass protests.⁶⁹ The letter recognized “the injustices faced by black Americans are not relics of the past Our institutions remain affected by the vestiges of slavery: Jim Crow laws that were never dismantled and racist court decisions that were never disavowed.”⁷⁰ The Justices further stated that “we must recognize that systemic racial injustice against black Americans is not an omnipresent specter that will inevitably persist. It is the collective product of each of our individual actions—every action, every day. It is only by carefully reflecting on our

⁶⁷ Joe Adler, *Big Banks Urge HUD to Shelve Redlining Plan. Small Banks Say Not So Fast*, AMERICAN BANKER, June 20, 2020, <https://www.americanbanker.com/news/big-banks-urge-hud-to-shelve-redlining-plan-small-banks-say-not-so-fast#:~:text=A%202015%20Supreme%20Court%20decision%20affirmed%20disparate%20impact%2C,should%20restrict%20how%20the%20legal%20doctrine%20is%20applied>

⁶⁸ Tiffany Hsu, *Corporate Voices Get Behind ‘Black Lives Matter’ Cause*, N.Y. TIMES, May 31, 2020, <https://www.nytimes.com/2020/05/31/business/media/companies-marketing-black-lives-matter-george-floyd.html>.

⁶⁹ The Supreme Court, State of Washington, *Open Letter to the Legal Community* (June 4, 2020), <http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20SIGNED%20060420.pdf>.

⁷⁰ *Id.*

actions, taking individual responsibility for them, and constantly striving for better that we can address the shameful legacy we inherit.”⁷¹

102. The effects of structural racism have also been revealed the COVID-19 pandemic. “Blacks, Latinos, and American Indians are experiencing hospitalizations at rates 4.5 to 5.5 times higher than non-Hispanic whites Hispanics and Native Americans are both dying about 1.5 times the rate of white people. And Black people are dying at 2.4 times the white rate.”⁷² Shockingly, the “mortality rates and life expectancy are far better for white Americans” during the COVID-19 pandemic “than they are for Black people during normal, non-pandemic years.”⁷³

103. Dr. Anthony Fauci, the foremost infectious disease expert in the United States and a member of the President’s Coronavirus Task Force, attributed these disparities to institutional racism that contributed to socioeconomic inequality. Oversight of the Trump Administration's Response to the COVID-19 Pandemic: Hearing Before the House Energy and Commerce Committee, 116 Cong. 56 (2020) (Unedited Hearing Transcript).

⁷¹ *Id.*

⁷² Daniel Wood, *As Pandemic Deaths Add Up, Racial Disparities Persist – And in Some Cases Worsen*, NPR, Sept. 23, 2020, <https://www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen>.

⁷³ Maria Godoy, *‘Racial Inequality May Be as Deadly as COVID-19,’ Analysis Finds*, NPR, Aug. 27, 2020, <https://www.npr.org/sections/health-shots/2020/08/27/906002043/racial-inequality-may-be-as-deadly-as-covid-19-analysis-finds>.

104. Additionally, concerns about sexual harassment and violence and gender inequities have reached a pinnacle the past few years due to the Me Too Movement⁷⁴ and Times Up,⁷⁵ which have unearthed and publicized rampant discrimination against women in the workplace, especially against women of color and transwomen of color.

105. The United States Supreme Court's recognition of marriage equality in *Obergefell v. Hodges*, 576 U.S. 644 (2015) was a culmination of decades of activism by the LGBTQ movement,⁷⁶ which continues to seek equality in other aspects of LGBTQ life, including employment.⁷⁷

106. Concepts like implicit bias, systemic discrimination, structural inequalities, and race and gender privileges and hierarchies have been increasingly acknowledged, embraced, and espoused in the speech of individuals, organizations, corporations, and associations of all races and backgrounds during recent months leading up to the issuance of EO 13950.

⁷⁴ Founded in 2006 by sexual violence survivor and activist Tarana Burke, the Me Too Movement went viral on social media in 2017 with the #MeToo hashtag in connection with highly publicized revelations of sexual violence; Me Too continues to assist and support survivors of sexual violence and their allies by “connecting survivors to resources, offering community organizing resources, pursuing a ‘me too’ policy platform, and working with researchers” <https://metoomvmt.org/>. Me Too Movement, *Get to Know Us* (last visited Oct. 28, 2020), <https://metoomvmt.org/get-to-know-us/>; Me Too Movement, *Vision & Theory of Change* (last visited Oct. 28, 2020), <https://metoomvmt.org/get-to-know-us/vision-theory-of-change/>.

⁷⁵ Originally founded in 2017 by over 300 women in the entertainment industry, Times Up is a not-for-profit organization and charitable foundation committed to gender equality. Time's Up *Time's Up Was Born When Women Said “Enough Is Enough”* (last visited Oct. 28, 2020), <https://timesupfoundation.org/about/our-story/>.

⁷⁶ Nathaniel Frank, *The Long Road to Marriage Equality*, SLATE, June 26, 2015, <https://slate.com/human-interest/2015/06/gay-marriage-a-history-of-the-movement-for-marriage-equality.html>.

⁷⁷ Emma Green, *America Moved on From Its Gay-Rights Moment and Left a Legal Mess Behind*, THE ATLANTIC, Aug. 17, 2019, <https://www.theatlantic.com/politics/archive/2019/08/lgbtq-rights-america-arent-resolved/596287/>.

107. It is, therefore, clear from the text of EO 13950, the statements and conduct of the Trump Administration before and after the issuance of the Order, and the words of President Trump himself that EO 13950 was conceived, drafted, and implemented to impose upon both public and private entities the views, opinions, and perspectives of the Trump Administration, in conflict with the Plaintiffs’ own speech, as well as the Class—to the detriment of Plaintiffs’ interests, as well as the interests of their employees, in diversity, inclusion, and equality for people of color, women, and LGBTQ individuals.

C. EO 13950 Censors and Chills Important Speech that Advances Equality for People of Color, Women, and LGBTQ Persons in Deference to the Trump Administration’s Viewpoints, as Expressed by President Trump Himself.

108. Federal contractors and grant recipients like Plaintiffs reasonably want to discuss and address implicit biases and structural inequalities to ensure equal opportunity in their workplaces and prevent hostile work environments. For example, a study of gender biases among committee members evaluating candidates for competitive research positions found that “educating evaluative committees about gender biases” had an effect on whether committee members with strong implicit gender biases were able to make selection decisions unaffected by those biases.⁷⁸

109. Counteracting the effects of implicit biases or structural inequalities produces positive results for employers by maximizing the potential and productivity of their workforce, facilitating efficiency and economy in the workplace, and preventing discord and possible litigation regarding employment discrimination or a hostile work environment. For example, a study of LGBTQ employees working in unwelcoming environments found that 25% felt

⁷⁸ Isabelle Régner et al., *Committees with Implicit Biases Promote Fewer Women When They Do Not Believe Gender Bias Exists*, 3 NATURE HUM. BEHAV. 1171 (2019).

“distracted from work,” “17% felt exhausted from spending time and energy hiding their sexual orientation,” and “20% searched for a different job.”⁷⁹

110. Moreover, employers benefit directly from the diversity of their workforce. “[C]ompanies in the top quartile for gender or racial and ethnic diversity are more likely to have financial returns above their national industry medians. Companies in the bottom quartile in these dimensions are statistically less likely to achieve above-average returns.”⁸⁰ Diversity can also “drive innovation” by “creating an environment where ‘outside the box’ ideas are heard.”⁸¹ And “[i]n the fight for global talent, diversity and inclusion policies . . . help[] to broaden the pool of talent a company can recruit from, while also helping to build an employment brand that is seen as fully inclusive.”⁸²

111. Fortune 500 companies and leaders in the United States military have repeatedly expressed the importance of diversity to the success of their work and speak openly about the value of diversity initiatives to building strong teams and increasing productivity. *See, e.g.*, Brief of Lt. Gen. Julius W. Becton Jr. et al., as Amici Curiae Supporting Respondents, *Grutter v. Bollinger*, 539 U.S. 98 (2003) (Nos. 02-241, 02-516), 2003 WL 1787554; Brief for General Motors as Amici Curiae Supporting Respondents, *Grutter v. Bollinger*, 539 U.S. 98 (2003) (Nos. 02-241, 02-516), 2003 WL 399096; Brief of Lt. Gen. Julius W. Becton Jr. et al., as Amici Curiae

⁷⁹ Human Rights Campaign Foundation, *LGBTQ Working People of Color Need Paid Leave* 8 (May 2018), <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/HRC-PaidLeave-POCReport-FINAL.pdf?mtime=20200713133946&focal=none>.

⁸⁰ Vivian Hunt et al., *Why Diversity Matters*, McKinsey & Company, Jan. 1, 2015, <https://www.mckinsey.com/business-functions/organization/our-insights/why-diversity-matters>.

⁸¹ Sylvia Ann Hewlett et al., *How Diversity Can Drive Innovation*, HARV. BUS. REV. (2013), <https://hbr.org/2013/12/how-diversity-can-drive-innovation>.

⁸² *Fostering Innovation Through a Diverse Workforce*, FORBES 7 (2011), https://images.forbes.com/forbesinsights/StudyPDFs/Innovation_Through_Diversity.pdf.

Supporting Respondents, *Fisher v. Univ. of Texas at Austin* (No. 14-981), 2015 WL 6774556; Brief for Fortune-100 et al. as Amici Curiae Supporting Respondents, *Fisher v. Univ. of Texas at Austin*, (No. 14-981), 2015 WL 6735839.

112. Nevertheless, EO 13950 threatens to slow, restrict and, in some cases, prohibit the various forms of speech and actions that corporations and other entities have undertaken in response to increased awareness of racial and gender inequity in general and in response to the related demands of their employees, customers, investors, boards of directors and leadership.

113. EO 13950 censors and chills Protected Speech of all federal contractors and subcontractors, hindering their ability to successfully train their employees and implement critical programs to combat discrimination in the workplace and promote diversity and inclusion. Plaintiffs' Protected Speech, including any diversity trainings, provides an essential forum for citizens to discuss public issues that affect society broadly speaking and also have a meaningful application in the workplace, maximizing the productivity of employees and ensuring that employees of all backgrounds are respected and included.

114. Thus, when federal contractors and grant recipients are discussing issues of equality and inclusion, they are expressing protected viewpoints concerning topics of the utmost importance to our democracy and essential to the successful functioning of a diverse workplace. Such discourse is critical speech protected by the First Amendment. *Snyder v. Phelps*, 562 U.S. 443, 453 (2011).

115. The Supreme Court has recognized that such speech is at the *core* of the First Amendment's protections. "Speech by citizens on matters of public concern lies at the heart of the First Amendment, which 'was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'" *Lane v. Franks*, 573

U.S. 228, 235-36 (2014) (quoting *Roth v. U.S.*, 354 U.S. 476, 484 (1957)). Speech on public issues, particularly relating to any matter of political, social, or other concern to the community, “occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.” *Snyder*, 562 U.S. at 453. For that reason, courts have historically struck down government actions censoring speech by federal employees that relates to issues of racial justice, gender equality, and social progress. *See, e.g., Hardy v. Jefferson Cmty. College*, 260 F.3d 671, 679 (6th Cir. 2001) (finding that “race, gender, and power conflicts in our society” are “matters of overwhelming public concern”).

116. EO 13950 places a significant burden on Plaintiffs’ Protected Speech because it explicitly calls for government retaliation against federal contractors and subcontractors who express Protected Speech, including diversity trainings, that are in not line with President Trump’s views, even when those trainings are with the contractors’ own employees.

117. The Protected Speech, including workplace trainings, of an entire organization can be censored by EO 13950 by virtue of a single federal contract even when the Protected Speech has no connection to a federal contract.

118. As a result, private entities must refrain from constitutionally protected speech in order to compete for and receive federal contracts and grants.

119. The Order also threatens to chill speech that may not even violate the restrictions in the Order because many federal contractors will choose to err on the side of caution and decline to discuss any matters that even remotely bear on issues of race or sex, for fear of violating the broad prohibitions in the Order. In addition, the Order invokes the enforcement power of the Department of Justice and the prospect of liability under Title VII of the Civil Rights Act of 1964

for those who would express views on race and gender that differ from the Administration's preferred approach as set out in the Order. EO 13950 Secs. 4(a)(4) & 8.

120. EO 13950 is already having an immediate and discernible chilling effect on protected speech as companies, organizations, and academic institutions halt diversity trainings for fear of the retaliation they might face pursuant to the terms of Section 4(a)(3) of the Order, which punishes non-compliance by “cancel[ing], terminat[ing], or suspend[ing]” contracts and allowing the offending contractors to “be declared ineligible for further Government contracts.” EO 13950 Sec. 4(a)(3).

121. On information and belief, workshops, trainings, and initiatives to address systemic racial discrimination have been put on hold or canceled; some entities have requested the exclusion of terms like “diversity,” “racism,” “systemic racism,” “critical race theory,” “white privilege,” “intersectionality,” and “unconscious bias” for fear of violating the Order.

122. For example, John A. Logan College, in Carterville, IL, rescinded an invitation to a professor who planned to give a talk in celebration of Hispanic Heritage Month.⁸³ The talk would have included discussions of Hispanic identity as well as Mr. Barrios's own story as an immigrant from Guatemala.⁸⁴

123. Similarly, within days of the Order's issuance, University of Iowa administrators suspended all diversity and inclusion trainings pending review even though the Order is not explicitly directed at public universities and despite the University administrators'

⁸³ Hailey Fuchs, *Trump Attack on Diversity Training Has a Quick and Chilling Effect*, N.Y. TIMES, Oct. 13, 2020, <https://www.nytimes.com/2020/10/13/us/politics/trump-diversity-training-race.html>.

⁸⁴ *Id.*

acknowledgment that the Order would have a chilling effect on campus.⁸⁵ The administrators' actions were motivated by a fear of losing federal funding due to potential noncompliance with the Order.

124. This chilling effect works to the detriment of all employees, but particularly members of protected groups who will lose out on the beneficial effects of such opportunities and programs that otherwise would have been available.

125. Likewise, Plaintiffs experience the chilling effect by having to consider what terms can or cannot be used in their Protected Speech in order to comply with EO 13950 and allow them to remain eligible for federal contracts and/or federal grants.

126. The Administration can offer no credible justification for its broad assault on free speech. To the contrary, the language in the Order, as well as the context in which it was issued, make clear that the primary motive for the Order is to silence particular viewpoints on race and gender with which President Trump disagrees.

127. With the enforcement of the Order, Plaintiffs and more than 100,000 other federal contractors and grantees will be denied the right to free speech, one of the most fundamental rights in our democratic system.

III. EO 13950 DIRECTLY HARMS PLAINTIFFS NATIONAL URBAN LEAGUE, NATIONAL FAIR HOUSING ALLIANCE, AND CLASS MEMBERS

128. NUL entered into an Apprenticeship Contract with the Department of Labor in July of 2016, for a 12-month term with four (4) one-year renewal options. Specifically, NUL contracted

⁸⁵ Cleo Krejci, *Executive order silences speech, UI leaders say, following decision to suspend diversity training under White House treat to cut funding*, Iowa City Press-Citizen, Oct. 9, 2020, <https://www.press-citizen.com/story/news/education/university-of-iowa/2020/10/09/university-iowa-suspend-diversity-training-trump-executive-order-raises-questions/5903117002/>

to act as a National Equity Partner to work with the DOL's Office of Apprenticeship to develop partnerships with strategic sponsors committed to increasing the numbers of underrepresented persons who enter and complete Registered Apprenticeship Programs. NUL's work under the Apprenticeship Program includes: developing and presenting trainings on diversity and inclusion; developing strategic tools and plans to increase access, entry and retention of underrepresented persons to apply to Registered Apprenticeships; scaling current diversity and inclusion practices; and developing tools and strategies for employer affirmative action plans among other work.

129. NUL's Apprenticeship Contract is a part of the DOL's Employment and Training Administration's ("ETA") investment in the growth of apprenticeship programs in various industries, including healthcare, construction, transportation and logistics, manufacturing, and information and communications technology; and support increasing demographic diversity and inclusion in apprenticeship among traditionally underrepresented populations.

130. NUL intends to apply for future contracts with the government. After working with the ETA for four years, NUL has become a valuable contractor with the government and has gained further expertise in the apprenticeship program. NUL's contract with the government was extended in 2017, 2018 and 2019. Despite a positive relationship for almost four years, this September, around the time that the EO 13950 was written and issued, DOL extended the contract only until December 31, 2020 instead of September 20, 2021, as was an option in the contract.

131. NUL has also received many grant awards from various federal government agencies and expects to continue to apply for and receive federal grants in the future. Several of NUL's government grants are currently effective. NUL received a grant from DOL and ETA for \$4,626,557 for the period of July 1, 2020 through November 1, 2020. This grant award was provided under DOL's Senior Community Service Employment Program, which is a program

under the DOL and ETA where grantees provide training for low-income, unemployed seniors to allow them to reenter the workforce. NUL's funding under this grant program was also recently increased to a total of \$11,571,239 for the period beginning on January 1, 2020. NUL also received a grant under DOL and ETA's H-1B One Workforce Grant Program which provides funds for grantees to develop workforce strategies for middle- to high-skilled H-1B occupations. NUL recently received a grant from the Department of Commerce of \$500,000 for the period of June 1, 2020 until May 31, 2021 to fund NUL's work with their Entrepreneurship Cares Act Assistance. Moreover, NUL has received further funds of \$4,500,000 from DOL and ETA under the Young Adult Reentry Partnership for the period of July 1, 2020 through December 31, 2023 wherein NUL uses the funds to provide education and training to young adults who have been involved in the criminal justice system in order to help them reenter the workforce.

