

89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (§2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

CODIFICATION

Section was enacted as part of the Rehabilitation Act Amendments of 1986, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

SUBCHAPTER VI—EQUAL EMPLOYMENT OPPORTUNITIES

§ 2000e. Definitions

For the purposes of this subchapter—

(a) The term “person” includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, or receivers.

(b) The term “employer” means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of title 26, except that during the first year after March 24, 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers.

(c) The term “employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term “labor organization” means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or

hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) twenty-five or more during the first year after March 24, 1972, or (B) fifteen or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], or the Railway Labor Act, as amended [45 U.S.C. 151 et seq.];

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term “employee” means an individual employed by an employer, except that the term “employee” shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer’s personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(g) The term “commerce” means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term “industry affecting commerce” means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow

of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.], and further includes any governmental industry, business, or activity.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(k) The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 2000e-2(h) of this title shall be interpreted to permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

(l) The term "complaining party" means the Commission, the Attorney General, or a person who may bring an action or proceeding under this subchapter.

(m) The term "demonstrates" means meets the burdens of production and persuasion.

(n) The term "respondent" means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 2000e-16 of this title.

(Pub. L. 88-352, title VII, §701, July 2, 1964, 78 Stat. 253; Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 662; Pub. L. 92-261, §2, Mar. 24, 1972, 86 Stat. 103; Pub. L. 95-555, §1, Oct. 31, 1978, 92 Stat. 2076; Pub. L. 95-598, title III, §330, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102-166, title I, §§104, 109(a), Nov. 21, 1991, 105 Stat. 1074, 1077.)

Editorial Notes

REFERENCES IN TEXT

The National Labor Relations Act, as amended, referred to in subsec. (e)(1), is act July 5, 1935, ch. 372, 49 Stat. 449, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Railway Labor Act, referred to in subsec. (e)(1), is act May 20, 1926, ch. 347, 44 Stat. 577, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

The Labor-Management Reporting and Disclosure Act of 1959, referred to in subsec. (h), is Pub. L. 86-257, Sept. 14, 1959, 73 Stat. 519, which is classified principally to chapter 11 (§401 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 29 and Tables.

For definition of Canal Zone, referred to in subsec. (i), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

The Outer Continental Shelf Lands Act, referred to in subsec. (i), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

AMENDMENTS

1991—Subsec. (f). Pub. L. 102-166, §109(a), inserted at end "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States."

Subsecs. (l) to (n). Pub. L. 102-166, §104, added subsecs. (l) to (n).

1986—Subsec. (b). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1978—Subsec. (a). Pub. L. 95-598 substituted "trustees in cases under title 11" for "trustees in bankruptcy".

Subsec. (k). Pub. L. 95-555 added subsec. (k).

1972—Subsec. (a). Pub. L. 92-261, §2(1), included within "person" governments, governmental agencies, and political subdivisions.

Subsec. (b). Pub. L. 92-261, §2(2), substituted "fifteen or more employees" for "twenty-five or more employees", extended coverage to include State and local governments, excepted from coverage any department or agency of the District of Columbia subject by statute to procedures of the competitive service, as defined in section 2102 of title 5, and substituted provisions under which persons having fewer than twenty-five employees during the first year after March 24, 1972, were not to be considered employers, for provisions under which persons having fewer than a specified number of employees during the first year after the effective date of this section, and the second and third years after such date were not to be considered employers.

Subsec. (c). Pub. L. 92-261, §2(3), struck out from term "employment agency" exemption from coverage for agencies of the United States, States or political subdivisions of States, other than the United States Employment Service and the system of State and local employment services receiving Federal assistance.

Subsec. (e). Pub. L. 92-261, §2(4), substituted provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as twenty-five or more during the first year after March 24, 1972, and fifteen or more thereafter, for provisions which set forth the number of members for a labor organization to be deemed to be engaged in an industry affecting commerce as one hundred or more during the first year after the effective date of this section, seventy-five or more during the second year after such date, fifty or more during the third year after such date, and twenty-five or more thereafter.

Subsec. (f). Pub. L. 92-261, §2(5), inserted provisions enumerating persons excepted from term "employee".

Subsec. (h). Pub. L. 92-261, §2(6), inserted ", and further includes any governmental industry, business, or activity" after "Labor-Management Reporting and Disclosure Act of 1959".

Subsec. (j). Pub. L. 92-261, §2(7), added subsec. (j).

1966—Subsec. (b). Pub. L. 89-554 struck out proviso which stated that it shall be the policy of the United

States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex, or national origin and directed the President to utilize his existing authority to effectuate this policy.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 104 of Pub. L. 102-166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as a note under section 1981 of this title.