132. NUL's past grants further evidence the organization's continued interest in applying for future grant funds. NUL previously received a grant for \$10,000,000 covering the period from October 27, 2015 through October 26, 2019 under the H-1B Ready to Work Partnership which provides funds for grantees to provide unemployed workers with counseling and training for employment in industries that use H-1B visas to hire foreign workers. NUL also received an award for \$1,800,000 covering the period of October 1, 2017 to September 30, 2020 from the Department of Justice's ("DOJ") Office of Juvenile Justice and Delinquency Prevention under the Juvenile Mentoring Program where grantees provide mentorship programs for youth. During the financial year of 2019, NUL received a grant of \$871,183 from the Department of Housing and Urban Development ("HUD") in order for NUL to engage in comprehensive counseling for HUD customers from October 1, 2018 until March 31, 2020.

133. In order to qualify for the Apprenticeship Contract, NUL was considered a subject matter expert regarding issues of diversity, equity and inclusion. In keeping with this status, NUL provides external and internal messaging to the public and its own employees regarding the issues of bias and structural racism that are inherent in American institutions and workplaces. Over the years, NUL has published a variety of external-facing documents that mirror the concepts that NUL communicates internally to its employees. From discussions on implicit racial biases to the systemic oppression that Black Americans face, NUL employees regularly engage in the discussion of concepts that the Order appears to target.⁸⁶

134. Fundamental to NUL’s current and future work is its conceptual understanding of racism and sexism, especially as roadblocks to diversity and inclusion efforts. NUL employees operate from an understanding that successful diversity and inclusion efforts must acknowledge and account for systemic racism and sexism in America and that diversity and inclusion efforts require open dialogue around these issues and the space to recognize and name biases consciously and unconsciously held.

135. Moreover, NUL’s diversity and inclusion work specifically aims to counteract the reliance in this country on concepts like “colorblindness” and “meritocracy” as a means to ignore or minimize the historical and ongoing impact of policies and institutions set up for the benefit of a white majority at the expense of people of color. These concepts—that inform and animate NUL’s internal and government-contracted work—have been deemed unacceptable “divisive concepts” under EO 13950, which specifically prohibits all government contractors (such as NUL) from communicating these concepts to their own employees. The Order thus invades NUL’s

⁸⁶ See, e.g., Marc Morial (President, NUL), *Starbucks Arrests Show “Hidden” Implicit Bias*, HUDSON VALLEY PRESS (April 25, 2018), <https://hudsonvalleypress.com/2018/04/25/starbucks-arrests-show-hidden-implicit-bias/>.

freedom of speech and unduly interferes with its prerogative to communicate mission-critical ideas and principles to its employees.

136. NUL has a mutual interest with its employees to ensure diversity and inclusion in its workplace so that all employees, regardless of their race, ethnicity, sex, gender, sexual orientation, or gender identity, feel welcome and valued. Having a more diverse and inclusive workplace increases employee satisfaction and productivity, produces greater innovation and ideas, and helps NUL better serve its mission overall. NUL is concerned that EO 13950 will have a detrimental impact on its employees of color, female employees, and LGBTQ employees, who may not be able to challenge the Order themselves.

137. Because NUL has been considered a subject matter expert in diversity concepts that the Order targets, NUL is less likely to be awarded future contracts or grants due to its visible alignment with (and promotion of) these disfavored concepts. Notwithstanding NUL's ability and readiness to do so, Enforcement of the Order would mean that NUL will no longer be able to compete for federal grants or contracts on a fair and equitable basis against other organizations whose mission and public statements are less intertwined with promoting racial equality. Indeed, within days of the Order being released on September 22, 2020, NUL was informed that its current DOL contract would not be extended for a fifth year, despite being previously granted extensions in each of the last four years.

138. Likewise, NFHA and its members have previously been awarded contracts and grants from the Federal Government. NFHA contracted with the Department of Housing and Urban Development ("HUD") in 2019 in the Technical Assistance and Capacity Building Program Cooperative Agreement (the "TACBP Contract"). The TACBP Contract is a part of a broader HUD program aimed at procuring and supporting organizations to focus on needs assessments,

capacity-building engagements, maintenance of tools and products used in teaching adults how to understand HUD requirements, data analysis and reporting, Indian Housing Block Grant Allocation Formula rulemaking, administrative activities, coordination of activities, and other learning initiatives and knowledge management initiatives. The TACBP Contract between HUD and NFHA has a three-year term and is currently set to expire on July 29, 2022. Under the TACBP Contract, HUD requests that NFHA performs certain services, such as trainings, to HUD and its customers under the direction and oversight of HUD through a work order. HUD reimburses NFHA for both administrative costs and approved time and expenses under specific work plans.

139. Over the duration of the TACBP Contract, NFHA conducted several internal trainings for its members regarding diversity and inclusion efforts. In order to fulfill its mission in an effective manner, NFHA commonly holds trainings and conversations for its members and staff that address issues of systemic racism, unconscious bias, and racial inequities. Recently, NFHA held informal discussions with its employees concerning systemic racism and perceptions of white people and other demographic groups in connection with the killing of George Floyd. As an organization focused on preventing housing discrimination and providing underserved populations with equal access to housing opportunities, NFHA will continue to hold similar trainings and discussions with its members and employees in the future. Indeed, fair housing advocates must use the lessons of history to address the current manifestations of that history; otherwise, they cannot help create a fair and equitable society. NFHA has also held conversations, discussions, education and outreach events, and trainings with non-profit groups and housing and lending stakeholders, including fair housing organizations, academicians, think tanks, non-profit organizations, financial services institutions, governmental entities, real estate sales groups, and housing industry trade associations on issues of systemic racism, structural inequities, sexism,

unconscious bias, and intersectionality. Many of these groups include NFHA's members. These conversations, discussions, education and outreach events, and trainings increased precipitously in the aftermath of the COVID-19 health pandemic and the murder of George Floyd. Various stakeholders wanted training and information from NFHA on why the nation was experiencing grave disparities related to the COVID-19 pandemic and economic crisis; a better understanding about why residential segregation is still significant in many communities; insights into why racial disparities exist with respect to arrest and conviction rates; information about the intersectionality between segregation and disparate health, housing, credit, and criminal justice outcomes; and help understanding what programs and policies should be implemented to address continuing racial inequities.

140. NFHA also produces an annual report, Fair Housing Trends, that discusses the major issues related to housing discrimination and equal housing opportunity in the nation. This report often covers issues like residential segregation and its intersection with structural inequality, environmental injustice, criminal injustice, climate change. The report often also deals with issues that impact fair housing like implicit or unconscious bias, systemic racism, and sexism. This report is used by a wide group of stakeholders, including its members and employees.

141. The Order purports to prohibit private entities from speaking about structural inequalities in America and implicit biases with their employees or member organizations by deeming such subjects “divisive concepts.” Based on its past and future speech, NFHA could face debarment or the loss of future opportunities to compete for federal grants and contracts should it continue to discuss issues of race and inclusion with its members and its employees consistent with its mission and purpose.

142. NFHA has a mutual interest with its employees to ensure diversity and inclusion in its workplace so that all employees, regardless of their race, ethnicity, sex, gender, sexual orientation, or gender identity, feel welcome and valued. In fact, having a more diverse and inclusive workplace increases employee satisfaction and productivity, produces greater innovation and ideas, and helps NFHA better serve its mission overall. NFHA is concerned that EO 13950 might have a detrimental impact on its employees of color, female employees, and LGBTQ employees, who may not be able to challenge the Order themselves.

CLASS ACTION ALLEGATIONS

143. Plaintiffs bring this suit on behalf of themselves and, under Federal Rule of Civil Procedure 23(a), 23(b)(1), 23(b)(2), 23(b)(3), and/or (c)(4), as representatives of the Class defined as follows (“the Class”):

All persons and entities who contract, bid to contract, or intend to bid to contract with, or who receive or intend to seek to receive federal grant funds from, the United States government or any federal agency, department, or division and who offer or intend to offer “workplace training” or programming concerning racial and/or gender discrimination and/or undertake work intended to examine and dismantle racism and gender discrimination.

Plaintiffs reserve the right to amend the Class definition, including with the use of subclasses, as additional facts become known through discovery.

144. The members of the Class are so numerous that joinder is impracticable. Upon information and belief, there are more than 100,000 federal contractors and more than 10,000 federal grantees each year. All such contractors and grantees are subject to the unlawful Order.

145. The claims and defenses of Plaintiffs are typical of the claims or defenses of members of the Class. Plaintiffs’ claims arose out of the same events and course of conduct that gives rise to the claims of other members of the Class. Plaintiffs and all members of the Class are subject to similar harm from the Order now and in the future.

146. The members of the Class share common issues of fact and law, including but not limited to:

- a. whether the Order's prohibition of Protected Speech, including trainings, qualifies as unconstitutional viewpoint discrimination in violation of the First Amendment;
- b. whether the Order's prohibition of Protected Speech, including trainings, is unconstitutionally vague in violation of the Fifth Amendment;
- c. whether the Order's prohibition of Protected Speech, including trainings, violates the Equal Protection component of the Fifth Amendment's Due Process Clause;
- d. whether and to what extent Defendants' actions may impair or threaten future activities protected by the First Amendment; and
- e. what equitable and injunctive relief is warranted.

147. Plaintiffs will fairly and adequately protect the interests of the proposed Class. Neither Plaintiff has any interest that is now or may later be antagonistic to the interests of the proposed Class. The attorneys representing the Plaintiffs include experienced attorneys who are considered able practitioners in federal civil litigation, including complex litigation and class actions, and they should be appointed class counsel.

148. Maintaining individual actions would create a risk of "inconsistent or varying adjudications with respect to individual members that would establish incompatible standards of conduct for the party opposing the class." Fed. R. Civ. P. 23(b)(1)(A). Multiple courts issuing multiple injunctions governing the permissible reach and effect of the Order on the Class would

be untenable. Doing so would only contribute to the existing state of uncertainty and confusion that surrounds the meaning and effect of the Order.

149. This case involves “adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications.” Fed. R. Civ. P. 23(b)(1)(A). A ruling with respect to a single Plaintiff in this case would arguably be strong *stare decisis*—if not necessarily *res judicata*—with respect to the other putative Class members and the federal government’s contracting and granting bodies. There is no benefit to allowing the overwhelmingly common issues in this case to be litigated individually. The interests of both Class members and Defendants requires class-wide treatment.

150. Defendants have acted or will act on grounds generally applicable to the Class by subjecting them to and purporting to enforce the Order. Injunctive and declaratory relief is therefore appropriate with respect to the Class as a whole.

151. Questions of law and fact common to members of each Class will predominate over any questions that may affect only individual members because Defendants have acted on grounds generally applicable to members of the Class.

152. Class treatment is a superior method for the fair and efficient adjudication of the controversy because, among other things, class treatment will permit a large number of similarly situated entities to prosecute their common claims in the same forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender. The benefits of proceeding through the class mechanism, including providing injured persons and entities with a means of obtaining redress on claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in the management of this class action.

153. A class action is also manageable, and Plaintiffs know of no management difficulties that would preclude class certification in this case.

154. Plaintiffs reserve the right to seek to certify common questions related to Defendants' knowledge, intent, and actions.

PLAINTIFFS REQUIRE IMMEDIATE RELIEF

155. Plaintiffs have standing to challenge the EO 13950 and their claims are ripe for immediate adjudication today.

156. Plaintiffs have suffered injury-in-fact. As set forth above, Plaintiffs provide Protected Speech, including workplace training and other communications, containing subjects almost certainly prohibited by the Order. For example, Plaintiffs' workplace training relies on in-depth discussion of systemic racism, gender and sex discrimination, and implicit biases, which, under the vague definitions of the Order, is considered prohibited "inculcat[ion]" of several "divisive concepts." Given the existing content of Plaintiffs' Protected Speech, including any workplace training, and their intention to continue expressing the Protected Speech, Plaintiffs are preemptively disqualified from federal contract and grant opportunities. These "lost contracting [and grant] opportunities" are sufficient to establish injury in fact. *Info. Handling Servs., Inc. v. Def. Automated Printing Servs.*, 338 F.3d 1024, 1029 (D.C. Cir. 2003).

157. Plaintiffs would compete for future federal contracts and/or federal grants absent the unconstitutional censorship of Plaintiffs' Protected Speech. As set forth above, Plaintiffs competed for and received federal contracts and grants in the past; Plaintiffs provide expertise and services that are beneficial to the government and to disadvantaged communities; and Plaintiffs have actively explored whether they could compete for future federal contracts and/or federal grants consistent with their organizational mission and values. Notwithstanding Plaintiffs' ability

and readiness to compete for future contracts and/or federal grants, the Order prevents Plaintiffs from doing so.

158. In addition, the Order burdens Plaintiffs’ expressive rights. As set forth above, the Protected Speech, including any workplace diversity training, is critical to Plaintiffs’ respective organizational missions. But the only way they can continue to compete for and receive federal contracts and/or grants is to refrain from expressing their Protected Speech. NFHA, in particular, will be required to cease, or substantially modify, its diversity training as of November 21, 2020, when grantees must certify that they will not use federal funds for promoting certain “divisive concepts”—topics that NFHA routinely discusses.

159. In light of the substantial and imminent constitutional injury, Plaintiffs are left with no choice but to seek immediate judicial relief, including declaratory relief and a preliminary and permanent injunction.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

ULTRA VIRES ACTION IN VIOLATION OF THE FIRST AMENDMENT – VIEWPOINT DISCRIMINATION

1. Plaintiffs incorporate and re-allege each and every allegation contained above as if fully set forth herein.

2. Plaintiffs have a cause of action in equity and under the All Writs Act, 28 U.S.C. § 1651, to declare unlawful and to enjoin a Presidential Executive Order or other Presidential action that is ultra vires. *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327 (2015) (“The ability to sue to enjoin unconstitutional actions by state and federal officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England.”).

3. The First Amendment to the United States Constitution prohibits any law that “abridg[es] the freedom of speech.” U.S. CONST. amend. I.

4. In violation of the First Amendment’s protection of speech, President Trump issued EO 13950 to silence viewpoints disliked by his Administration. *Matal v. Tam*, 137 S. Ct. 1744, 1751 (2017).

5. The Order identifies viewpoints that the Trump Administration dislikes—such as the existence of white privilege, implicit bias, systemic racism, structural inequalities, or intersectional experiences of discrimination—and attempts to purge them from the national conversation by denying benefits, such as government contracts and grants, to private entities like Plaintiffs who expresses speech on these censored topics.

6. This targeted censorship violates the First Amendment rights of Plaintiffs and the Class by chilling their ability to speak on important issues of diversity and equality without risking the loss of government benefits. *See Agency v. Int’l Dev. v. Alliance for Open Soc’y Int’l Inc.*, 570 U.S. 205 (2013) (holding unconstitutional a statutory provision conditioning funding on organizations expressly opposing prostitution).

7. Plaintiffs’ Protected Speech is protected by the First Amendment in the workplace because they are speaking 1) in their capacity as a private citizen and 2) on matters of public concern. *Garcetti v. Ceballos*, 547 U.S. 410, 420, 426 (2006); *Umbehr*, 518 U.S. at 669 (treating employees and contractors the same).

8. The Trump Administration is not permitted to ban Plaintiffs’ Protected Speech because their interests “in a broad range of present and future expression” are not “outweighed by that expression’s ‘necessary impact on the actual operation’ of the Government,” *United States v. Nat’l Treasury Employees Union*, 513 U.S. 454, 468 (1995), and EO 13950 is not “tailored to

address the harm that the government allegedly aims to protect,” *Sanjour v. E.P.A.*, 56 F.3d 85, 97 (D.C. Cir. 1995).

9. A Presidential Executive Order issued in violation of the U.S. Constitution is *ultra vires* and therefore void.

10. EO 13950 unlawfully restricts speech on matters of public concern and public welfare, which is entitled to the highest protection in our constitutional system. The Order was intended to have, is having, and will likely continue to have, the effect of chilling constitutionally protected speech on issues of racial and gender equality as well as efforts to reckon with historical systems of oppression in order to shape a more just and fair society.

11. As alleged above, EO 13950, on its face and as applied to Plaintiffs, unconstitutionally infringes or imminently threatens to infringe Plaintiffs’ rights under the First Amendment to the United States Constitution.

12. Plaintiffs have been and will be irreparably harmed by President Trump’s *ultra vires* EO 13950 issued in violation of the First Amendment and have no adequate remedy at law.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE FIFTH AMENDMENT – VOID FOR VAGUENESS

13. Plaintiffs incorporate and re-allege each and every allegation contained above as if fully set forth herein.

14. Under the Fifth Amendment to the United States Constitution, a federal law is unconstitutionally vague if it “fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *United States v. Williams*, 553 U.S. 285, 304 (2008);); *see also* U.S. CONST. amend. V. EO 13950 fails on both fronts.

15. EO 13950 fails to provide fair notice of what conduct it requires from the Plaintiffs. The Order prohibits “workplace training” that “inculcates” in employees certain “divisive concepts,” but it does not adequately define “workplace training,” “inculcates,” or many of the “divisive concepts,” among other terms. EO 13950 provides no way to reasonably discern the line between “discussing” a divisive concept on the one hand, and impermissibly “includat[ing]” that concept on the other. The failure to define this subjective term, among others, renders EO 13950 essentially meaningless.

16. EO 13950 also fails to provide any explicit, objective standards for enforcement. Section 4, for example, directs the Department of Labor to “investigate complaints” and “take appropriate enforcement action and provide remedial relief, as appropriate” in response to violations. EO 13950 Sec. 4. There are no standards to guide what is and what is not a violation. As a result, the Department of Labor has unfettered discretion to enforce EO 13950 as it sees fit, including by terminating the federal contracts and/or grants of organizations committed to diversity and inclusion, or preventing them from competing for contracts and/or grants in the first place. EO 13950 thus encourages and sanctions arbitrary, subjective, and discriminatory enforcement.

17. The absence of explicit, objective standards in EO 13950, coupled with the Department of Labor’s unfettered discretion to enforce the Order, have, is having, and will likely continue to have the effect of chilling constitutionally protected speech on issues of racial and gender equality as well as efforts to reckon with historical systems of oppression in order to shape a more just and fair society.

18. For all these reasons, and as set forth elsewhere in this Complaint, EO 13950 is unconstitutionally vague in violation of the Fifth Amendment’s Due Process Clause.

THIRD CLAIM FOR RELIEF

FIFTH AMENDMENT – VIOLATION OF EQUAL PROTECTION CLAUSE

19. Plaintiffs incorporate and re-allege each and every allegation contained above as if fully set forth herein.

20. The Equal Protection component of the Fifth Amendment's Due Process Clause guarantees persons the equal protection of the laws and prohibits the government from treating persons differently—on the basis of their race, religion, national origin, or alienage—than similarly situated individuals. *Sessions v. Morales*, 137 S. Ct. 1678, 1686 n.1 (2017); *United States v. Windsor*, 133 S. Ct. 2675, 2693 (2013); *Bolling v. Sharpe*, 347 U.S. 497 (1954).

21. Race and sex-based discrimination against individuals who are people of color, women, and/or LGBTQ were a substantial or motivating factor behind the issuance of EO 13950, in violation of the Fifth Amendment.

22. The inference of a race and sex-based discriminatory motive is supported by several factors.

23. President Trump's multiple false statements maligning speech and viewpoints that acknowledge the history and persistence of discrimination evince a discriminatory motive.

24. EO 13950's prohibitions on topics, including systemic race and sex discrimination, implicit race and sex biases, and the persistent harms associated with systemic discrimination and implicit biases, penalizes employers seeking to eradicate discrimination in the workplace and to ensure a hostility-free work environment for people of color, women, and/or LGBTQ individuals.

25. The Trump Administration has engaged in procedural and substantive departures in the course of its issuance, resulting in substantive irregularities, which are indicative of its discriminatory intent.

26. Although maximizing efficiency and economy in the workplace are noted as motivating reasons for the issuance of EO 13950, the Order actually undermines these goals because employers counteracting the effects of implicit biases, structural inequalities, systemic discrimination, and racial/gender privileges and hierarchies maximize the potential, productivity, and economy of their workforce.

27. The historical background of the Order evinces its “invidious purpose” of silencing viewpoints inconsistent with those of the Trump Administration and advancing a revisionist history that denies the enduring effects of the historic subjugation of people of color, women, and/or LGBTQ individuals to the detriment of those persons.

28. Moreover, the specific sequence of events leading up to the issuance of the Order illustrate its intention to continue the Trump Administration’s efforts to deny the historic and persistent discrimination experienced by people of color, women, and/or LGBTQ community in our society.

29. Finally, the Trump Administration’s cancellation of trainings in response to EO 13950 has established a clear pattern of targeting trainings and other speech that addresses and discusses concepts pertaining to systemic discrimination and structural inequalities.

30. Taken together, the false statements made about the Order’s prohibited speech; the inconsistency between the Order’s stated goals for workforce economy and efficiency and opposite actual effect; the foreseeable certainty of its disparate impact on people of color, women, and/or LGBTQ individuals; the Order’s procedural and substantive departures; the Order’s historical background and the sequence of events preceding its issuance; and the Trump Administration’s clear pattern of cancelling trainings that address and discuss issues pertaining to systemic discrimination and structural inequalities against people of color, women, and/or LGBTQ

individuals, all indicate an intent to discriminate on the basis of race, national origin, sex, and/or gender.

31. The Trump Administration's stated justifications and policy rationales for EO 13950 are pre-textual and meant to obfuscate its impermissible discriminatory purpose.

REQUEST FOR RELIEF

Plaintiffs respectfully request that the Court grant the following relief:

- A. A declaration pursuant to 28 U.S.C. § 2201 that EO 13950 is unlawful and invalid.
- B. A permanent injunction enjoining Defendant, his officials, agents, employees, assigns, and all persons acting in concert or participating with them from implementing or enforcing any part of EO 13950;
- C. An order awarding Plaintiff cost of suit, and reasonable attorneys' fees and expenses pursuant to any applicable law; and
- D. Such other relief as this Court deems equitable, just, and proper.

Dated: October 29, 2020

Respectfully submitted,

/s/ Samuel Spital

Sherrilyn Ifill*

Director-Counsel

Janai Nelson*

Samuel Spital, Bar ID NY0248

Counsel of Record

Jin Hee Lee**

Monique Lin-Luse**

Amber Koonce**

**NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.**

40 Rector St., 5th Floor

New York, NY 10006

Tel.: (212) 965-2200

Fax.: (212) 226-7592

sspital@naacpldf.org

Ajmel Quereshi, Bar ID 1012205
**NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC.**
700 14th Street N.W., Ste.600
Washington, DC 20005
Tel: (202) 682-1300

**admission to the D.D.C. forthcoming*
***pro hac vice application forthcoming*

From: Sweeney, Megan P - OPA [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A593A75CEFBB4DE5B883C3F1DF09E44C-SWEENEY, ME]
Sent: 10/29/2020 4:55:44 PM
To: Mondl, Rachel E - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d7773f42e1545e886e760b3cb4b19fb-Mondl, Rach]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bdd78130ecd530d-Swearingen,]; OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]; Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Nicholson, Mattie L - OPA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e57e90a07dd74c1880260da706d772d8-Nicholson,]; Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]
CC: Sidney, Sabin R - OPA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57ff1f749e784a7fb5598a532d675791-Sidney, Sab]
Subject: RE: RAPID RESPONSE: Press Inquiry 29

Just wanted to touch base on this question, as we have a few inquiries about it -

From: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Sent: Thursday, October 29, 2020 4:54 PM
To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

“Dawn Siler-Nixon, a partner with the law firm Ford Harrison, said some of her clients have removed phrases such as “white privilege” from their training. She said one client, a manufacturer who is a federal contractor, had canceled a book discussion for employees on “White Fragility” by Robin DiAngelo.”

Rachel E. Mondl
Chief of Staff
Office of the Secretary
U.S. Department of Labor
(202) (b) 6

From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Sent: Thursday, October 29, 2020 4:45 PM
To: OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

Here's the story the Post ran earlier today, in case folks haven't seen it yet:

<https://www.washingtonpost.com/business/2020/10/29/trump-diversity-training-labor-department/>

From: O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>

Sent: Thursday, October 29, 2020 3:36 PM

To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

Wait – hold up; WHCO weighing in.

Kate S. O'Scannlain | Solicitor of Labor

200 Constitution Avenue, NW, Rm S2002, Washington, DC 20210

D 202 (b) 6 E oscannlain.kate.s@dol.gov

From: O'Scannlain, Kate S - SOL

Sent: Thursday, October 29, 2020 3:35 PM

To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@dol.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

This one has been approved by DOJ (no word from WHCO):

(b) 5

Kate S. O'Scannlain | Solicitor of Labor

200 Constitution Avenue, NW, Rm S2002, Washington, DC 20210

D 202 (b) 6 E oscannlain.kate.s@dol.gov

From: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Sent: Thursday, October 29, 2020 1:37 PM

To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

DOL002917

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

I think we need to be careful here given WH interest. I'm guessing DOJ is representing us, so I'm hesitant to say all this without checking with DOJ and WH Comms.

Rachel E. Mondl
Chief of Staff
Office of the Secretary
U.S. Department of Labor
(202) (b) 6

From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>
Sent: Thursday, October 29, 2020 1:36 PM
To: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

I had a similar sentiment as Andrew. One nit below.

From: Kilberg, Andrew G - OSEC
Sent: Thursday, October 29, 2020 1:33 PM
To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@dol.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

Here's a draft response for consideration. Because this relates to a new lawsuit, SOL definitely needs to approve.

(b) 5

Andrew G. I. Kilberg
Counselor to the Secretary
U.S. Department of Labor
202 (b) 6

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>
Sent: Thursday, October 29, 2020 1:23 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RAPID RESPONSE: Press Inquiry 29

All – Please see the below inquiry

Outlet: Washington Post

Reporter: Eli Rosenberg

Inquiry:

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

--

Mattie Nicholson

From: Rosenberg, Eli <(b) 6@washpost.com>

Sent: Thursday, October 29, 2020 1:18 PM

To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

The Washington Post

m: (510)

d: (202)

(b) 6

@emrosenberg

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Tuesday, October 27, 2020 12:29 PM

To: Rosenberg, Eli <(b) 6@washpost.com>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: hi from the Washington Post

Eli,

On background, attributable to a DOL Spokesperson:

The allegations you have described are nonsense. The Department of Labor is 100% committed to OFCCP's mission of ensuring equal employment opportunity among federal contractors. Race and sex stereotyping and scapegoating are discriminatory and harmful. Our country's long efforts to eradicate racial discrimination are stunted, not furthered, when employers promote race and sex stereotyping and scapegoating. By prohibiting race and sex stereotyping and scapegoating in federal contractors' training, Executive Order 13950 furthers OFCCP's mission and is entirely consistent with Executive Order 11246. Both Secretary Scalia and Director Leen have made it clear that EO 13950 does not prohibit run-of-the-mill implicit-bias training. But it does prohibit the types of egregious training cited in EO 13950. For example, no reasonable observer would say that it is acceptable for a federal contractor to teach its employees that "rational linear thinking" and "hard work" are "aspects" of one race, but not another.

From: Rosenberg, Eli <(b) 6@washpost.com>
Sent: Tuesday, October 27, 2020 11:25 AM
To: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

Hi,

We are planning to publish the story tomorrow morning. One follow up inquiry:

Does the DOL have any response to critics who say the EO and the OFCCP's efforts at implementation are "part of a larger strategy by this administration to foster fear," and chill momentum for advancing racial equity? Who say that the new EO and OFCCP's efforts are "an affront to the purpose and history of Executive Order 11246," and an overreach of its duties? That the new EO is based on shaky legal precepts?

Deadline is the end of the day. Let me know if you have any questions: (b) 6

Thank you,
Eli Rosenberg

The Washington Post
m: (510) (b) 6
d: (202) (b) 6
@emrosenberg [gcc02.safelinks.protection.outlook.com]

From: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Sent: Friday, October 23, 2020 11:27 AM
To: Rosenberg, Eli <(b) 6@washpost.com>
Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: Re: hi from the Washington Post

CAUTION: EXTERNAL SENDER

Eli-

Background, attributable to a DOL Spokesperson:

OFCCP has received 98 inquiries, 81 of which are complaints.

OFCCP has never set up a hotline tied to an Executive Order.

DOL002920

From: Squitieri, Chad C - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=80ED763B75B846FF8B842B19BD2B9156-SQUITIERI,]
Sent: 10/29/2020 3:16:36 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]
Subject: RE: RAPID RESPONSE: Press Inquiry 29
Attachments: OFCCP Letter - 10-29-2020 clean (002).docx; 201015_Coalition_ExecutiveOrder13950_POTUS.pdf

Kate:

Craig is separately preparing to send the attached response to the Chamber of Commerce. Rachel has asked that we flag the draft response for DOJ, to see if there are any concerns given the litigation. Could you please flag the attached letter to the appropriate DOJ contact? Also attaching the original Chamber incoming letter.

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Thursday, October 29, 2020 2:53 PM
To: OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: Re: RAPID RESPONSE: Press Inquiry 29

Thanks Kate.

[Get Outlook for iOS](#)

From: OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>
Sent: Thursday, October 29, 2020 2:51:08 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>
Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Subject: RE: RAPID RESPONSE: Press Inquiry 29

I sent them your earlier statement; stay tuned.

Kate S. O'Scannlain | Solicitor of Labor
200 Constitution Avenue, NW, Rm S2002, Washington, DC 20210
D 202-693-5260 | E oscannlain.kate.s@dol.gov

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Thursday, October 29, 2020 2:42 PM
To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg,

DOL002921

Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: Re: RAPID RESPONSE: Press Inquiry 29

I would propose the same response if you all and WH/DOJ approves:

(b) 5

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From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Thursday, October 29, 2020 2:35:43 PM

To: O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Bozzuto, Robert F - OPA <Bozzuto.Robert.F@DOL.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

UPDATE: We have the same inquiry from the following outlets so far –

1. Washington Post
2. Law360
3. USA Today

--

Mattie Nicholson

From: O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>

Sent: Thursday, October 29, 2020 2:10 PM

To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

I just sent to WHCO / DOJ. Will let you know what I hear...

Kate S. O'Scannlain | Solicitor of Labor

200 Constitution Avenue, NW, Rm S2002, Washington, DC 20210

D 202: (b) 6 E oscannlain.kate.s@dol.gov

From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>

Sent: Thursday, October 29, 2020 2:03 PM

To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri,

DOL002922

Chad C - OSEC <squitieri.chad.c@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

Is someone reaching out to WH / DOJ then?

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Thursday, October 29, 2020 2:01 PM

To: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

We have a second inquiry from Law360 on this same lawsuit

--

Mattie Nicholson

From: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>

Sent: Thursday, October 29, 2020 1:51 PM

To: O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

Yes just confirmed it's the same lawsuit from the Post and NBC

From: O'Scannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>

Sent: Thursday, October 29, 2020 1:43 PM

To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

I think the confusion is that the lawyers (not the parties) are from the NAACP legal defense fund.

Proper parties are NUL and NFHA.

But also agree w R that we need to be careful and coordinate w/white house and doj.

Kate S. O'Scannlain | Solicitor of Labor

200 Constitution Avenue, NW, Rm S2002, Washington, DC 20210

D 202 (b) 6 E oscannlain.kate.s@dol.gov

From: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Sent: Thursday, October 29, 2020 1:40 PM

To: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

I don't see NAACP listed as a party plaintiff?

Rachel E. Mondl

Chief of Staff

Office of the Secretary

U.S. Department of Labor

(202) (b) 6

From: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>

Sent: Thursday, October 29, 2020 1:39 PM

To: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

(If the addition is used, I corrected a typo in it)

From: Mondl, Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Sent: Thursday, October 29, 2020 1:37 PM

To: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

I think we need to be careful here given WH interest. I'm guessing DOJ is representing us, so I'm hesitant to say all this without checking with DOJ and WH Comms.

Rachel E. Mondl

Chief of Staff

Office of the Secretary

U.S. Department of Labor

(202) (b) 6

From: Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>

Sent: Thursday, October 29, 2020 1:36 PM

To: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>; Mondl,

Rachel E - OSEC <Mondl.Rachel.E@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

I had a similar sentiment as Andrew. One nit below.

From: Kilberg, Andrew G - OSEC

Sent: Thursday, October 29, 2020 1:33 PM

To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@dol.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: RAPID RESPONSE: Press Inquiry 29

Here's a draft response for consideration. Because this relates to a new lawsuit, SOL definitely needs to approve.

(b) 5

Andrew G. I. Kilberg

Counselor to the Secretary

U.S. Department of Labor

202. (b) 6

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Thursday, October 29, 2020 1:23 PM

To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; OScannlain, Kate S - SOL <OScannlain.Kate.S@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RAPID RESPONSE: Press Inquiry 29

All – Please see the below inquiry

Outlet: Washington Post

Reporter: Eli Rosenberg

Inquiry:

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

--

Mattie Nicholson

From: Rosenberg, Eli <(b) 6@washpost.com>

Sent: Thursday, October 29, 2020 1:18 PM

To: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

DOL002925

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

We are going to update the story with news of this lawsuit from the National Urban League and the National Fair Housing Alliance, against the Trump admin and DOL for the EO.

The complaint is attached. Let me know if you'd have any comment.

The Washington Post
m: (510) (b) 6
d: (202) (b) 6
@emrosenberg

From: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>

Sent: Tuesday, October 27, 2020 12:29 PM

To: Rosenberg, Eli <[\(b\)6@washpost.com](mailto:(b)6@washpost.com)>

Cc: Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>; Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Subject: RE: hi from the Washington Post

Eli,

On background, attributable to a DOL Spokesperson:

The allegations you have described are nonsense. The Department of Labor is 100% committed to OFCCP's mission of ensuring equal employment opportunity among federal contractors. Race and sex stereotyping and scapegoating are discriminatory and harmful. Our country's long efforts to eradicate racial discrimination are stunted, not furthered, when employers promote race and sex stereotyping and scapegoating. By prohibiting race and sex stereotyping and scapegoating in federal contractors' training, Executive Order 13950 furthers OFCCP's mission and is entirely consistent with Executive Order 11246. Both Secretary Scalia and Director Leen have made it clear that EO 13950 does not prohibit run-of-the-mill implicit-bias training. But it does prohibit the types of egregious training cited in EO 13950. For example, no reasonable observer would say that it is acceptable for a federal contractor to teach its employees that "rational linear thinking" and "hard work" are "aspects" of one race, but not another.

From: Rosenberg, Eli <[\(b\)6@washpost.com](mailto:(b)6@washpost.com)>

Sent: Tuesday, October 27, 2020 11:25 AM

To: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>

Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>

Subject: Re: hi from the Washington Post

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

Hi,

We are planning to publish the story tomorrow morning. One follow up inquiry:

Does the DOL have any response to critics who say the EO and the OFCCP's efforts at implementation are "part of a larger strategy by this administration to foster fear," and chill momentum for advancing racial equity? Who say that the new EO and OFCCP's efforts are "an affront to the purpose and history of Executive Order 11246," and an overreach of its duties? That the new EO is based on shaky legal precepts?

Deadline is the end of the day. Let me know if you have any questions (b) 6

Thank you,
Eli Rosenberg

The Washington Post
m: (510) (b) 6
d: (202) (b) 6
@emrosenberg [gcc02.safelinks.protection.outlook.com]

From: Sidney, Sabin R - OPA <Sidney.Sabin.R@dol.gov>
Sent: Friday, October 14, 2022 11:27 AM
To: Rosenberg, Eli <(b) 6@washpost.com>
Cc: Nicholson, Mattie L - OPA <Nicholson.Mattie.L@dol.gov>; Sweeney, Megan P - OPA <Sweeney.Megan.P@DOL.gov>
Subject: Re: hi from the Washington Post

CAUTION: EXTERNAL SENDER

Eli-

Background, attributable to a DOL Spokesperson:

OFCCP has received 98 inquiries, 81 of which are complaints.

OFCCP has never set up a hotline tied to an Executive Order.