Pub. L. 102-166, title I, §109(c) Nov. 21, 1991, 105 Stat. 1078, provided that: "The amendments made by this section [amending this section and sections 2000e-1, 12111, and 12112 of this title] shall not apply with respect to conduct occurring before the date of the enactment of this Act [Nov. 21, 1991]."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1978 AMENDMENT; EXCEPTIONS TO APPLICATION

Pub. L. 95-555, §2, Oct. 31, 1978, 92 Stat. 2076, provided that:

"(a) Except as provided in subsection (b), the amendment made by this Act [amending this section] shall be effective on the date of enactment [Oct. 31, 1978].

"(b) The provisions of the amendment made by the first section of this Act [amending this section] shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act [Oct. 31, 1978] until 180 days after enactment of this Act."

EFFECTIVE DATE

Pub. L. 88-352, title VII, §716(a), (b), July 2, 1964, 78 Stat. 266, provided that:

"(a) This title [enacting this section and sections 2000e-1, 2000e-4, 2000e-7 to 2000e-15 of this title, and amending sections 2204 and 2205(a)(45) of former Title 5, Executive Departments and Government Officers and Employees] shall become effective one year after the date of its enactment [July 2, 1964].

"(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 [sections 2000e-2, 2000e-3, 2000e-5, and 2000e-6 of this title] shall become effective immediately [July 2, 1964]."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-555, Oct. 31, 1978, 92 Stat. 2076, which enacted subsec. (k) of this section and notes set out below, is popularly known as the "Pregnancy Discrimination Act".

GLASS CEILING

Pub. L. 102-166, title II, Nov. 21, 1991, 105 Stat. 1081-1087, entitled the "Glass Ceiling Act of 1991", established a Glass Ceiling Commission which was to submit to Congress, no later than 15 months after Nov. 21, 1991, study and recommendations concerning eliminating artificial barriers to advancement of women and minorities in the workplace and increasing opportunities and developmental experiences of women and minorities to foster advancement to management and decisionmaking positions in businesses, authorized creation of a National Award for Diversity and Excellence in American Executive Management which was to be awarded annually by the Commission to a qualified business concern which promoted more diverse skilled work force at management and decisionmaking levels in business, and further provided for composition of Commission, powers, staff and consultants, confidentiality of information, appropriations, and termination

of Commission and authority to make awards 4 years after Nov. 21, 1991.

READJUSTMENT OF BENEFITS

Pub. L. 95-555, §3, Oct. 31, 1978, 92 Stat. 2076, provided that: "Until the expiration of a period of one year from the date of enactment of this Act [Oct. 31, 1978] or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act [amending this section and enacting provisions set out above] shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act."

Executive Documents

EXECUTIVE ORDER NO. 11126

Ex. Ord. No. 11126, Nov. 1, 1963, 28 F.R. 11717, as amended by Ex. Ord. No. 11221, May 6, 1965, 30 F.R. 6427; Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, which related to the Interdepartmental Committee on the Status of Women and the Citizens' Advisory Council on the Status of Women, was revoked by Ex. Ord. No. 12050, Apr. 4, 1978, 43 F.R. 14431, formerly set out below.

EX. ORD. NO. 11246. EQUAL EMPLOYMENT OPPORTUNITY

Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, as amended by Ex. Ord. No. 11375, Oct. 13, 1967, 32 F.R. 14303; Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985; Ex. Ord. No. 12086, Oct. 5, 1978, 43 F.R. 46501; Ex. Ord. No. 13279, §4, Dec. 12, 2002, 67 F.R. 77143; Ex. Ord. No. 13665, §2, Apr. 8, 2014, 79 F.R. 20749; Ex. Ord. No. 13672, §2, July 21, 2014, 79 F.R. 42971, provided:

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

PART I—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT

[Superseded. Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985.]

PART II—NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

SUBPART A—DUTIES OF THE SECRETARY OF LABOR

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

SUBPART B—CONTRACTORS' AGREEMENTS

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race,

color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

“(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

“(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

“(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

“(5) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

“(6) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

“(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

“(8) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965 [section 204 of this Order] so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect

to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

SEC. 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or any agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

SEC. 204. (a) The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.

(b) The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified

amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.

(c) Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this Order.

(d) The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *provided*, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *and provided further*, that in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

SUBPART C—POWERS AND DUTIES OF THE SECRETARY OF LABOR AND THE CONTRACTING AGENCIES

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

SEC. 207. The Secretary of Labor shall use his best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title and this subchapter] or other provision of Federal law.