October 15, 2020

The President
The White House
Washington, DC 20500

Dear Mr. President:

We write to convey our concerns regarding Executive Order 13950, Combating Race and Sex Stereotyping. Many of our members are federal contractors and subcontractors that will be covered by this E.O. As currently written, we believe the E.O. will create confusion and uncertainty, lead to non-meritorious investigations, and hinder the ability of employers to implement critical programs to promote diversity and combat discrimination in the workplace. We urge you to withdraw the Executive Order and work with the business and nonprofit communities on an approach that would support appropriate workplace training programs.

While it is encouraging that the E.O. states that, "Training employees to create an inclusive workplace is appropriate and beneficial," we fear that the E.O. will diminish the amount of training that takes place. The E.O. seeks to identify specific concepts that would be prohibited, but the description of these concepts leaves considerable ambiguity as to what content would not be permitted in diversity and inclusiveness (D&I) training. Furthermore, there is a great deal of subjectivity around how certain content would be perceived by different individuals. For example, the definition of "divisive concepts" creates many gray areas and will likely result in multiple different interpretations. Because the ultimate threat of debarment is a possible consequence, we have heard from some companies that they are suspending all D&I training. This outcome is contrary to the E.O.'s stated purpose, but an understandable reaction given companies' lack of clear guidance. Thus, the E.O. is already having a broadly chilling effect on legitimate and valuable D&I training companies use to foster inclusive workplaces, help with talent recruitment, and remain competitive in a country with a wide range of different cultures.

Under the E.O., OFCCP has established a hotline to receive complaints from employees who believe they have been subjected to proscribed training. Employers are concerned that this will invite non-meritorious complaints from employees who may be disgruntled about a range of different matters. Also, because of the ambiguity and subjective nature of the key terms that define what training materials are not allowed, whether the training material in question is compliant could very well depend on the outlook of the person filing the complaint. In addition, training sessions often involve discussions between participants. Things heard in these discussions could easily form the basis of a complaint even though they are not part of the official course materials. Even if a company is ultimately found to be in compliance, it will still have to undergo OFCCP's investigative process, which represents a not insignificant burden.

The E.O. is silent with respect to how multi-national companies that are federal contractors should proceed regarding training for their employees outside the U.S. The content of the D&I training for those employees is likely to reflect the local country's attitudes towards

DOL002928

diversity and inclusiveness, and may not align with the E.O.'s restrictions on "divisive concepts." Must these contractors ensure their D&I training in other countries follows the E.O.?

Finally, many of us raised strong concerns with the Obama Administration regarding the use of the federal procurement and contracting process to address issues unrelated to goods or services being purchased by the government. Such an approach effectively creates two sets of rules, one for those companies that do business with the government and another for those that do not. Those same concerns apply equally today. Federal contractors should be left to manage their workforces and workplaces with a minimum amount of interference so long as they are compliant with the law.

Federal contractors are firmly committed to maintaining a diverse and inclusive workforce and to providing their employees the necessary training to reinforce this goal. The Executive Order on Combating Race and Sex Stereotyping does not help contractors in this regard, and in fact creates several significant obstacles and impediments. We urge you to withdraw the E.O. and look forward to working with you on an approach that addresses any concerns that have been raised while continuing to promote efforts to create inclusive workplaces.

Sincerely,

Aeronautical Repair Station Association
Alliance of Arizona Nonprofits
American Alliance of Museums
American Beverage Association
American Chemistry Council
American Council of Engineering Companies
American Council of Life Insurers
American Society of Association Executives
Americans for the Arts
America's SBDC
Arkansas State Chamber/Associated Industries of Arkansas
Associated Industries of Massachusetts - AIM
Association of Art Museum Directors
Association of American Publishers
Auburn Area Chamber of Commerce
Barnesville-Lamar County Chamber of Commerce
Barrow County Chamber of Commerce, Inc.
Bellingham Regional Chamber of Commerce
Bend Chamber of Commerce
Billings Chamber of Commerce
Bolingbrook Area Chamber of Commerce
Bristol Chamber of Commerce
Business Roundtable
Cedar Park Chamber of Commerce

Cedar Rapids Metro Economic Alliance
Center for Nonprofit Advancement (DC)
Center for Nonprofit Excellence (VA)
Center for Non-Profits (NJ)
Chamber Southwest Louisiana
Chandler Chamber of Commerce
Charlotte Regional Business Alliance
Chattanooga Area Chamber of Commerce
Clarion Area Chamber of Business & Industry
Colorado Nonprofit Association
Commerce Lexington Inc.
Common Good Vermont
Consumer Data Industry Association
Council Bluffs Area Chamber of Commerce
Council for Responsible Nutrition
CTIA
Delaware Alliance for Nonprofit Advancement
Detroit Regional Chamber
Downtown Billings Alliance
Edison Electric Institute
Eugene Area Chamber of Commerce
Ferndale Chamber of Commerce
Florida Nonprofit Alliance
Foraker (Alaska)
Forefront (IL)
Genoa Area Chamber of Commerce
Georgia Chamber of Commerce
Greater Akron Chamber
Greater Boston Chamber of Commerce
Greater Cheyenne Chamber of Commerce
Greater Des Moines Partnership
Greater Flagstaff Chamber of Commerce
Greater Fort Lauderdale Chamber of Commerce
Greater Houston LGBT Chamber of Commerce
Greater Kansas City Chamber of Commerce
Greater North Dakota Chamber
Greater Scranton Chamber of Commerce
Greater Springfield Chamber of Commerce
Greater Stillwater Chamber of Commerce
Greater Summerville/Dorchester County Chamber of Commerce
Greater Winter Haven Chamber of Commerce
Hanover Area Chamber of Commerce
Harrisburg Regional Chamber

Henry County Chamber of Commerce
Houston West Chamber of Commerce
Howard County Chamber
HR Policy Association
Huntington Regional Chamber of Commerce
Idaho Nonprofit Center
Independent Sector
International Sign Association
Irving Hispanic Chamber of Commerce
Kentucky Chamber of Commerce
Kentucky Nonprofit Network
Kingsport Chamber
Lansing Regional Chamber
Lincoln Chamber of Commerce
Loudoun County Chamber of Commerce
Maine Association of Nonprofits
Marana Chamber of Commerce
Marshall Area Chamber of Commerce
Maryland Chamber of Commerce
Maryland Nonprofits
Mason City Area Chamber of Commerce
Massachusetts Nonprofit Network
Meridian Chamber of Commerce
Michigan Nonprofit Association
Mid-America LGBT Chamber of Commerce
Minnesota Council of Nonprofits
Mississippi Alliance of Nonprofits and Philanthropy
Momentum Nonprofit Partners (TN)
Montana Nonprofit Association
Montgomery Ohio Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Nashville LGBT Chamber
National Association of Manufacturers
National Association of REALTORS®
National Council of Nonprofits
National Investor Relations Institute
National LGBT Chamber of Commerce (NGLCC)
Nebraska Chamber of Commerce & Industry
Network for Strong Communities (MO)
New Hampshire Center for Nonprofits
New Jersey State Chamber of Commerce
New Mexico Thrives
New York Council of Nonprofits, Inc.

Nonprofit Association of Oregon
Nonprofit Association of the Midlands (NE)
Nonprofit New York
North Carolina Center for Nonprofits
North Carolina Chamber
North Port Area Chamber of Commerce
North Texas Commission
North Texas LGBT Chamber of Commerce
Oklahoma Center for Nonprofits
Oregon Business & Industry
OUT Georgia Business Alliance
Pennsylvania Association of Nonprofit Organizations
Perry County Chamber of Commerce
Plexus LGBT + Allied Chamber of Commerce
Plexus LGBT Chamber of Commerce
Providers' Council (MA)
Puerto Rico Chamber of Commerce
Puyallup Sumner Chamber of Commerce
Santa Fe Springs Chamber of Commerce
Seattle Southside Chamber of Commerce
Selma and Dallas County Chamber of Commerce and Tourism
Information
Shakopee Area Chamber of Commerce
Software & Information Industry Association
Solon Chamber of Commerce
Southern Ohio Chamber Alliance
Tacoma-Pierce County Chamber
Tampa Bay LGBT Chamber
The American Institute of Architects
The Associated General Contractors of America
The Chamber, Leading Business in Cabarrus
The Institute for Workplace Equality
The National Business League, Inc.
The Slone Group
Together SC
Tompkins County Chamber of Commerce
Troy Area Chamber of Commerce
Tucson Metro Chamber
Tulsa Regional Chamber
Tyler Area Chamber of Commerce
United Philanthropy Forum
U.S. Chamber of Commerce
USTelecom - The Broadband Association
Utah Nonprofits Association

Vegas Chamber
Vinyl Institute
Washington Nonprofits
Wake Forest Area Chamber of Commerce
Waverly Chamber of Commerce/Main Street
West Virginia Chamber of Commerce
Wine & Spirits Wholesalers of America
Winona Area Chamber of Commerce
Wyoming Nonprofit Network

cc: The Honorable Eugene Scalia, Secretary of Labor

<Date>

U. S. Chamber of Commerce

The Department of Labor received your letter addressed to the President concerning Executive Order 13950, “Combating Race and Sex Stereotyping.” Your letter was directed to the Office of Federal Contract Compliance Programs (OFCCP) for response.

OFCCP is implementing Executive Order 13950 (the Order) consistent with its historical mission to identify, remedy, and eliminate discrimination in employment. The Order ensures that OFCCP’s enforcement and compliance assistance efforts include certain forms of workplace training programs. By doing so, OFCCP can help ensure that workplace training programs do not in fact divide employees by telling them that, because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard. The programs described in the Order are examples of such divisive training, and we do not expect Chamber members would disagree. It is beyond reasonable dispute, for example, that the statement “virtually all White people . . . contribute to racism” is itself a racially discriminatory statement. So too are the suggestions that “rational linear thinking” and “hard work” are “aspects” of one race, but not another. It is the obviously discriminatory statements such as those that OFCCP is most concerned with addressing.

To be clear, OFCCP continues to require contractors to engage in affirmative action, and OFCCP continues to support and encourage appropriate diversity and inclusion training. OFCCP agrees with you that such efforts “foster inclusive workplaces, help with talent recruitment,” and help federal contractors “remain competitive in a country with a wide range of different cultures.” Indeed, affirmative action obligations are part and parcel of being a federal contractor, as those obligations enhance equal employment opportunity when performed correctly and consistently with law. But being a federal contractor also comes with critical nondiscrimination obligations, and diversity and inclusion efforts must not run afoul of those nondiscrimination obligations.

Secretary Scalia, in his speech at Franciscan University on October 12, 2020, succinctly described the intent of the Order:

“I should be clear about what the President’s new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President’s Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that’s not intended. What the Order does prohibit, though, is

Draft; Deliberative; Pre-Decisional

instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.”

With respect to your letter’s observation that an employee could file a non-meritorious complaint, OFCCP is handling all hotline complaints consistent with the same compliance manual and applicable regulations that OFCCP has long-relied upon. OFCCP remains committed to ensuring that contractors receive due process, and that OFCCP only acts on meritorious complaints with evidentiary support. Over the years, OFCCP has developed expertise in identifying and acting upon legitimate complaints, and OFCCP will continue to rely upon its expertise when enforcing the Order.

I would also emphasize that the remedy for a violation of affirmative and nondiscrimination obligations is compliance and any necessary make-whole relief, and debarment only occurs for a continued refusal to comply following a conciliation period and the opportunity for a full adjudicatory hearing. Contractors are rarely ever debarred as they almost always opt to comply when a violation is found.

The Department and OFCCP will continue to reach out to federal contractors and stakeholders, host briefings, and give speeches to clarify the requirements of Executive Order 13950. In addition, and as directed by the Order, OFCCP has published a request for information. Contractors and their employees are encouraged to provide responses to that request. Finally, OFCCP has already published responses to frequently asked questions (FAQs) in order to provide the public with clear and transparent information. Those FAQs are available at <https://www.dol.gov/agencies/ofccp/faqs/executive-order-13950>.

If you have any questions, please do not hesitate to contact me at (202) 693-0101 or Leen.Craig@dol.gov.

Sincerely,

Craig E. Leen
Director

DOL002935

From: Squitieri, Chad C - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=80ED763B75B846FF8B842B19BD2B9156-SQUITIERI,]
Sent: 10/29/2020 1:40:45 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
Subject: RE: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations
Attachments: OFCCP Letter - 10-29-2020 clean (002).docx

Importance: High

Craig please note the typo in the letter: "hard word" should be "hard work"

Corrected in the attached

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Thursday, October 29, 2020 10:19 AM
To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>
Subject: Re: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations

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Sent: Wednesday, October 28, 2020 1:02:59 PM
To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>
Subject: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations

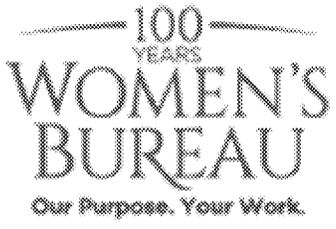
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Craig E. Leen
Director, Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-(b) 6 (Phone)
(202) 693-1304 (Fax)

DOL002936



<Date>

U. S. Chamber of Commerce

The Department of Labor received your letter addressed to the President concerning Executive Order 13950, “Combating Race and Sex Stereotyping.” Your letter was directed to the Office of Federal Contract Compliance Programs (OFCCP) for response.

OFCCP is implementing Executive Order 13950 (the Order) consistent with its historical mission to identify, remedy, and eliminate discrimination in employment. The Order ensures that OFCCP’s enforcement and compliance assistance efforts include certain forms of workplace training programs. By doing so, OFCCP can help ensure that workplace training programs do not in fact divide employees by telling them that, because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard. The programs described in the Order are examples of such divisive training, and we do not expect Chamber members would disagree. It is beyond reasonable dispute, for example, that the statement “virtually all White people . . . contribute to racism” is itself a racially discriminatory statement. So too are the suggestions that “rational linear thinking” and “hard work” are “aspects” of one race, but not another. It is the obviously discriminatory statements such as those that OFCCP is most concerned with addressing.

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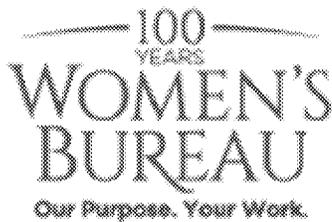
Craig E. Leen
Director

DOL002939

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/30/2020 6:13:57 PM
To: Smith, Ja'Ron K. EOP/WHO [Ja'Ron.K.Smith@who.eop.gov]
CC: Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]
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Attachments: OFCCP Letter - 10-28-2020 clean.docx; D&I Letter - 10.15 - Final.docx

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U.S. Department of Labor

200 Constitution Avenue, NW

Room C3325

Washington, DC 20210

(202) (b) 6 Phone)

(202) 693-1304 (Fax)



September 30, 2021

The President
The White House
Washington, DC 20500

Dear Mr. President:

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While it is encouraging that the E.O. states that, "Training employees to create an inclusive workplace is appropriate and beneficial," we fear that the E.O. will diminish the amount of training that takes place. The E.O. seeks to identify specific concepts that would be prohibited, but the description of these concepts leaves considerable ambiguity as to what content would not be permitted in diversity and inclusiveness (D&I) training. Furthermore, there is a great deal of subjectivity around how certain content would be perceived by different individuals. For example, the definition of "divisive concepts" creates many gray areas and will likely result in multiple different interpretations. Because the ultimate threat of debarment is a possible consequence, we have heard from some companies that they are suspending all D&I training. This outcome is contrary to the E.O.'s stated purpose, but an understandable reaction given companies' lack of clear guidance. Thus, the E.O. is already having a broadly chilling effect on legitimate and valuable D&I training companies use to foster inclusive workplaces, help with talent recruitment, and remain competitive in a country with a wide range of different cultures.

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Finally, many of us raised strong concerns with the Obama Administration regarding the use of the federal procurement and contracting process to address issues unrelated to goods or services being purchased by the government. Such an approach effectively creates two sets of rules, one for those companies that do business with the government and another for those that do not. Those same concerns apply equally today. Federal contractors should be left to manage their workforces and workplaces with a minimum amount of interference so long as they are compliant with the law.

Federal contractors are firmly committed to maintaining a diverse and inclusive workforce and to providing their employees the necessary training to reinforce this goal. The Executive Order on Combating Race and Sex Stereotyping does not help contractors in this regard, and in fact creates several significant obstacles and impediments. We urge you to withdraw the E.O. and look forward to working with you on an approach that addresses any concerns that have been raised while continuing to promote efforts to create inclusive workplaces.