SEC. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

SUBPART D—SANCTIONS AND PENALTIES

SEC. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964 [this subchapter].

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

SEC. 211. If the Secretary of Labor shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of non-compliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

SUBPART E—CERTIFICATES OF MERIT

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under

Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices, and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III—NONDISCRIMINATION PROVISIONS IN FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

SEC. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor; together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. (a) "Construction contract," as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

SEC. 303(a). The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Sec-

retary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 [sections 2000d to 2000d-4 of this title] shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof [section 2000d-1 of this title] and the regulations of the administering department or agency issued thereunder.

PART IV—MISCELLANEOUS

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. (a) Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

EX. ORD. NO. 11478. EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831; Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 13087, May 28, 1998, 63 F.R. 30097; Ex. Ord. No. 13152, May 2, 2000, 65 F.R. 26115; Ex. Ord. No. 13672, §1, July 21, 2014, 79 F.R. 42971, provided:

NOW THEREFORE, under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

SECTION 1. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, age, sexual orientation, gender identity, or status as a parent., [sic] and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government, to the extent permitted by law.

SEC. 2. The head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in section 1. It is the responsibility of each department and agency head, to the maximum extent possible, to provide sufficient resources to administer such a program in a positive and effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; provide the maximum feasible opportunity to employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities; provide training and advice to managers and supervisors to assure their understanding and implementation of the policy expressed in this Order; assure participation at the local level with other employers, schools, and public or private groups in cooperative efforts to improve community conditions which affect employability; and provide for a system within the department or agency for periodically evaluating the effectiveness with which the policy of this Order is being carried out.

SEC. 3. The Equal Employment Opportunity Commission shall be responsible for directing and furthering the implementation of the policy of the Government of the United States to provide equal opportunity in Federal employment for all employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicap, or age.

SEC. 4. The Equal Employment Opportunity Commission, after consultation with all affected departments and agencies, shall issue such rules, regulations, orders, and instructions and request such information from the affected departments and agencies as it deems necessary and [sic] appropriate to carry out its responsibilities under this Order.

SEC. 5. All departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this Order and shall furnish the Commission such reports and information as it may request. The head of each department or agency shall comply with rules, regulations, orders and instructions issued by the Equal Employment Opportunity Commission pursuant to Section 4 of this Order.

SEC. 6. "Status as a parent" refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (a) a biological parent;
- (b) an adoptive parent;
- (c) a foster parent;
- (d) a stepparent;
- (e) a custodian of a legal ward;
- (f) in loco parentis over such an individual; or
- (g) actively seeking legal custody or adoption of such an individual.

SEC. 7. The Office of Personnel Management shall be authorized to develop guidance on the provisions of this order prohibiting discrimination on the basis of an individual's sexual orientation or status as a parent.

SEC. 8. This Order applies (a) to military departments as defined in section 102 of title 5, United States Code, and executive agencies (other than the General Accounting Office [now Government Accountability Office]) as defined in section 105 of title 5, United States Code, and to the employees thereof (including employees paid from nonappropriated funds), and (b) to those portions of the legislative and judicial branches of the Federal Government and of the Government of the District of Columbia having positions in the competitive service and to the employees in those positions. This Order does not apply to aliens employed outside the limits of the United States.

SEC. 9. Part I of Executive Order No. 11246 of September 24, 1965, and those parts of Executive Order No. 11375 of October 13, 1967, which apply to Federal employment, are hereby superseded.

SEC. 10. This Order shall be applicable to the United States Postal Service and to the Postal Rate Commission established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

SEC. 11. This Executive Order does not confer any right or benefit enforceable in law or equity against the United States or its representatives.

EXECUTIVE ORDER NO. 12050

Ex. Ord. No. 12050, Apr. 4, 1978, 43 F.R. 14431, as amended by Ex. Ord. No. 12057, May 8, 1978, 43 F.R. 19811; Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639; Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, which established a National Advisory Committee for Women, was omitted in view of the revocation of sections 1 to 5 and 7 and 8 by Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639 and the revocation of section 6 by Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239.

EX. ORD. NO. 12067. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Ex. Ord. No. 12067, June 30, 1978, 43 F.R. 28967, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including Section 9 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out under section 2000e-4 of this title and in the Appendix to Title 5, Government Organizations and Employees], it is ordered as follows:

1-1. IMPLEMENTATION OF REORGANIZATION PLAN

1-101. The transfer to the Equal Employment Opportunity Commission of all the functions of the Equal Employment Opportunity Coordinating Council, and the termination of that Council, as provided by Section 6 of Reorganization Plan Number 1 of 1978 (43 FR 19807) [set out under section 2000e-4 of this title and in the Appendix to Title 5, Government Organization and Employees] shall be effective on July 1, 1978.

1-2. RESPONSIBILITIES OF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

1-201. The Equal Employment Opportunity Commission shall provide leadership and coordination to the efforts of Federal departments and agencies to enforce all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity without regard to race, color, religion, sex, national or-

igin, age or handicap. It shall strive to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the Federal departments and agencies having responsibility for enforcing such statutes, Executive orders, regulations and policies.

1-202. In carrying out its functions under this order the Equal Employment Opportunity Commission shall consult with and utilize the special expertise of Federal departments and agencies with equal employment opportunity responsibilities. The Equal Employment Opportunity Commission shall cooperate with such departments and agencies in the discharge of their equal employment responsibilities.

1-203. All Federal departments and agencies shall cooperate with and assist the Equal Employment Opportunity Commission in the performance of its functions under this order and shall furnish the Commission such reports and information as it may request.

1-3. SPECIFIC RESPONSIBILITIES

1-301. To implement its responsibilities under Section 1-2, the Equal Employment Opportunity Commission shall, where feasible:

(a) develop uniform standards, guidelines, and policies defining the nature of employment discrimination on the ground of race, color, religion, sex, national origin, age or handicap under all Federal statutes, Executive orders, regulations, and policies which require equal employment opportunity;

(b) develop uniform standards and procedures for investigations and compliance reviews to be conducted by Federal departments and agencies under any Federal statute, Executive order, regulation or policy requiring equal employment opportunity;

(c) develop procedures with the affected agencies, including the use of memoranda of understanding, to minimize duplicative investigations or compliance reviews of particular employers or classes of employers or others covered by Federal statutes, Executive orders, regulations or policies requiring equal employment opportunity;

(d) ensure that Federal departments and agencies develop their own standards and procedures for undertaking enforcement actions when compliance with equal employment opportunity requirements of any Federal statute, Executive order, regulation or policy cannot be secured by voluntary means;

(e) develop uniform record-keeping and reporting requirements concerning employment practices to be utilized by all Federal departments and agencies having equal employment enforcement responsibilities;

(f) provide for the sharing of compliance records, findings, and supporting documentation among Federal departments and agencies responsible for ensuring equal employment opportunity;

(g) develop uniform training programs for the staff of Federal departments and agencies with equal employment opportunity responsibilities;

(h) assist all Federal departments and agencies with equal employment opportunity responsibilities in developing programs to provide appropriate publications and other information for those covered and those protected by Federal equal employment opportunity statutes, Executive orders, regulations, and policies; and

(i) initiate cooperative programs, including the development of memoranda of understanding between agencies, designed to improve the coordination of equal employment opportunity compliance and enforcement.

1-302. The Equal Employment Opportunity Commission shall assist the Office of Personnel Management, or its successor, in establishing uniform job-related qualifications and requirements for job classifications and descriptions for Federal employees involved in enforcing all Federal equal employment opportunity provisions.

1-303. The Equal Employment Opportunity Commission shall issue such rules, regulations, policies, procedures or orders as it deems necessary to carry out its

responsibilities under this order. It shall advise and offer to consult with the affected Federal departments and agencies during the development of any proposed rules, regulations, policies, procedures or orders and shall formally submit such proposed issuances to affected departments and agencies at least 15 working days prior to public announcement. The Equal Employment Opportunity Commission shall use its best efforts to reach agreement with the agencies on matters in dispute. Departments and agencies shall comply with all final rules, regulations, policies, procedures or orders of the Equal Employment Opportunity Commission.

1-304. All Federal departments and agencies shall advise and offer to consult with the Equal Employment Opportunity Commission during the development of any proposed rules, regulations, policies, procedures or orders concerning equal employment opportunity. Departments and agencies shall formally submit such proposed issuances to the Equal Employment Opportunity Commission and other interested Federal departments and agencies at least 15 working days prior to public announcement. The Equal Employment Opportunity Commission shall review such proposed rules, regulations, policies, procedures or orders to ensure consistency among the operations of the various Federal departments and agencies. Issuances related to internal management and administration are exempt from this clearance process. Case handling procedures unique to a single program also are exempt, although the Equal Employment Opportunity Commission may review such procedures in order to assure maximum consistency within the Federal equal employment opportunity program.

1-305. Before promulgating significant rules, regulations, policies, procedures or orders involving equal employment opportunity, the Commission and affected departments and agencies shall afford the public an opportunity to comment.