Sincerely,

Aeronautical Repair Station Association
Alliance of Arizona Nonprofits
American Alliance of Museums
American Beverage Association
American Chemistry Council
American Council of Engineering Companies
American Council of Life Insurers
American Society of Association Executives
Americans for the Arts
America's SBDC
Arkansas State Chamber/Associated Industries of Arkansas
Associated Industries of Massachusetts - AIM
Association of Art Museum Directors
Association of American Publishers
Auburn Area Chamber of Commerce
Barnesville-Lamar County Chamber of Commerce
Barrow County Chamber of Commerce, Inc.
Bellingham Regional Chamber of Commerce
Bend Chamber of Commerce
Billings Chamber of Commerce
Bolingbrook Area Chamber of Commerce
Bristol Chamber of Commerce
Business Roundtable
Cedar Park Chamber of Commerce

Cedar Rapids Metro Economic Alliance
Center for Nonprofit Advancement (DC)
Center for Nonprofit Excellence (VA)
Center for Non-Profits (NJ)
Chamber Southwest Louisiana
Chandler Chamber of Commerce
Charlotte Regional Business Alliance
Chattanooga Area Chamber of Commerce
Clarion Area Chamber of Business & Industry
Colorado Nonprofit Association
Commerce Lexington Inc.
Common Good Vermont
Consumer Data Industry Association
Council Bluffs Area Chamber of Commerce
Council for Responsible Nutrition
CTIA
Delaware Alliance for Nonprofit Advancement
Detroit Regional Chamber
Downtown Billings Alliance
Edison Electric Institute
Eugene Area Chamber of Commerce
Ferndale Chamber of Commerce
Florida Nonprofit Alliance
Foraker (Alaska)
Forefront (IL)
Genoa Area Chamber of Commerce
Georgia Chamber of Commerce
Greater Akron Chamber
Greater Boston Chamber of Commerce
Greater Cheyenne Chamber of Commerce
Greater Des Moines Partnership
Greater Flagstaff Chamber of Commerce
Greater Fort Lauderdale Chamber of Commerce
Greater Houston LGBT Chamber of Commerce
Greater Kansas City Chamber of Commerce
Greater North Dakota Chamber
Greater Scranton Chamber of Commerce
Greater Springfield Chamber of Commerce
Greater Stillwater Chamber of Commerce
Greater Summerville/Dorchester County Chamber of Commerce
Greater Winter Haven Chamber of Commerce
Hanover Area Chamber of Commerce
Harrisburg Regional Chamber

Henry County Chamber of Commerce
Houston West Chamber of Commerce
Howard County Chamber
HR Policy Association
Huntington Regional Chamber of Commerce
Idaho Nonprofit Center
Independent Sector
International Sign Association
Irving Hispanic Chamber of Commerce
Kentucky Chamber of Commerce
Kentucky Nonprofit Network
Kingsport Chamber
Lansing Regional Chamber
Lincoln Chamber of Commerce
Loudoun County Chamber of Commerce
Maine Association of Nonprofits
Marana Chamber of Commerce
Marshall Area Chamber of Commerce
Maryland Chamber of Commerce
Maryland Nonprofits
Mason City Area Chamber of Commerce
Massachusetts Nonprofit Network
Meridian Chamber of Commerce
Michigan Nonprofit Association
Mid-America LGBT Chamber of Commerce
Minnesota Council of Nonprofits
Mississippi Alliance of Nonprofits and Philanthropy
Momentum Nonprofit Partners (TN)
Montana Nonprofit Association
Montgomery Ohio Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Nashville LGBT Chamber
National Association of Manufacturers
National Association of REALTORS®
National Council of Nonprofits
National Investor Relations Institute
National LGBT Chamber of Commerce (NGLCC)
Nebraska Chamber of Commerce & Industry
Network for Strong Communities (MO)
New Hampshire Center for Nonprofits
New Jersey State Chamber of Commerce
New Mexico Thrives
New York Council of Nonprofits, Inc.

Nonprofit Association of Oregon
Nonprofit Association of the Midlands (NE)
Nonprofit New York
North Carolina Center for Nonprofits
North Carolina Chamber
North Port Area Chamber of Commerce
North Texas Commission
North Texas LGBT Chamber of Commerce
Oklahoma Center for Nonprofits
Oregon Business & Industry
OUT Georgia Business Alliance
Pennsylvania Association of Nonprofit Organizations
Perry County Chamber of Commerce
Plexus LGBT + Allied Chamber of Commerce
Plexus LGBT Chamber of Commerce
Providers' Council (MA)
Puerto Rico Chamber of Commerce
Puyallup Sumner Chamber of Commerce
Santa Fe Springs Chamber of Commerce
Seattle Southside Chamber of Commerce
Selma and Dallas County Chamber of Commerce and Tourism
Information
Shakopee Area Chamber of Commerce
Software & Information Industry Association
Solon Chamber of Commerce
Southern Ohio Chamber Alliance
Tacoma-Pierce County Chamber
Tampa Bay LGBT Chamber
The American Institute of Architects
The Associated General Contractors of America
The Chamber, Leading Business in Cabarrus
The Institute for Workplace Equality
The National Business League, Inc.
The Slone Group
Together SC
Tompkins County Chamber of Commerce
Troy Area Chamber of Commerce
Tucson Metro Chamber
Tulsa Regional Chamber
Tyler Area Chamber of Commerce
United Philanthropy Forum
U.S. Chamber of Commerce
USTelecom - The Broadband Association
Utah Nonprofits Association

Vegas Chamber
Vinyl Institute
Washington Nonprofits
Wake Forest Area Chamber of Commerce
Waverly Chamber of Commerce/Main Street
West Virginia Chamber of Commerce
Wine & Spirits Wholesalers of America
Winona Area Chamber of Commerce
Wyoming Nonprofit Network

cc: The Honorable Eugene Scalia, Secretary of Labor

<Date>

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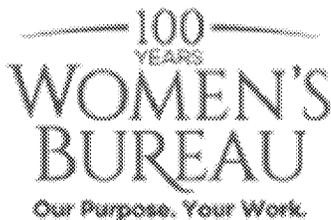
Craig E. Leen
Director

DOL002949

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/30/2020 6:14:31 PM
To: OScannlain, Kate S - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc246996e74e4c8d8c6e5c73700c3406-OScannlain,]
CC: Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]
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FYI.

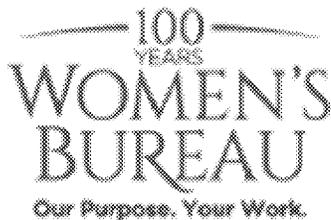
Craig E. Leen
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To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>
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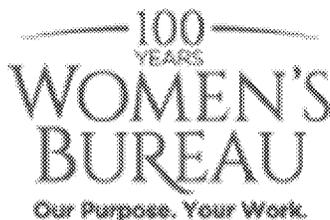
200 Constitution Avenue, NW

Room C3325

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(202) 693-(b) 6 (phone)

(202) 693-1304 (Fax)



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diversity and inclusiveness, and may not align with the E.O.'s restrictions on "divisive concepts." Must these contractors ensure their D&I training in other countries follows the E.O.?

Finally, many of us raised strong concerns with the Obama Administration regarding the use of the federal procurement and contracting process to address issues unrelated to goods or services being purchased by the government. Such an approach effectively creates two sets of rules, one for those companies that do business with the government and another for those that do not. Those same concerns apply equally today. Federal contractors should be left to manage their workforces and workplaces with a minimum amount of interference so long as they are compliant with the law.

Federal contractors are firmly committed to maintaining a diverse and inclusive workforce and to providing their employees the necessary training to reinforce this goal. The Executive Order on Combating Race and Sex Stereotyping does not help contractors in this regard, and in fact creates several significant obstacles and impediments. We urge you to withdraw the E.O. and look forward to working with you on an approach that addresses any concerns that have been raised while continuing to promote efforts to create inclusive workplaces.

Sincerely,

Aeronautical Repair Station Association
Alliance of Arizona Nonprofits
American Alliance of Museums
American Beverage Association
American Chemistry Council
American Council of Engineering Companies
American Council of Life Insurers
American Society of Association Executives
Americans for the Arts
America's SBDC
Arkansas State Chamber/Associated Industries of Arkansas
Associated Industries of Massachusetts - AIM
Association of Art Museum Directors
Association of American Publishers
Auburn Area Chamber of Commerce
Barnesville-Lamar County Chamber of Commerce
Barrow County Chamber of Commerce, Inc.
Bellingham Regional Chamber of Commerce
Bend Chamber of Commerce
Billings Chamber of Commerce
Bolingbrook Area Chamber of Commerce
Bristol Chamber of Commerce
Business Roundtable
Cedar Park Chamber of Commerce

Cedar Rapids Metro Economic Alliance
Center for Nonprofit Advancement (DC)
Center for Nonprofit Excellence (VA)
Center for Non-Profits (NJ)
Chamber Southwest Louisiana
Chandler Chamber of Commerce
Charlotte Regional Business Alliance
Chattanooga Area Chamber of Commerce
Clarion Area Chamber of Business & Industry
Colorado Nonprofit Association
Commerce Lexington Inc.
Common Good Vermont
Consumer Data Industry Association
Council Bluffs Area Chamber of Commerce
Council for Responsible Nutrition
CTIA
Delaware Alliance for Nonprofit Advancement
Detroit Regional Chamber
Downtown Billings Alliance
Edison Electric Institute
Eugene Area Chamber of Commerce
Ferndale Chamber of Commerce
Florida Nonprofit Alliance
Foraker (Alaska)
Forefront (IL)
Genoa Area Chamber of Commerce
Georgia Chamber of Commerce
Greater Akron Chamber
Greater Boston Chamber of Commerce
Greater Cheyenne Chamber of Commerce
Greater Des Moines Partnership
Greater Flagstaff Chamber of Commerce
Greater Fort Lauderdale Chamber of Commerce
Greater Houston LGBT Chamber of Commerce
Greater Kansas City Chamber of Commerce
Greater North Dakota Chamber
Greater Scranton Chamber of Commerce
Greater Springfield Chamber of Commerce
Greater Stillwater Chamber of Commerce
Greater Summerville/Dorchester County Chamber of Commerce
Greater Winter Haven Chamber of Commerce
Hanover Area Chamber of Commerce
Harrisburg Regional Chamber

Henry County Chamber of Commerce
Houston West Chamber of Commerce
Howard County Chamber
HR Policy Association
Huntington Regional Chamber of Commerce
Idaho Nonprofit Center
Independent Sector
International Sign Association
Irving Hispanic Chamber of Commerce
Kentucky Chamber of Commerce
Kentucky Nonprofit Network
Kingsport Chamber
Lansing Regional Chamber
Lincoln Chamber of Commerce
Loudoun County Chamber of Commerce
Maine Association of Nonprofits
Marana Chamber of Commerce
Marshall Area Chamber of Commerce
Maryland Chamber of Commerce
Maryland Nonprofits
Mason City Area Chamber of Commerce
Massachusetts Nonprofit Network
Meridian Chamber of Commerce
Michigan Nonprofit Association
Mid-America LGBT Chamber of Commerce
Minnesota Council of Nonprofits
Mississippi Alliance of Nonprofits and Philanthropy
Momentum Nonprofit Partners (TN)
Montana Nonprofit Association
Montgomery Ohio Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Nashville LGBT Chamber
National Association of Manufacturers
National Association of REALTORS®
National Council of Nonprofits
National Investor Relations Institute
National LGBT Chamber of Commerce (NGLCC)
Nebraska Chamber of Commerce & Industry
Network for Strong Communities (MO)
New Hampshire Center for Nonprofits
New Jersey State Chamber of Commerce
New Mexico Thrives
New York Council of Nonprofits, Inc.

Nonprofit Association of Oregon
Nonprofit Association of the Midlands (NE)
Nonprofit New York
North Carolina Center for Nonprofits
North Carolina Chamber
North Port Area Chamber of Commerce
North Texas Commission
North Texas LGBT Chamber of Commerce
Oklahoma Center for Nonprofits
Oregon Business & Industry
OUT Georgia Business Alliance
Pennsylvania Association of Nonprofit Organizations
Perry County Chamber of Commerce
Plexus LGBT + Allied Chamber of Commerce
Plexus LGBT Chamber of Commerce
Providers' Council (MA)
Puerto Rico Chamber of Commerce
Puyallup Sumner Chamber of Commerce
Santa Fe Springs Chamber of Commerce
Seattle Southside Chamber of Commerce
Selma and Dallas County Chamber of Commerce and Tourism
Information
Shakopee Area Chamber of Commerce
Software & Information Industry Association
Solon Chamber of Commerce
Southern Ohio Chamber Alliance
Tacoma-Pierce County Chamber
Tampa Bay LGBT Chamber
The American Institute of Architects
The Associated General Contractors of America
The Chamber, Leading Business in Cabarrus
The Institute for Workplace Equality
The National Business League, Inc.
The Slone Group
Together SC
Tompkins County Chamber of Commerce
Troy Area Chamber of Commerce
Tucson Metro Chamber
Tulsa Regional Chamber
Tyler Area Chamber of Commerce
United Philanthropy Forum
U.S. Chamber of Commerce
USTelecom - The Broadband Association
Utah Nonprofits Association

Vegas Chamber
Vinyl Institute
Washington Nonprofits
Wake Forest Area Chamber of Commerce
Waverly Chamber of Commerce/Main Street
West Virginia Chamber of Commerce
Wine & Spirits Wholesalers of America
Winona Area Chamber of Commerce
Wyoming Nonprofit Network

cc: The Honorable Eugene Scalia, Secretary of Labor

<Date>

U. S. Chamber of Commerce

The Department of Labor received your letter addressed to the President concerning Executive Order 13950, “Combating Race and Sex Stereotyping.” Your letter was directed to the Office of Federal Contract Compliance Programs (OFCCP) for response.

OFCCP is implementing Executive Order 13950 (the Order) consistent with its historical mission to identify, remedy, and eliminate discrimination in employment. The Order ensures that OFCCP’s enforcement and compliance assistance efforts include certain forms of workplace training programs. By doing so, OFCCP can help ensure that workplace training programs do not in fact divide employees by telling them that, because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard. The programs described in the Order are examples of such divisive training, and we do not expect Chamber members would disagree. It is beyond reasonable dispute, for example, that the statement “virtually all White people . . . contribute to racism” is itself a racially discriminatory statement. So too are the suggestions that “rational linear thinking” and “hard word” are “aspects” of one race, but not another. It is the obviously discriminatory statements such as those that OFCCP is most concerned with addressing.

To be clear, OFCCP continues to require contractors to engage in affirmative action, and OFCCP continues to support and encourage appropriate diversity and inclusion training. OFCCP agrees with you that such efforts “foster inclusive workplaces, help with talent recruitment,” and help federal contractors “remain competitive in a country with a wide range of different cultures.” Indeed, affirmative action obligations are part and parcel of being a federal contractor, as those obligations enhance equal employment opportunity when performed correctly and consistently with law. But being a federal contractor also comes with critical nondiscrimination obligations, and diversity and inclusion efforts must not run afoul of those nondiscrimination obligations.

Secretary Scalia, in his speech at Franciscan University on October 12, 2020, succinctly described the intent of the Order:

“I should be clear about what the President’s new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President’s Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that’s not intended. What the Order does prohibit, though, is

Draft; Deliberative; Pre-Decisional

instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.”

With respect to your letter’s observation that an employee could file a non-meritorious complaint, OFCCP is handling all hotline complaints consistent with the same compliance manual and applicable regulations that OFCCP has long-relied upon. OFCCP remains committed to ensuring that contractors receive due process, and that OFCCP only acts on meritorious complaints with evidentiary support. Over the years, OFCCP has developed expertise in identifying and acting upon legitimate complaints, and OFCCP will continue to rely upon its expertise when enforcing the Order.

I would also emphasize that the remedy for a violation of affirmative and nondiscrimination obligations is compliance and any necessary make-whole relief, and debarment only occurs for a continued refusal to comply following a conciliation period and the opportunity for a full adjudicatory hearing. Contractors are rarely ever debarred as they almost always opt to comply when a violation is found.

The Department and OFCCP will continue to reach out to federal contractors and stakeholders, host briefings, and give speeches to clarify the requirements of Executive Order 13950. In addition, and as directed by the Order, OFCCP has published a request for information. Contractors and their employees are encouraged to provide responses to that request. Finally, OFCCP has already published responses to frequently asked questions (FAQs) in order to provide the public with clear and transparent information. Those FAQs are available at <https://www.dol.gov/agencies/ofccp/faqs/executive-order-13950>.

If you have any questions, please do not hesitate to contact me at (202) 693-0101 or Leen.Craig@dol.gov.

Sincerely,

Craig E. Leen
Director

DOL002959

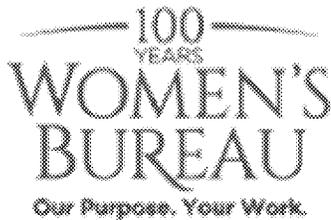
From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 11/5/2020 4:19:03 PM
To: 'Smith, Ja'Ron K. EOP/WHO' [Ja'Ron.K.Smith@who.eop.gov]
CC: Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]
Subject: OFCCP Letter to U.S. Chamber of Commerce re EO 13950
Attachments: OFCCP Letter to U.S. Chamber of Commerce.pdf

Good afternoon Ja'Ron,

I just wanted to give you an update. After receiving approval to proceed from DOJ, I sent the attached letter to the U.S. Chamber of Commerce this afternoon. Please let me know if you'd like to discuss or have any questions.

Best,
Craig

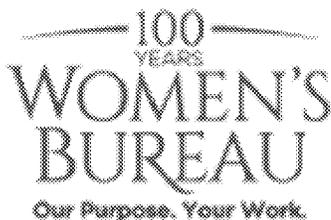
Craig E. Leen
OFCCP Director



From: Leen, Craig - OFCCP
Sent: Friday, October 30, 2020 6:14 PM
To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>
Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>
Subject: RE: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations

Good evening Ja'Ron. I just wanted to give you an update. We temporarily held off on sending the response to the U.S. Chamber of Commerce regarding EO 13950 because of the lawsuit. We have sent the letter to DOJ to review and approve since they are handling the litigation. Once we receive approval, we will send it. Thanks, Craig

Craig E. Leen
OFCCP Director



From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Thursday, October 29, 2020 10:19 AM
To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>

Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>

Subject: Re: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations

Good morning Ja'Ron. Just following up. We were planning to send this later this afternoon unless you had comments or a concern. If you do, please email me or call me at (b) 6 and we will hold off from sending. Thanks, Craig

[Get Outlook for iOS](#)

From: Leen, Craig - OFCCP

Sent: Wednesday, October 28, 2020 1:02:59 PM

To: Smith, Ja'Ron K. EOP/WHO <Ja'Ron.K.Smith@who.eop.gov>

Cc: Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>

Subject: Proposed Letter from OFCCP to the U.S. Chamber of Commerce and other organizations

Ja'Ron,

Hope you are doing well. We wanted to share our planned response to the letter from the U.S. Chamber of Commerce and other organizations regarding EO 13950. Before I send it, we wanted to run it by you. Please let me know if it is okay to proceed or if you have feedback. I've attached the response and the original letter.