1-306. The Equal Employment Opportunity Commission may make recommendations concerning staff size and resource needs of the Federal departments and agencies having equal employment opportunity responsibilities to the Office of Management and Budget.

1-307. (a) It is the intent of this order that disputes between or among agencies concerning matters covered by this order shall be resolved through good faith efforts of the affected agencies to reach mutual agreement. Use of the dispute resolution mechanism contained in Subsections (b) and (c) of this Section should be resorted to only in extraordinary circumstances.

(b) Whenever a dispute which cannot be resolved through good faith efforts arises between the Equal Employment Opportunity Commission and another Federal department or agency concerning the issuance of an equal employment opportunity rule, regulation, policy, procedure, order or any matter covered by this Order, the Chairman of the Equal Employment Opportunity Commission or the head of the affected department or agency may refer the matter to the Executive Office of the President. Such reference must be in writing and may not be made later than 15 working days following receipt of the initiating agency's notice of intent publicly to announce an equal employment opportunity rule, regulation, policy, procedure or order. If no reference is made within the 15 day period, the decision of the agency which initiated the proposed issuance will become effective.

(c) Following reference of a disputed matter to the Executive Office of the President, the Assistant to the President for Domestic Affairs and Policy (or such other official as the President may designate) shall designate an official within the Executive Office of the President to meet with the affected agencies to resolve the dispute within a reasonable time.

1-4. ANNUAL REPORT

1-401. The Equal Employment Opportunity Commission shall include in the annual report transmitted to the President and the Congress pursuant to Section 715

of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), a statement of the progress that has been made in achieving the purpose of this order. The Equal Employment Opportunity Commission shall provide Federal departments and agencies an opportunity to comment on the report prior to formal submission.

1-5. GENERAL PROVISIONS

1-501. Nothing in this order shall relieve or lessen the responsibilities or obligations imposed upon any person or entity by Federal equal employment law, Executive order, regulation or policy.

1-502. Nothing in this order shall limit the Attorney General's role as legal adviser to the Executive Branch.

JIMMY CARTER.

EX. ORD. NO. 12086. CONSOLIDATION OF CONTRACT COMPLIANCE FUNCTIONS FOR EQUAL EMPLOYMENT OPPORTUNITY

Ex. Ord. No. 12086, Oct. 5, 1978, 43 F.R. 46501, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], in order to provide for the transfer to the Department of Labor of certain contract compliance functions relating to equal employment opportunity, it is hereby ordered as follows:

1-1. TRANSFER OF FUNCTIONS

1-101. The functions concerned with being primarily responsible for the enforcement of the equal employment opportunity provisions under Parts II and III of Executive Order No. 11246, as amended [set out as a note above], are transferred or reassigned to the Secretary of Labor from the following agencies:

- (a) Department of the Treasury.
- (b) Department of Defense.
- (c) Department of the Interior.
- (d) Department of Commerce.
- (e) Department of Health and Human Services.
- (f) Department of Housing and Urban Development.
- (g) Department of Transportation.
- (h) Department of Energy.
- (i) Environmental Protection Agency.
- (j) General Services Administration.
- (k) Small Business Administration.

1-102. The records, property, personnel and positions, and unexpended balances of appropriations or funds related to the functions transferred or reassigned by this Order, that are available and necessary to finance or discharge those functions, are transferred to the Secretary of Labor.

1-103. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

1-2. CONFORMING AMENDMENTS TO EXECUTIVE ORDER NO. 11246

1-201(a). In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, Section 201 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order."

(b) Paragraph (7) of the contract clauses specified in Section 202 of Executive Order No. 11246, as amended, is amended to read:

"(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or pur-

chase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

1-202. In subsection (c) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency" in the proviso and substitute "Secretary of Labor" therefor.

1-203. In both the beginning and end of subsection (d) of Section 203 of Executive Order No. 11246, as amended, delete "contracting agency or the" in the phrase "contracting agency or the Secretary".

1-204. Section 205 of Executive Order No. 11246, as amended, is amended by deleting the last two sentences, which dealt with agency designation of compliance officers, and revising the rest of that Section to read:

"SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require."

1-205. In order to delete references to the contracting agencies conducting investigations, Section 206 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor."

"(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order."

1-206. In Section 207 of Executive Order No. 11246, as amended, delete "contracting agencies, other" in the first sentence.

1-207. The introductory clause in Section 209(a) of Executive Order No. 11246, as amended, is amended by deleting "or the appropriate contracting agency" from "In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:"

1-208. In paragraph (5) of Section 209(a) of Executive Order No. 11246, as amended, insert at the beginning of paragraph (5) delete "contracting agency" and substitute therefor "Secretary of Labor" so that paragraph (5) is amended to read:

"(5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor."

1-209. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement func-

tions, substitute "Secretary of Labor" for "each contracting agency" in Section 209(b) of Executive Order No. 11246, as amended, so that Section 209(b) is amended to read:

"(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section."

1-210. In order to reflect the responsibility of the contracting agencies for prompt compliance with the directions of the Secretary of Labor, Sections 210 and 211 of Executive Order No. 11246, as amended, are amended to read:

"SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly."

"SEC. 211. If the Secretary of Labor shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor."

1-211. Section 212 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of non-compliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States."

1-212. In order to reflect the transfer of enforcement responsibility to the Secretary of Labor, references to the administering department or agency are deleted in clauses (1), (2), and (3) of Section 301 of Executive Order No. 11246, as amended, and those clauses are amended to read:

"(1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order."

1-213. In order to reflect the transfer from the agencies to the Secretary of Labor of the enforcement functions "Secretary of Labor" shall be substituted for "administering department or agency" in Section 303 of Executive Order No. 11246, as amended, and Section 303 is amended to read:

"SEC. 303(a). The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order."

"(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any

administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings."

"(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing."

1-214. Section 401 of Executive Order No. 11246, as amended, is amended to read:

"SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order."

1-3. GENERAL PROVISIONS

1-301. The transfers or reassignments provided by Section 1-1 of this Order shall take effect at such time or times as the Director of the Office of Management and Budget shall determine. The Director shall ensure that all such transfers or reassignments take effect within 60 days.

1-302. The conforming amendments provided by Section 1-2 of this Order shall take effect on October 8, 1978; except that, with respect to those agencies identified in Section 1-101 of this Order, the conforming amendments shall be effective on the effective date of the transfer or reassignment of functions as specified pursuant to Section 1-301 of this Order.

EXECUTIVE ORDER NO. 12135

Ex. Ord. No. 12135, May 9, 1979, 44 F.R. 27639, which established the President's Advisory Committee for Women, was revoked by Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, set out below.

EX. ORD. NO. 12336. TASK FORCE ON LEGAL EQUITY FOR WOMEN

Ex. Ord. No. 12336, Dec. 21, 1981, 46 F.R. 62239, as amended by Ex. Ord. No. 12355, Apr. 1, 1982, 47 F.R. 14479, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities, it is hereby ordered as follows:

SECTION 1. *Establishment.* (a) There is established the Task Force on Legal Equity for Women.

(b) The Task Force members shall be appointed by the President from among nominees by the heads of the following Executive agencies, each of which shall have one representative on the Task Force.

- (1) Department of State.
- (2) Department of The Treasury.
- (3) Department of Defense.
- (4) Department of Justice.
- (5) Department of The Interior.
- (6) Department of Agriculture.
- (7) Department of Commerce.
- (8) Department of Labor.
- (9) Department of Health and Human Services.
- (10) Department of Housing and Urban Development.
- (11) Department of Transportation.
- (12) Department of Energy.
- (13) Department of Education.
- (14) Agency for International Development.
- (15) Veterans Administration [now Department of Veterans Affairs].
- (16) Office of Management and Budget.
- (17) International Communication Agency.

- (18) Office of Personnel Management.
- (19) Environmental Protection Agency.
- (20) ACTION [now Corporation for National and Community Service].
- (21) Small Business Administration.
- (c) The President shall designate one of the members to chair the Task Force. Other agencies may be invited to participate in the functions of the Task Force.

SEC. 2. *Functions.* (a) The members of the Task Force shall be responsible for coordinating and facilitating in their respective agencies, under the direction of the head of their agency, the implementation of changes ordered by the President in sex-discriminatory Federal regulations, policies, and practices.

(b) The Task Force shall periodically report to the President on the progress made throughout the Government in implementing the President's directives.

(c) The Attorney General shall complete the review of Federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or which effectively discriminates, on the basis of sex. The Attorney General or his designee shall, on a quarterly basis, report his findings to the President through the Cabinet Council on Legal Policy.

SEC. 3. *Administration.* (a) The head of each Executive agency shall, to the extent permitted by law, provide the Task Force with such information and advice as the Task Force may identify as being useful to fulfill its functions.

(b) The agency with its representative chairing the Task Force shall, to the extent permitted by law, provide the Task Force with such administrative support as may be necessary for the effective performance of its functions.