Thanks,

Craig

Craig E. Leen

Director, Office of Federal Contract Compliance Programs

U.S. Department of Labor

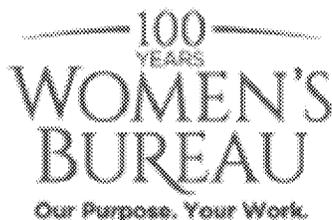
200 Constitution Avenue, NW

Room C3325

Washington, DC 20210

(202) 693-(b) 6 (Phone)

(202) 693-1304 (Fax)





November 5, 2020

U.S. Chamber of Commerce
c/o Glenn Spencer
Senior Vice President, Employment Policy Division
1615 H Street, NW
Washington, DC 20062-2000

Via Electronic Mail at GSpencer@USChamber.com

Dear Mr. Spencer:

The Department of Labor received your letter addressed to the President concerning Executive Order 13950, "Combating Race and Sex Stereotyping." Your letter was directed to the Office of Federal Contract Compliance Programs (OFCCP) for response.

OFCCP is implementing Executive Order 13950 (the Order) consistent with its historical mission to identify, remedy, and eliminate discrimination in employment. The Order ensures that OFCCP's enforcement and compliance assistance efforts include certain forms of workplace training programs. By doing so, OFCCP can help ensure that workplace training programs do not in fact divide employees by telling them that, because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard. The programs described in the Order are examples of such divisive training, and we do not expect Chamber members would disagree. It is beyond reasonable dispute, for example, that the statement "virtually all White people . . . contribute to racism" is itself a racially discriminatory statement. So too are the suggestions that "rational linear thinking" and "hard work" are "aspects" of one race, but not another. It is the obviously discriminatory statements such as those that OFCCP is most concerned with addressing.

To be clear, OFCCP continues to require contractors to engage in affirmative action, and OFCCP continues to support and encourage appropriate diversity and inclusion training. OFCCP agrees with you that such efforts "foster inclusive workplaces, help with talent recruitment," and help federal contractors "remain competitive in a country with a wide range of different cultures." Indeed, affirmative action obligations are part and parcel of being a federal contractor, as those obligations enhance equal employment opportunity when performed correctly and consistently with law. But being a federal contractor also comes with critical nondiscrimination obligations, and diversity and inclusion efforts must not run afoul of those nondiscrimination obligations.

Secretary Scalia, in his speech at Franciscan University on October 12, 2020, succinctly described the intent of the Order:

“I should be clear about what the President’s new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President’s Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that’s not intended. What the Order does prohibit, though, is instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.”

With respect to your letter’s observation that an employee could file a non-meritorious complaint, OFCCP is handling all hotline complaints consistent with the same compliance manual and applicable regulations that OFCCP has long-relied upon. OFCCP remains committed to ensuring that contractors receive due process, and that OFCCP only acts on meritorious complaints with evidentiary support. Over the years, OFCCP has developed expertise in identifying and acting upon legitimate complaints, and OFCCP will continue to rely upon its expertise when enforcing the Order.

I would also emphasize that the remedy for a violation of affirmative and nondiscrimination obligations is compliance and any necessary make-whole relief, and debarment only occurs for a continued refusal to comply following a conciliation period and the opportunity for a full adjudicatory hearing. Contractors are rarely ever debarred as they almost always opt to comply when a violation is found.

The Department and OFCCP will continue to reach out to federal contractors and stakeholders, host briefings, and give speeches to clarify the requirements of Executive Order 13950. In addition, and as directed by the Order, OFCCP has published a request for information. Contractors and their employees are encouraged to provide responses to that request. Finally, OFCCP has already published responses to frequently asked questions (FAQs) in order to provide the public with clear and transparent information. Those FAQs are available at <https://www.dol.gov/agencies/ofccp/faqs/executive-order-13950>.

If you have any questions, please do not hesitate to contact me at (202) 693-0101 or Leen.Craig@dol.gov.

Sincerely,

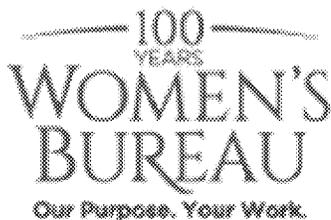
A handwritten signature in black ink, appearing to read 'Craig E. Leen', written in a cursive style.

Craig E. Leen
Director

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/28/2020 1:47:24 PM
To: Danny Petrella - CWC [(b) 6]@cwc.org]
CC: Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6b4a85ae33921a0cb1596b-Davidson, P]; Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aadb6b7613f2f9041f3-Gean, Lisse]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]; Joseph Lakis - CWC [(b) 6]@cwc.org]
Subject: RE: Remarks by Secretary Scalia on EO 13950

Thanks Danny! It was such a pleasure to participate. Thanks again for inviting me. Have a nice afternoon, Craig

Craig E. Leen
OFCCP Director



From: Danny Petrella - CWC [(b) 6]@cwc.org>
Sent: Wednesday, October 28, 2020 1:42 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <[(b) 6]@dol.gov>; Gean, Lissette - OFCCP <[(b) 6]@dol.gov>; Williams, Tina T - OFCCP <[(b) 6]@dol.gov>; Joseph Lakis - CWC <[(b) 6]@cwc.org>
Subject: Re: Remarks by Secretary Scalia on EO 13950

CAUTION - The sender of this message is external to the DOL network. Please use care when clicking on links and responding with sensitive information. Send suspicious email to spam@dol.gov.

Craig,

Thank you again for your participation and candor at yesterday's CWC Roundtable event. I know our members really appreciated it, and we have already received numerous emails from attendees sharing their positive feedback. Thank you as well for sharing Secretary Scalia's remarks, we will absolutely provide this additional feedback to our members.

If we can be of assistance at any time to you and the great team at the national office, please do not hesitate to reach out to us.

Take good care,

Danny

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>

Sent: Wednesday, October 28, 2020 1:22 PM

To: Joseph Lakis - CWC <(b) 6@cwc.org>; Danny Petrella - CWC <(b) 6@cwc.org>

Cc: Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>;

Gean, Lissette - OFCCP <(b) 6@dol.gov>; Williams, Tina T - OFCCP <(b) 6@dol.gov>

Subject: Remarks by Secretary Scalia on EO 13950

Joe and Danny,

Thanks again for a great opportunity to interact with and answer questions from the stakeholder community yesterday.

I wanted to take a moment to share Secretary Scalia's recent remarks where he addressed EO 13950. The remarks are well worth reading and very instructive in understanding the approach of DOL/OFCCP to enforcement of EO 13950. OFCCP is acting in accordance with these remarks.

The last paragraph of the relevant text (copied below) also specifically and constructively addresses a number of the questions I received yesterday, emphasizing the importance of affirmative action and workplace training that is consistent with equal employment opportunity principles, including the nondiscrimination obligation. I was hoping that you could provide this email to all the participants in the forum so they see that such EEO efforts should continue, and in the case of affirmative action, such efforts must continue for federal contractors.

Here is the relevant text:

President Trump signed an Order last month that bars race and sex stereotyping and scapegoating in training programs at federal workplaces and of federal contractors. By this we mean workplace training programs that attribute particular traits or status to someone because of his or her race or sex, as well as training programs that assign blame or bias to someone just because, again, of that person's race or sex. The Order makes clear that ascribing racist or sexist intentions to a worker just because of his race or sex is not only hurtful but a violation of law, which requires—in the case of federal employees, for example—that all “receive fair and equitable treatment in all aspects of personnel management without regard to’ race or sex.”

Under the President's Order, the Department of Labor's Office of Federal Contract Compliance Programs will implement the requirement that federal contractors not engage in race or sex stereotyping or scapegoating. We've already set up a hotline to receive complaints from concerned employees, and we'll soon be issuing a public request for information to learn more about the types of training and workshops provided to employees of federal contractors.

I should be clear about what the President's new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President's Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that's not intended. What the Order does prohibit, though, is instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.

DOL002966

Here is the link:

<https://www.dol.gov/sites/dolgov/files/OPA/Remarks-by-Secretary-Eugene-Scalia-on-Columbus-Day-and-Our-American-Heritage-at-Franciscan-University-of-Steubenville-20201012.pdf>

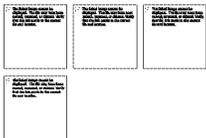
Thanks again,
Craig

Craig E. Leen
Director, Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-(b) 6 (Phone)
(202) 693-1304 (Fax)



Danny Petrella

Vice President, Compliance and Assistant General Counsel
1501 M Street, NW | Suite 1000 | Washington, DC 20005
Tel/Direct: 202-(b) 6
(b) 6 @cwc.org | www.cwc.org



The Center for Workplace Compliance (CWC) is an association dedicated to helping its member employers understand and manage their workplace compliance requirements and risks. CWC's membership includes businesses and organizations of all sizes and from every major economic sector. CWC does not provide legal advice. For advice regarding legal issues, members should consult legal counsel.

From: Swearingen, Brett A - OSEC [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=446467C1ACD144B4BDDD78130ECD530D-SWEARINGEN,]
Sent: 10/28/2020 3:52:24 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
Subject: RE: Remarks by Secretary Scalia on EO 13950

Awesome.

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Wednesday, October 28, 2020 1:34 PM
To: Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Rose, Sharon A - SOL <Rose.Sharon.A@dol.gov>
Subject: FW: Remarks by Secretary Scalia on EO 13950

FYI.

From: Leen, Craig - OFCCP
Sent: Wednesday, October 28, 2020 1:22 PM
To: Joseph Lakis - CWC <(b) 6@cwc.org>; Danny Petrella - CWC <(b) 6@cwc.org>
Cc: Gaglione, Robert J - OFCCP <Gaglione.Robert.J@dol.gov>; Davidson, Patricia J - OFCCP <(b) 6@dol.gov>; Gean, Lissette - OFCCP <(b) 6@dol.gov>; Williams, Tina T - OFCCP <(b) 6@dol.gov>
Subject: Remarks by Secretary Scalia on EO 13950

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Under the President's Order, the Department of Labor's Office of Federal Contract Compliance Programs will implement the requirement that federal contractors not engage in race or sex stereotyping or scapegoating. We've already set up a

hotline to receive complaints from concerned employees, and we'll soon be issuing a public request for information to learn more about the types of training and workshops provided to employees of federal contractors.

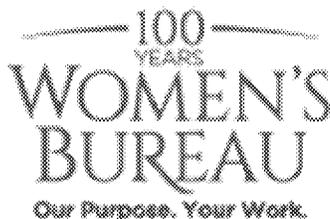
I should be clear about what the President's new Order does not do. It does not prohibit workplace training about non-discrimination and equal opportunity—that training is important, the Labor Department encourages it, and in some instances we require it. Nor does the Order prohibit the diversity training offered by countless American employers; training that, like my remarks today, emphasizes the importance of recognizing the value and worth of people of all races and creeds. American employers should value diversity and take extra strides to assure opportunity for those who in the past have been denied it—although they must do so in a way that does not discriminate against others based on race, ethnicity, or other protected characteristics. Finally, the President's Order does not prohibit trainings about pre-conceptions or biases that people may have—regardless of their race or sex—about people who are different, and which could cause slights or even discrimination that's not intended. What the Order does prohibit, though, is instruction in which federal contractors tell workers that because of their particular race or sex, they are racist, morally culpable, or less worthy of being heard.

Here is the link:

<https://www.dol.gov/sites/dolgov/files/OPA/Remarks-by-Secretary-Eugene-Scalia-on-Columbus-Day-and-Our-American-Heritage-at-Franciscan-University-of-Steubenville-20201012.pdf>

Thanks again,
Craig

Craig E. Leen
Director, Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, NW
Room C3325
Washington, DC 20210
(202) 693-[(b) 6] Phone
(202) 693-1304 (Fax)



From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 10/29/2020 8:13:01 AM
To: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]; Lacey, Kimberly G. - OASAM OHR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7dc33276a48248619f4fde7331668bc7-Lacey, Kimb]; Campbell, Carl V - OASAM OSPE [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58406165746e4d5ca4e1eb70b8daf53e-Campbell, C]
CC: William Hadden [(b) 6]@sbpublicaffairs.com]
Subject: Meeting with Aubrey Shines
Attachments: Meeting_with_AubreyShines_Details_11062020.docx
Start: 11/6/2020 1:00:00 PM
End: 11/6/2020 2:00:00 PM
Recurrence: (none)

Meeting with Aubrey Shines

Date: November 6, 2020 – 1:00 pm to 2:00 pm (Eastern)

Location: 200 Constitution Ave., NW, Room S-2322, Washington DC 20210

Remote: See Link to Microsoft Teams in the Invitation

Stakeholders

Aubrey Shines

Founder & Chairman

CCC Diversity Training

Derek McCoy

CCC Diversity Training

Dain Pascocello

Empire Solutions

William Hadden

Shirley & McVicker Public Affairs

O: 703.739.5920

US Department of Labor Participants

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Director, Office of Federal Contract Compliance Programs

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Carl V. Campbell, DBA

Chief Procurement Officer

Office of the Assistant Secretary for Administration and Management

O: 202.693.7246

Kimberly G. Lacey

Chief, Division of Workforce Development and Inclusion

O: 202.693.7838

From: Leen, Craig - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG]
Sent: 10/29/2020 9:39:16 AM
To: Wolfson, Jonathan A - ASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c933d3c8e9624d7092e25b4a2b47f4cf-Wolfson, Jo]; Kilmartin, Alison M - OASP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed0e9c979447788c5bc47b88dd8491-Kilmartin,]
CC: Taylor, Timothy J - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=363c0a5d85ca453eb4d8a2a62a9c286f-Taylor, Tim]; Rose, Sharon A - SOL [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c6d92f326de4a0abac3f6477d8120c4-Rose, Sharo]; Kilberg, Andrew G - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=285bfb7c58734e858f9cbd77c1bcf3c7-Kilberg, An]; Swearingen, Brett A - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=446467c1acd144b4bddd78130ecd530d-Swearingen,]; Squitieri, Chad C - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80ed763b75b846ff8b842b19bd2b9156-Squitieri,]
Subject: Fwd: EO 13950 Comment Submissions Report
Attachments: EO 13950 Comments PDF 10.29.2020.pdf; EO 13950 Comment Summary 10.29.2020.xlsx

Good morning. Please see the message below and attachments. This is the Thursday report on RFI submissions.

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From: Seely, Christopher - OFCCP (b) 6 @dol.gov>
Sent: Thursday, October 29, 2020 9:35 AM
To: Leen, Craig - OFCCP; Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP
Cc: Williams, Tina T - OFCCP; Gean, Lissette - OFCCP
Subject: EO 13950 Comment Submissions Report

Good morning,

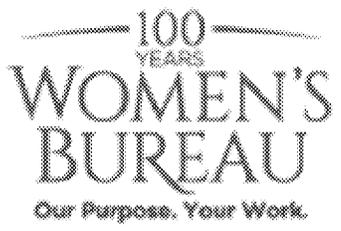
Attached are the Thursday reports requested on EO 13950 submissions to date.

1. As of October 29, 2020, OFCCP has received 34 comments on the *Request for Information: Race and Sex Stereotyping and Scapegoating*. Of the 34 comments received, 23 supported and 7 opposed Executive Order 13950. Of the supportive comments, 20 specifically mentioned Critical Race Theory while only 1 of the opposing comments did. Only 2 comments have requested an OFCCP assessment of attached training materials.
2. None of the comments have been submitted on behalf of an employer.

Thanks,

Chris Seely
Acting Deputy Director
Division of Policy and Program Development
Office of Federal Contract Compliance Programs
U.S. Department of Labor

202-(b) 6 (mobile)
Pronouns: he/him/his



Comment Number	Name	Comment	Submitted on Behalf of Employer?
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.	
OFCCP-2020-0002-0003		CRT is racist and should be banned	
OFCCP-2020-0002-0004		Anonymous	Critical Race Theory is anti-white propaganda. Its racist towards whites, and it needs to be stopped. We can only coexist with other races if everyone is treated the same and no one is demeaned.
OFCCP-2020-0002-0005	(b) 6	Critical race theory should be banned from all government funded institutions	
OFCCP-2020-0002-0006		I am 100 percent AGAINST the idea of CRT. This is a hateful indoctrination and should be banned IMMEDIATELY from all public and private schools, Government and Corporations. CRT is anti white and racist and contrary to all the good which America stands for. BAN CRT NOW!!!!	
OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We most hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.	
OFCCP-2020-0002-0008		Good EO. Critical Race Theory is dangerous. Needs to go further. California is about to legalize discrimination based on race, gender, etc. This must be stopped.	
OFCCP-2020-0002-0009		Critical Race Theory is modern day segregation and speaks to a perverse view of collectivism versus individualism. I am completely against CRT training in the workplace and schools. Thank you.	
OFCCP-2020-0002-0010		Critical race theory is a trojan horse that threatens our future. It is institutionalized racism and is the exact stuff that should be stamped out. We are not a racist country, but this perverted ideology could take us back there	
OFCCP-2020-0002-0011		The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.	

Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.

OFCCP-2020-0002-0012

I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."

OFCCP-2020-0002-0013

(b) 6

I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.

OFCCP-2020-0002-0014

I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.

OFCCP-2020-0002-0015

You are all insane!!!!!! What do you really want? What blacks want besides looting?

OFCCP-2020-0002-0016

Anonymous

Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

OFCCP-2020-0002-0017

(b) 6

I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of <https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> I think critical race theory is horrible. It needs to be out of all government and schools.

OFCCP-2020-0002-0018

OFCCP-2020-0002-0019

(b) 6

OFCCP-2020-0002-0020

<https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.

OFCCP-2020-0002-0021 Anonymous

I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.

Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.

OFCCP-2020-0002-0022

(b) 6

Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob

OFCCP-2020-0002-0023 John Doe

Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.

OFCCP-2020-0002-0024

(b) 6

The Human Resources departments for all federal contractors need to make their employees aware of the hotline.

OFCCP-2020-0002-0025 Anonymous

up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shuod not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearly we can all work under this dol proposal.

OFCCP-2020-0002-0026

(b) 6

See attached pic..... segregation in their government training..... Plessy vs ferguson is moot?

OFCCP-2020-0002-0027

The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950?

OFCCP-2020-0002-0028

Thank you

White is not a race. Where are you getting your information? Directly from Stephen Miller? Systemic oppression is real. Is this a crime tip hotline for people with hurt feelings? A mild discomfort complaint box? Anguish, seriously?! If you dont believe in racism or sexism, how can you experience anguish because you have to go to a boring training you dont like? I have had to go to at least 3 trainings in my career to learn about the complexities of Excel spreadsheets. I shopped online - it was fine. WHAT IS THE PUNISHMENT for people/companies who violate this edict? Craig E. Leen, I see your name at the bottom of this document as director of the OFCCO. This will be part of your legacy, this sneaky, disingenuous, undemocratic drivel. You signed off on it, so either you believe in it or somebody has promised you something. Unbelievable cruelty & trickery.

OFCCP-2020-0002-0029 Anonymous

This Executive Order prevents organizations like Centers for Independent Living from being able to move forward with the anti-racism and intersectionality of race and disability work. We are going backwards with this EO instead of moving forward in history. This EO will prevent federal funded organizations from being able to do any diversity or cultural awareness trainings. Please DON'T support this Executive Order!

OFCCP-2020-0002-0030 Anonymous

This EO is incredibly damaging to marginalized communities all over the US and completely undermines the experiences of black Americans specifically. It is a FACT that minorities experience racism, directly and indirectly, every day by others in this country daily. This racism has been indoctrinated into our daily lives through education and experiences. Pieces like Critical Race Theory force us to examine the FACTUAL history of this country and the way that we have treated minorities for centuries. We cannot work on creating everyone equal if we as a country continue to ignore the long violent, racist basis that settlers created this country on. When the constitution was founded, black people were only counted as 3/4ths a person and those who signed that document had the audacity to say that all people were created equal. Please reject this EO. We have suffered enough.

OFCCP-2020-0002-0031

(b) 6

On behalf myself, an Associate Professor at the University of Minnesota Medical School, I appreciate the opportunity to provide comment on the President Donald J. Trump signed Executive Order 13950, titled "Combating Race and Sex Stereotyping". Within the Department of Psychiatry and Behavioral Sciences, I oversee clinical training of students, medical residents and fellows who train at clinical training sites, including the Minneapolis Veterans Affairs Healthcare Center. Diversity, Equity and Inclusion training is essential to our training mission, as we work to train a health workforce with the skills needed to serve our diverse community. As a participant in several initiatives at the University of Minnesota and the Minneapolis Veterans Affairs Healthcare Center prior to the Executive Order, I can attest that Diversity, Equity, and Inclusion training is not designed or intended to stereotype or scapegoat any person or identity. Rather, these initiatives train participants to notice explicit and implicit biases we may hold, explore and challenge these biases, in order to develop skills to appreciate and celebrate our many differences. When people experience discrimination or bias-related incidents related to a protected category or classification, in their professional capacity, or as recipients of healthcare, our whole community suffers. I implore the Office of Federal Contract Compliance Programs to not only allow, but promote Diversity, Equity and Inclusion training initiatives throughout the Federal system and Federal Contractors. Thank you for your consideration.

OFCCP-2020-0002-0032

(b) 6

As a private citizen who has worked with the University of Minnesota Medical School on a contract basis for many years and with Fortune 100 and 500 corporations in the Twin Cities for more than 20 years, I understand the importance of providing Equity, Diversity and Inclusion training. In our country in particular, this training is critical to helping each of us better understand and manage our implicit and explicit biases when working with each other or when serving the public. That training is even more important in the teaching environment -- both for students and for educators. The President's belief that such training encourages racial and sexual stereotyping and scapegoating is ludicrous and comes from a position of white privilege. We absolutely must equip generations of Americans with the ability to understand themselves better when it comes to working/serving/living with those who are different from themselves. It's critical to our democracy, to the pursuit of happiness, and to a more satisfying way of living in our country. Please DO NOT APPROVE this Executive Order. It flies in the face of our Constitution and denies the reality of living in the United States today. Please roll this back. It's regressive and counter to what folks in our country have been fighting for for decades.

OFCCP-2020-0002-0033

OFCCP-2020-0002-0034 Anonymous

The presidents Executive Order is incredibly disturbing and goes against our core values as government employees and healthcare workers to provide respectful, inclusive, and culturally competent care to our nations veterans. This order has had a chilling effect on our ability to learn and grow and acknowledge the ugly truths of racism and other forms of oppression. I am horrified to work somewhere that is trying to police my language in this way and it makes me question whether this organization aligns with my personal and professional values. This order interferes with my ability to do my job which is to provide veterans with high quality competent mental health care. I feel like we are moving backwards.

OFCCP-2020-0002-0035

(b) 6

[Redacted content]





[Redacted content]



[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]



[Redacted content]

[Redacted content]



[Redacted content]



[Redacted content]

[Redacted content]



[Redacted content]



Employer (if Named in Comment)	Employer identified as a 'non-contractor?'	Request for OFCCP assessment of training	Attachment?	Location of Commenter	Oppose/Support EO 13950	Mention Critical Race Theory
				NC	Support	Y
				PA	Support	Y
					Support	Y
				TN	Support	Y
				NJ	Support	Y
				WA	Support	Y
				CA	Support	Y
				WI	Support	Y
				CA	Support	Y
				CA	Support	Y

PA

Support

Y

MI

Support

IA

Support

Y

AZ

Support

Y

UT

Support

Y

NY Support Y

NC Support Y

Support

King County WA Library System

N

Y

Y

AZ

City of Palmer

N

Y

Y

AK

Oppose

Centers for Independent Living

N

Oppose

WA Oppose Y

University of Minnesota
Medical School N

MN

Oppose

University of Minnesota
Medical School N

MA

Oppose

Oppose

Oppose

[Redacted content]

[Redacted content]



[Redacted content]

[Redacted content]

[Redacted content]

[Redacted content]





[Redacted content]

[Redacted content]

[Redacted content]

Comment Number	Name	Comment
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.
OFCCP-2020-0002-0003		CRT is racist and should be banned
OFCCP-2020-0002-0004	Anonymous	Critical Race Theory is anti-white propaganda. Its racist towards whites, and it needs to be stopped. We can only coexist with other races if everyone is treated the same and no one is demeaned.
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OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We must hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.
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OFCCP-2020-0002-0011

OFCCP-2020-0002-0012

(b) 6

The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.

Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.

OFCCP-2020-0002-0013		I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."
OFCCP-2020-0002-0014	(b) 6	I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.
OFCCP-2020-0002-0015		I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.
OFCCP-2020-0002-0016	Anonymous	You are all insane!!!! What do you really want? What blacks want besides looting?
OFCCP-2020-0002-0017	(b) 6	Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

OFCCP-2020-0002-0018		<p>I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of choosing a different set of politics - usually, one which is less self-interested and more moderate. CRT is an aberration, not an elevated and evolved version of the civil rights movement.</p>
OFCCP-2020-0002-0019	(b) 6	<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ I think critical race theory is horrible. It needs to be out of all government and schools.</p>

OFCCP-2020-0002-0020	(b) 6	<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.</p>
OFCCP-2020-0002-0021	Anonymous	<p>I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.</p>
OFCCP-2020-0002-0022	(b) 6	<p>Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.</p>
OFCCP-2020-0002-0023	John Doe	<p>Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob</p>
OFCCP-2020-0002-0024	(b) 6	<p>Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.</p>

OFCCP-2020-0002-0025	Anonymous	The Human Resources departments for all federal contractors need to make their employees aware of the hotline.
OFCCP-2020-0002-0026		up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shuod not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearlyly we can all work under this dol proposal.
OFCCP-2020-0002-0027	(b) 6	See attached pic..... segregation in their government training..... Plessy vs furgouson is moot?
OFCCP-2020-0002-0028		The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950? Thank you
OFCCP-2020-0002-0029	Anonymous	White is not a race. Where are you getting your information? Directly from Stephen Miller? Systemic oppression is real. Is this a crime tip hotline for people with hurt feelings? A mild discomfort complaint box? Anguish, seriously?! If you dont believe in racism or sexism, how can you experience anguish because you have to go to a boring training you dont like? I have had to go to at least 3 trainings in my career to learn about the complexities of Excel spreadsheets. I shopped online - it was fine. WHAT IS THE PUNISHMENT for people/companies who violate this edict? Craig E. Leen, I see your name at the bottom of this document as director of the OFCCO. This will be part of your legacy, this sneaky, disingenuous, undemocratic drivel. You signed off on it, so either you believe in it or somebody has promised you something. Unbelievable cruelty & trickery.
OFCCP-2020-0002-0030	Anonymous	This Executive Order prevents organizations like Centers for Independent Living from being able to move forward with the anti-racism and intersectionality of race and disability work. We are going backwards with this EO instead of moving forward in history. This EO will prevent federal funded organizations from being able to do any diversity or cultural awareness trainings. Please DON'T support this Executive Order!

OFCCP-2020-0002-0031

This EO is incredibly damaging to marginalized communities all over the US and completely undermines the experiences of black Americans specifically. It is a FACT that minorities experience racism, directly and indirectly, every day by others in this country daily. This racism has been indoctrinated into our daily lives through education and experiences. Pieces like Critical Race Theory force us to examine the FACTUAL history of this country and the way that we have treated minorities for centuries. We cannot work on creating everyone equal if we as a country continue to ignore the long violent, racist basis that settlers created this country on. When the constitution was founded, black people were only counted as 3/4ths a person and those who signed that document had the audacity to say that all people were created equal. Please reject this EO. We have suffered enough.

(b) 6

OFCCP-2020-0002-0032

On behalf myself, an Associate Professor at the University of Minnesota Medical School, I appreciate the opportunity to provide comment on the President Donald J. Trump signed Executive Order 13950, titled "Combating Race and Sex Stereotyping". Within the Department of Psychiatry and Behavioral Sciences, I oversee clinical training of students, medical residents and fellows who train at clinical training sites, including the Minneapolis Veterans Affairs Healthcare Center. Diversity, Equity and Inclusion training is essential to our training mission, as we work to train a health workforce with the skills needed to serve our diverse community. As a participant in several initiatives at the University of Minnesota and the Minneapolis Veterans Affairs Healthcare Center prior to the Executive Order, I can attest that Diversity, Equity, and Inclusion training is not designed or intended to stereotype or scapegoat any person or identity. Rather, these initiatives train participants to notice explicit and implicit biases we may hold, explore and challenge these biases, in order to develop skills to appreciate and celebrate our many differences. When people experience discrimination or bias-related incidents related to a protected category or classification, in their professional capacity, or as recipients of healthcare, our whole community suffers. I implore the Office of Federal Contract Compliance Programs to not only allow, but promote Diversity, Equity and Inclusion training initiatives throughout the Federal system and Federal Contractors. Thank you for your consideration.

OFCCP-2020-0002-0033	(b) 6	<p>As a private citizen who has worked with the University of Minnesota Medical School on a contract basis for many years and with Fortune 100 and 500 corporations in the Twin Cities for more than 20 years, I understand the importance of providing Equity, Diversity and Inclusion training. In our country in particular, this training is critical to helping each of us better understand and manage our implicit and explicit biases when working with each other or when serving the public. That training is even more important in the teaching environment -- both for students and for educators. The President's belief that such training encourages racial and sexual stereotyping and scapegoating is ludicrous and comes from a position of white privilege. We absolutely must equip generations of Americans with the ability to understand themselves better when it comes to working/serving/living with those who are different from themselves. It's critical to our democracy, to the pursuit of happiness, and to a more satisfying way of living in our country. Please DO NOT APPROVE this Executive Order. It flies in the face of our Constitution and denies the reality of living in the United States today.</p>
OFCCP-2020-0002-0034	Anonymous	<p>Please roll this back. It's regressive and counter to what folks in our country have been fighting for for decades.</p>
OFCCP-2020-0002-0035	(b) 6	<p>The presidents Executive Order is incredibly disturbing and goes against our core values as government employees and healthcare workers to provide respectful, inclusive, and culturally competent care to our nations veterans. This order has had a chilling effect on our ability to learn and grow and acknowledge the ugly truths of racism and other forms of oppression. I am horrified to work somewhere that is trying to police my language in this way and it makes me question whether this organization aligns with my personal and professional values. This order interferes with my ability to do my job which is to provide veterans with high quality competent mental health care. I feel like we are moving backwards.</p>

From: Kilmartin, Alison M - OASP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=77ED0E9C979447788C5BC47B88DD8491-KILMARTIN,]
Sent: 10/29/2020 5:10:38 PM
To: Bryson, Amanda K - OSEC [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=16324e58cbd9441cb7f92199ef07c41e-Bryson, Ama]
CC: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
Subject: FW: EO 13950 Comment Submissions Report
Attachments: EO 13950 Comments PDF 10.29.2020.pdf; EO 13950 Comment Summary 10.29.2020.xlsx

Amanda, please print this for the Dep Sec.

Craig, please include Amanda in your weekly distributions so she can print for Dep Sec.

Thanks!

Alison (Ali) Kilmartin
DAS, Policy, DOL
(202) (b) 6

From: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Sent: Thursday, October 29, 2020 9:39 AM
To: Wolfson, Jonathan A - ASP <Wolfson.Jonathan.A@dol.gov>; Kilmartin, Alison M - OASP <Kilmartin.Alison.M@dol.gov>
Cc: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Rose, Sharon A - SOL <Rose.Sharon.A@dol.gov>; Kilberg, Andrew G - OSEC <Kilberg.Andrew.G@dol.gov>; Swearingen, Brett A - OSEC <swearingen.brett.a@dol.gov>; Squitieri, Chad C - OSEC <squitieri.chad.c@dol.gov>
Subject: Fwd: EO 13950 Comment Submissions Report

Good morning. Please see the message below and attachments. This is the Thursday report on RFI submissions.

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From: Seely, Christopher - OFCCP <(b) 6@dol.gov>
Sent: Thursday, October 29, 2020 9:35 AM
To: Leen, Craig - OFCCP; Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP
Cc: Williams, Tina T - OFCCP; Gean, Lissette - OFCCP
Subject: EO 13950 Comment Submissions Report

Good morning,

Attached are the Thursday reports requested on EO 13950 submissions to date.

1. As of October 29, 2020, OFCCP has received 34 comments on the *Request for Information: Race and Sex Stereotyping and Scapegoating*. Of the 34 comments received, 23 supported and 7 opposed Executive Order 13950. Of the supportive comments, 20 specifically mentioned Critical Race Theory while only 1 of the opposing comments did. Only 2 comments have requested an OFCCP assessment of attached training materials.
2. None of the comments have been submitted on behalf of an employer.

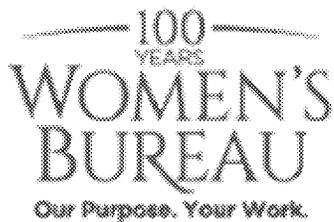
Thanks,

Chris Seely

DOL003082

Acting Deputy Director
Division of Policy and Program Development
Office of Federal Contract Compliance Programs
U.S. Department of Labor

202 (b) 6 (mobile)
Pronouns: he/him/his



Comment Number	Name	Comment	Submitted on Behalf of Employer?
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.	
OFCCP-2020-0002-0003		CRT is racist and should be banned	
OFCCP-2020-0002-0004		Anonymous	Critical Race Theory is anti-white propaganda. Its racist towards whites, and it needs to be stopped. We can only coexist with other races if everyone is treated the same and no one is demeaned.
OFCCP-2020-0002-0005	(b) 6	Critical race theory should be banned from all government funded institutions	
OFCCP-2020-0002-0006		I am 100 percent AGAINST the idea of CRT. This is a hateful indoctrination and should be banned IMMEDIATELY from all public and private schools, Government and Corporations. CRT is anti white and racist and contrary to all the good which America stands for. BAN CRT NOW!!!!	
OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We most hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.	
OFCCP-2020-0002-0008		Good EO. Critical Race Theory is dangerous. Needs to go further. California is about to legalize discrimination based on race, gender, etc. This must be stopped.	
OFCCP-2020-0002-0009		Critical Race Theory is modern day segregation and speaks to a perverse view of collectivism versus individualism. I am completely against CRT training in the workplace and schools. Thank you.	
OFCCP-2020-0002-0010		Critical race theory is a trojan horse that threatens our future. It is institutionalized racism and is the exact stuff that should be stamped out. We are not a racist country, but this perverted ideology could take us back there	
OFCCP-2020-0002-0011	(b) 6	The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.	

Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.

OFCCP-2020-0002-0012

I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."

OFCCP-2020-0002-0013

(b) 6

I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.

OFCCP-2020-0002-0014

I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.

OFCCP-2020-0002-0015

OFCCP-2020-0002-0016

Anonymous

You are all insane!!!!!! What do you really want? What blacks want besides looting?

OFCCP-2020-0002-0017

(b) 6

Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of <https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> I think critical race theory is horrible. It needs to be out of all government and schools.

OFCCP-2020-0002-0018

OFCCP-2020-0002-0019

(b) 6

OFCCP-2020-0002-0020

<https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/> As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.

OFCCP-2020-0002-0021 Anonymous

I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.

Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.

OFCCP-2020-0002-0022

(b) 6

Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob

OFCCP-2020-0002-0023 John Doe

Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.

OFCCP-2020-0002-0024 (b) 6

The Human Resources departments for all federal contractors need to make their employees aware of the hotline.

OFCCP-2020-0002-0025 Anonymous

up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shuod not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearly we can all work under this dol proposal.

OFCCP-2020-0002-0026

See attached pic..... segregation in their government training..... Plessy vs ferguson is moot?

OFCCP-2020-0002-0027

(b) 6

The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950?

OFCCP-2020-0002-0028

Thank you

White is not a race. Where are you getting your information? Directly from Stephen Miller? Systemic oppression is real. Is this a crime tip hotline for people with hurt feelings? A mild discomfort complaint box? Anguish, seriously?! If you dont believe in racism or sexism, how can you experience anguish because you have to go to a boring training you dont like? I have had to go to at least 3 trainings in my career to learn about the complexities of Excel spreadsheets. I shopped online - it was fine. WHAT IS THE PUNISHMENT for people/companies who violate this edict? Craig E. Leen, I see your name at the bottom of this document as director of the OFCCO. This will be part of your legacy, this sneaky, disingenuous, undemocratic drivel. You signed off on it, so either you believe in it or somebody has promised you something. Unbelievable cruelty & trickery.