(c) The head of each agency represented on the Task Force shall, to the extent permitted by law, furnish its representative such administrative support as is necessary and appropriate.

SEC. 4. *General Provisions.* (a) Section 1–101(h) of Executive Order No. 12258, as amended, is revoked.

(b) Executive Order No. 12135 is revoked.

(c) Section 6 of Executive Order No. 12050, as amended, is revoked.

RONALD REAGAN.

[The International Communication Agency was redesignated the United States Information Agency, see section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22.]

EX. ORD. NO. 13171. HISPANIC EMPLOYMENT IN THE
FEDERAL GOVERNMENT

Ex. Ord. No. 13171, Oct. 12, 2000, 65 F.R. 61251, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the representation of Hispanics in Federal employment, within merit system principles and consistent with the application of appropriate veterans' preference criteria, to achieve a Federal workforce drawn from all segments of society, it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the executive branch to recruit qualified individuals from appropriate sources in an effort to achieve a workforce drawn from all segments of society. Pursuant to this policy, this Administration notes that Hispanics remain underrepresented in the Federal workforce: they make up only 6.4 percent of the Federal civilian workforce, roughly half of their total representation in the civilian labor force. This Executive Order, therefore, affirms ongoing policies and recommends additional policies to eliminate the underrepresentation [sic] of Hispanics in the Federal workforce.

SEC. 2. *Responsibilities of Executive Departments and Agencies.* The head of each executive department and agency (agency) shall establish and maintain a program for the recruitment and career development of Hispanics in Federal employment. In its program, each agency shall:

(a) provide a plan for recruiting Hispanics that creates a fully diverse workforce for the agency in the 21st century;

(b) assess and eliminate any systemic barriers to the effective recruitment and consideration of Hispanics, including but not limited to:

(1) broadening the area of consideration to include applicants from all appropriate sources;

(2) ensuring that selection factors are appropriate and achieve the broadest consideration of applicants and do not impose barriers to selection based on nonmerit factors; and

(3) considering the appointment of Hispanic Federal executives to rating, selection, performance review, and executive resources panels and boards;

(c) improve outreach efforts to include organizations outside the Federal Government in order to increase the number of Hispanic candidates in the selection pool for the Senior Executive Service;

(d) promote participation of Hispanic employees in management, leadership, and career development programs;

(e) ensure that performance plans for senior executives, managers, and supervisors include specific language related to significant accomplishments on diversity recruitment and career development and that accountability is predicated on those plans;

(f) establish appropriate agency advisory councils that include Hispanic Employment Program Managers;

(g) implement the goals of the Government-wide Hispanic Employment Initiatives issued by the Office of Personnel Management (OPM) in September 1997 (Nine-Point Plan), and the Report to the President's Management Council on Hispanic Employment in the Federal Government of March 1999;

(h) ensure that managers and supervisors receive periodic training in diversity management in order to carry out their responsibilities to maintain a diverse workforce; and

(i) reflect a continuing priority for eliminating Hispanic underrepresentation in the Federal workforce and incorporate actions under this order as strategies for achieving workforce diversity goals in the agency's Government Performance and Results Act (GPRA) Annual Performance Plan.

SEC. 3. *Cooperation.* All efforts taken by heads of agencies under sections 1 and 2 of this order shall, as appropriate, further partnerships and cooperation among Federal, public, and private sector employers, and appropriate Hispanic organizations whenever such partnerships and cooperation are possible and would promote the Federal employment of qualified individuals. In developing the long-term comprehensive strategies required by section 2 of this order, agencies shall, as appropriate, consult with and seek information and advice from experts in the areas of special targeted recruitment and diversity in employment.

SEC. 4. *Responsibilities of the Office of Personnel Management.* The Office of Personnel Management is required by law and regulations to undertake a Government-wide minority recruitment effort. Pursuant to that on-going effort and in implementation of this order, the Director of OPM shall:

(a) provide Federal human resources management policy guidance to address Hispanic underrepresentation where it occurs;

(b) take the lead in promoting diversity to executive agencies for such actions as deemed appropriate to promote equal employment opportunity;

(c) within 180 days from the date of this order, prescribe such regulations as may be necessary to carry out the purposes of this order;

(d) within 60 days from the date of this order, establish an Interagency Task Force, chaired by the Direc-

tor and composed of agency officials at the Deputy Secretary level, or the equivalent. This Task Force shall meet semi-annually to:

- (1) review best practices in strategic human resources management planning, including alignment with agency GPRA plans;
- (2) assess overall executive branch progress in complying with the requirements of this order;
- (3) provide advice on ways to increase Hispanic community involvement; and
- (4) recommend any further actions, as appropriate, in eliminating the underrepresentation of Hispanics in the Federal workforce where it occurs; and
- (e) issue an annual report with findings and recommendations to the President on the progress made by agencies on matters related to this order. The first annual report shall be issued no later than 1 year from the date of this order.