OFCCP-2020-0002-0029 Anonymous

This Executive Order prevents organizations like Centers for Independent Living from being able to move forward with the anti-racism and intersectionality of race and disability work. We are going backwards with this EO instead of moving forward in history. This EO will prevent federal funded organizations from being able to do any diversity or cultural awareness trainings. Please DON'T support this Executive Order!

OFCCP-2020-0002-0030 Anonymous

This EO is incredibly damaging to marginalized communities all over the US and completely undermines the experiences of black Americans specifically. It is a FACT that minorities experience racism, directly and indirectly, every day by others in this country daily. This racism has been indoctrinated into our daily lives through education and experiences. Pieces like Critical Race Theory force us to examine the FACTUAL history of this country and the way that we have treated minorities for centuries. We cannot work on creating everyone equal if we as a country continue to ignore the long violent, racist basis that settlers created this country on. When the constitution was founded, black people were only counted as 3/4ths a person and those who signed that document had the audacity to say that all people were created equal. Please reject this EO. We have suffered enough.

OFCCP-2020-0002-0031

(b) 6

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OFCCP-2020-0002-0032

(b) 6

As a private citizen who has worked with the University of Minnesota Medical School on a contract basis for many years and with Fortune 100 and 500 corporations in the Twin Cities for more than 20 years, I understand the importance of providing Equity, Diversity and Inclusion training. In our country in particular, this training is critical to helping each of us better understand and manage our implicit and explicit biases when working with each other or when serving the public. That training is even more important in the teaching environment -- both for students and for educators. The President's belief that such training encourages racial and sexual stereotyping and scapegoating is ludicrous and comes from a position of white privilege. We absolutely must equip generations of Americans with the ability to understand themselves better when it comes to working/serving/living with those who are different from themselves. It's critical to our democracy, to the pursuit of happiness, and to a more satisfying way of living in our country. Please DO NOT APPROVE this Executive Order. It flies in the face of our Constitution and denies the reality of living in the United States today. Please roll this back. It's regressive and counter to what folks in our country have been fighting for for decades.

OFCCP-2020-0002-0033

OFCCP-2020-0002-0034 Anonymous

(b) 6

The presidents Executive Order is incredibly disturbing and goes against our core values as government employees and healthcare workers to provide respectful, inclusive, and culturally competent care to our nations veterans. This order has had a chilling effect on our ability to learn and grow and acknowledge the ugly truths of racism and other forms of oppression. I am horrified to work somewhere that is trying to police my language in this way and it makes me question whether this organization aligns with my personal and professional values. This order interferes with my ability to do my job which is to provide veterans with high quality competent mental health care. I feel like we are moving backwards.

OFCCP-2020-0002-0035

[Redacted content]



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Employer (if Named in Comment)	Employer identified as a 'non-contractor?'	Request for OFCCP assessment of training	Attachment?	Location of Commenter	Oppose/Support EO 13950	Mention Critical Race Theory
				NC	Support	Y
				PA	Support	Y
					Support	Y
				TN	Support	Y
				NJ	Support	Y
				WA	Support	Y
				CA	Support	Y
				WI	Support	Y
				CA	Support	Y
				CA	Support	Y

PA	Support	Y
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MI	Support	
----	---------	--

IA	Support	Y
----	---------	---

AZ	Support	Y
----	---------	---

UT	Support	Y
----	---------	---

NY Support Y

NC Support Y

Support

King County WA Library System

N

Y

Y

AZ

City of Palmer

N

Y

Y

AK

Oppose

Centers for Independent Living

N

Oppose

WA Oppose Y

University of Minnesota
Medical School

N

MN

Oppose

University of Minnesota
Medical School

N

MA

Oppose

Oppose

Oppose

[Redacted content]



[Redacted content]



[Redacted content]

[Redacted content]

Comment Number	Name	Comment
OFCCP-2020-0002-0002	(b) 6	Critical Race Theory (and other grievance studies) are a threat to a free society.
OFCCP-2020-0002-0003		CRT is racist and should be banned
OFCCP-2020-0002-0004		Anonymous
OFCCP-2020-0002-0005	(b) 6	Critical race theory should be banned from all government funded institutions
OFCCP-2020-0002-0006		I am 100 percent AGAINST the idea of CRT. This is a hateful indoctrination and should be banned IMMEDIATELY from all public and private schools, Government and Corporations. CRT is anti white and racist and contrary to all the good which America stands for. BAN CRT NOW!!!!
OFCCP-2020-0002-0007		CRT in all of its variations is highly divisive and counter to Americas ideals. It flies in the face of Civil Rights law and will reverse all of the good it has done. To allow CRT to be promoted will only breed more racism, divisiveness, discrimination, and hate in our country. It is in large part to blame for the current state our nation is in. It should not be allowed anywhere within our federal government or with those who do business with the federal government, or with those who receive federal funding. We must hold fast to the words of Martin Luther King Jr. and judge others not by the color of their skin, but by the content of their character.
OFCCP-2020-0002-0008		Good EO. Critical Race Theory is dangerous. Needs to go further. California is about to legalize discrimination based on race, gender, etc. This must be stopped.
OFCCP-2020-0002-0009		Critical Race Theory is modern day segregation and speaks to a perverse view of collectivism versus individualism. I am completely against CRT training in the workplace and schools. Thank you.
OFCCP-2020-0002-0010		Critical race theory is a trojan horse that threatens our future. It is institutionalized racism and is the exact stuff that should be stamped out. We are not a racist country, but this perverted ideology could take us back there

<p>OFCCP-2020-0002-0011</p>		<p>The Critical Race Theories being taught in schools and conducted as trainings in the workplace is nothing but anti White racism. If you substituted the words Jewish, Asian, Black, Hispanic, or any other racial group with the word White the seminars and teachings would be categorically racist. Whites are not immune from being treated poorly or from being the target of racism. These racial sensitivity trainings are dressed up racism toward White people. In fact, the very metric of success is measured in negative outcomes for White people. If there are fewer Whites admitted to college or getting jobs then this is a success according to CRT advocates. If White life expectancies drop, fertility rates drop, incomes drop, then these are considered successful outcomes for CRT advocates. I am personally embarrassed so many people have fallen for this race hustler hoax, and it is a moral outrage that taxpayers are funding this fraud.</p>
<p>OFCCP-2020-0002-0012</p>	<p>(b) 6</p>	<p>Critical Race Theory, misrepresented in the main stream media as "racial sensitivity training" is tearing our country apart. We are a country founded on principles of individual human rights and human equality. We have not always lived up to that, but the sentiments espoused in the Declaration of Independence and enshrined in the limited government structure of the Constitution were true when written and have been expanded since. The current racial narrative is that America is as deeply racist today as it was during slavery or Jim Crow, and centers everything on group identity and group responsibility. That is entirely antithetical to our founding. To attribute characteristics to a white person because they are white or a black person because they are black is the definition of racism. All white people are not racist, and all black people in America do not see themselves as victims of a racist country in 2020. That is not to say we do not have racism, discrimination, or inequality to work on rooting and solving. I can say that using the tools of Critical Theory which completely reject the principles of individual human equality, logic, reason, the Scientific Method, et cetera are the exact wrong tools to use in addressing real racial issues today. We are inflaming racial tensions by attributing the Scientific Method, the nuclear family, showing up on time, turning in your work, etc. as aspects of "Whiteness" as the Smithsonian did this summer is deeply offensive and racist. As an American who cares about racial justice and equality, I urge our taxpayer funded government to reject the divisive message of Critical Theory and embrace liberal values of equality, human dignity, and human flourishing.</p>

OFCCP-2020-0002-0013		I strongly endorse the President's Executive Order 13950. I concur completely with his analysis and rationale. Our nation cannot realize the dreams and goals of our founders and our current citizens if we are divided; if scapegoat and if don't live up to the Declaration of Independence, "that all men are created equal."
OFCCP-2020-0002-0014	(b) 6	I am very grateful that you are taking action to protect our nation from the poisonous ideology of Critical Race Theory. It is a school of thought that can only lead to hatred and division. I have experienced first hand the destructive nature of CRT as it has created division within my own family. I never could have imagined that by working to raise my daughters well and sending them to college I was actually destroying our relationship. I hope and pray that we are able to prevent other families being destroyed by the lies perpetuated in CRT.
OFCCP-2020-0002-0015		I want this. CRT breeds hatred, victimhood, division, and abusive behavior. I do not want it in our federally funded institutions. It is political and dangerous.
OFCCP-2020-0002-0016	Anonymous	You are all insane!!!! What do you really want? What blacks want besides looting?
OFCCP-2020-0002-0017	(b) 6	Thank you for creating this EO. Critical Race Theory is pseudo-scientific, anti-academic, racist drivel. It rejects objectivity, individualism, and liberalism. It has not place in the public square and should not receive a dollar of funding from my taxes.

		<p>I support preventing the teaching of CRT, or at least preventing presenting CRT as the only method for viewing racial disparities/issues. It has some aspects of truth, like all good lies, and so many well-meaning but ill-informed people agree with it. It pretends to be the heir to MLK and the civil rights movement, but it was founded because its founders interpreted the civil rights movement to be a failure. They openly question "the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law" (Delgado and Stefancic (2001), "Critical Race Theory, An Introduction"), which many people think that despite failures have lead to a pretty good system of governance. CRT lacks nuance (everything is, or is caused by, racism), it defies dissent (CRT uses anecdotes as evidence - of course anecdotes cannot be disagreed with, but anecdotes are a weak form of evidence because they are so limited. Those who dissent are assumed to do so not due to objective reasoning (which is doubted), but because they want to maintain the racist status quo), and it rejects any methods which can be used to disagree with it. The tips section for this comment says "Base your justification on sound reasoning, scientific evidence, and/or how you will be impacted". CRT would be happy to use "how you will be impacted" (if "you" is a person of color, and "impacted" refers to negative effects of living in a white supremacist culture - any other answers are the results of internalized oppression), but "sound reasoning" and "scientific evidence", when used to disagree with it, are called "The Master's Tools" (Lorde (1984), The Masters Tools Will Never Dismantle the Masters House.). Sound reasoning and scientific evidence are assumed to be limited to use by white people, which is both racist and untrue. It is a political (power-based) strategy for analyzing racism which goes against the lofty goals of equality and justice foundational to the civil rights movement and foundational to the US Constitution. Disagreeing with CRT is a matter of choosing a different set of politics - usually, one which is less self-interested and more moderate. CRT is an aberration, not an elevated and evolved version of the civil rights movement.</p>
<p>OFCCP-2020-0002-0018</p>	<p>(b) 6</p>	<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ I think critical race theory is horrible. It needs to be out of all government and schools.</p>
<p>OFCCP-2020-0002-0019</p>		

OFCCP-2020-0002-0020	(b) 6	<p>https://amgreatness.com/2020/10/05/trumps-anti-critical-race-theory-order-is-necessary-but-insufficient/ As comment I submit my article published at American Greatness commenting on the merits and demerits of Trumps order as it stands. I offer what I think is a way forward to builds on the existing order to reach a more robust approach to the issue.</p>
OFCCP-2020-0002-0021	Anonymous	<p>I am a federal employee and I see these trainings frequently. They are divisive, racist and anti-American. White people are not born racist and the large majority simply are not. America is a great country founded on equality. Ideas like equity are dangerous.</p>
OFCCP-2020-0002-0022	(b) 6	<p>Scapegoating has no place in any system which intends good outcomes for its inhabitants. It is inevitably a Shirley Jackson Lottery which, in the end, ritualistically chooses victims to bear the burden of its own sins. The Critical Race Theory which has begun to pervade workplaces in the United States is nothing more than a restated version of the scapegoating that we have seen so many times before, both here and elsewhere. The process itself is inherently toxic; and while it takes great effort to avoid, the effort is worthwhile. Critical Theory is in direct opposition to American ideals and in particular, Critical Race Theory is in direct opposition to the Civil Rights Acts enacted federally and in states during the 1960s--laws which were hard-won and profoundly based upon the notion of human dignity. The President's executive order is wise in targeting the results of these phenomena rather than the specific phenomena by name; such phenomena are adept at masking through language and would easily sidestep direct naming of Critical Race Theory. This element must be purged from all Federal dealings, and indeed any dealings which claim to involve a democratic process or which claim to support the Bill of Rights. I am in strong support of the President's executive order on Race Stereotyping and Segregating.</p>
OFCCP-2020-0002-0023	John Doe	<p>Critical race theory is divisive and goes against the enlightenment values on which this country is founded. It is illiberal and totalitarian and must be resisted. Thank you for taking action against it. Sincerely, A concerned citizen too afraid to speak due to the illiberal mob</p>
OFCCP-2020-0002-0024	(b) 6	<p>Critical Theory is a dangerous ideology that attacks the very foundational principles on which our nation was founded. It hacks away at the bedrock values of our society. There should be ZERO tax dollars paying for Critical Race Theory or Critical Gender Theory in either federal or state budgets. I urge the government to put an immediate halt to any and all funding supporting this poisonous ideology.</p>

OFCCP-2020-0002-0025	Anonymous	The Human Resources departments for all federal contractors need to make their employees aware of the hotline.
OFCCP-2020-0002-0026	(b) 6	up to this time, the white race has been discriminated against by employees hired to come to work places and teach all the employees there that whites were racists. i find such teaching to be discriminatory and it shuod not exist anywhere n america. for taxpayers to be paying for this atrocity is outrageous. clearlyly we can all work under this dol proposal.
OFCCP-2020-0002-0027		See attached pic..... segregation in their government training..... Plessy vs furgouson is moot?
OFCCP-2020-0002-0028		The City of Palmer recently began utilizing this training from Traliant. Would you please review and let me know if it is in compliance with EO 13950? Thank you
OFCCP-2020-0002-0029	Anonymous	White is not a race. Where are you getting your information? Directly from Stephen Miller? Systemic oppression is real. Is this a crime tip hotline for people with hurt feelings? A mild discomfort complaint box? Anguish, seriously?! If you dont believe in racism or sexism, how can you experience anguish because you have to go to a boring training you dont like? I have had to go to at least 3 trainings in my career to learn about the complexities of Excel spreadsheets. I shopped online - it was fine. WHAT IS THE PUNISHMENT for people/companies who violate this edict? Craig E. Leen, I see your name at the bottom of this document as director of the OFCCO. This will be part of your legacy, this sneaky, disingenuous, undemocratic drivel. You signed off on it, so either you believe in it or somebody has promised you something. Unbelievable cruelty & trickery.
OFCCP-2020-0002-0030	Anonymous	This Executive Order prevents organizations like Centers for Independent Living from being able to move forward with the anti-racism and intersectionality of race and disability work. We are going backwards with this EO instead of moving forward in history. This EO will prevent federal funded organizations from being able to do any diversity or cultural awareness trainings. Please DON'T support this Executive Order!

OFCCP-2020-0002-0031	(b) 6	<p>This EO is incredibly damaging to marginalized communities all over the US and completely undermines the experiences of black Americans specifically. It is a FACT that minorities experience racism, directly and indirectly, every day by others in this country daily. This racism has been indoctrinated into our daily lives through education and experiences. Pieces like Critical Race Theory force us to examine the FACTUAL history of this country and the way that we have treated minorities for centuries. We cannot work on creating everyone equal if we as a country continue to ignore the long violent, racist basis that settlers created this country on. When the constitution was founded, black people were only counted as 3/4ths a person and those who signed that document had the audacity to say that all people were created equal. Please reject this EO. We have suffered enough.</p>
OFCCP-2020-0002-0032	(b) 6	<p>On behalf myself, an Associate Professor at the University of Minnesota Medical School, I appreciate the opportunity to provide comment on the President Donald J. Trump signed Executive Order 13950, titled "Combating Race and Sex Stereotyping". Within the Department of Psychiatry and Behavioral Sciences, I oversee clinical training of students, medical residents and fellows who train at clinical training sites, including the Minneapolis Veterans Affairs Healthcare Center. Diversity, Equity and Inclusion training is essential to our training mission, as we work to train a health workforce with the skills needed to serve our diverse community. As a participant in several initiatives at the University of Minnesota and the Minneapolis Veterans Affairs Healthcare Center prior to the Executive Order, I can attest that Diversity, Equity, and Inclusion training is not designed or intended to stereotype or scapegoat any person or identity. Rather, these initiatives train participants to notice explicit and implicit biases we may hold, explore and challenge these biases, in order to develop skills to appreciate and celebrate our many differences. When people experience discrimination or bias-related incidents related to a protected category or classification, in their professional capacity, or as recipients of healthcare, our whole community suffers. I implore the Office of Federal Contract Compliance Programs to not only allow, but promote Diversity, Equity and Inclusion training initiatives throughout the Federal system and Federal Contractors. Thank you for your consideration.</p>

OFCCP-2020-0002-0033	(b) 6	<p>As a private citizen who has worked with the University of Minnesota Medical School on a contract basis for many years and with Fortune 100 and 500 corporations in the Twin Cities for more than 20 years, I understand the importance of providing Equity, Diversity and Inclusion training. In our country in particular, this training is critical to helping each of us better understand and manage our implicit and explicit biases when working with each other or when serving the public. That training is even more important in the teaching environment -- both for students and for educators. The President's belief that such training encourages racial and sexual stereotyping and scapegoating is ludicrous and comes from a position of white privilege. We absolutely must equip generations of Americans with the ability to understand themselves better when it comes to working/serving/living with those who are different from themselves. It's critical to our democracy, to the pursuit of happiness, and to a more satisfying way of living in our country. Please DO NOT APPROVE this Executive Order. It flies in the face of our Constitution and denies the reality of living in the United States today.</p>
OFCCP-2020-0002-0034	Anonymous	<p>Please roll this back. It's regressive and counter to what folks in our country have been fighting for for decades.</p>
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