SEC. 5. *Judicial Review.* This order is intended only to improve the internal management of the executive branch. It does not create any right or benefit, substantive or procedural, enforceable in law or equity except as may be identified in existing laws and regulations, by a party against the United States, its agencies, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13506. ESTABLISHING A WHITE HOUSE COUNCIL ON WOMEN AND GIRLS

Ex. Ord. No. 13506, Mar. 11, 2009, 74 F.R. 11271, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

SECTION 1. *Policy.* Over the past generation, our society has made tremendous progress in eradicating barriers to women's success. A record number of women are attending college and graduate school. Women make up a growing share of our workforce, and more women are corporate executives and business owners than ever before, helping boost the U.S. economy and foster U.S. competitiveness around the world. Today, women are serving at the highest levels of all branches of our Government.

Despite this progress, certain inequalities continue to persist. On average, American women continue to earn only about 78 cents for every dollar men make, and women are still significantly underrepresented in the science, engineering, and technology fields. Far too many women lack health insurance, and many are unable to take time off to care for a new baby or an ailing family member. Violence against women and girls remains a global epidemic. The challenge of ensuring equal educational opportunities for women and girls endures. As the current economic crisis has swept across our Nation, women have been seriously affected.

These issues do not concern just women. When jobs do not offer family leave, that affects men who wish to help care for their families. When women earn less than men for the same work, that affects families who have to work harder to make ends meet. When our daughters do not have the same educational and career opportunities as our sons, that affects entire communities, our economy, and our future as a Nation.

The purpose of this order is to establish a coordinated Federal response to issues that particularly impact the lives of women and girls and to ensure that Federal programs and policies address and take into account the distinctive concerns of women and girls, including women of color and those with disabilities.

SEC. 2. *White House Council on Women and Girls.* There is established within the Executive Office of the President a White House Council on Women and Girls (Council).

(a) *Membership of the Council.* The Council shall consist of the following members:

- (1) the Senior Advisor and Assistant to the President for Intergovernmental Affairs and Public Liaison, who shall serve as Chair of the Council;

- (2) the Secretary of State;
- (3) the Secretary of the Treasury;
- (4) the Secretary of Defense;
- (5) the Attorney General;
- (6) the Secretary of the Interior;
- (7) the Secretary of Agriculture;
- (8) the Secretary of Commerce;
- (9) the Secretary of Labor;
- (10) the Secretary of Health and Human Services;
- (11) the Secretary of Housing and Urban Development;
- (12) the Secretary of Transportation;
- (13) the Secretary of Energy;
- (14) the Secretary of Education;
- (15) the Secretary of Veterans Affairs;
- (16) the Secretary of Homeland Security;
- (17) the Representative of the United States of America to the United Nations;
- (18) the United States Trade Representative;
- (19) the Director of the Office of Management and Budget;
- (20) the Administrator of the Environmental Protection Agency;
- (21) the Chair of the Council of Economic Advisers;
- (22) the Director of the Office of Personnel Management;
- (23) the Administrator of the Small Business Administration;
- (24) the Assistant to the President and Director of the Domestic Policy Council;
- (25) the Assistant to the President for Economic Policy and Director of the National Economic Council; and
- (26) the heads of such other executive branch departments, agencies, and offices as the President may, from time to time, designate.

A member of the Council may designate, to perform the Council functions of the member, a senior-level official who is a part of the member's department, agency, or office, and who is a full-time officer or employee of the Federal Government. At the direction of the Chair, the Council may establish subgroups consisting exclusively of Council members or their designees under this section, as appropriate.

(b) *Administration of the Council.* The Department of Commerce shall provide funding and administrative support for the Council to the extent permitted by law and within existing appropriations. The Chair shall convene regular meetings of the Council, determine its agenda, and direct its work. The Chair shall designate an Executive Director of the Council, who shall coordinate the work of the Council and head any staff assigned to the Council.

SEC. 3. *Mission and Functions of the Council.* The Council shall work across executive departments and agencies to provide a coordinated Federal response to issues that have a distinct impact on the lives of women and girls, including assisting women-owned businesses to compete internationally and working to increase the participation of women in the science, engineering, and technology workforce, and to ensure that Federal programs and policies adequately take those impacts into account. The Council shall be responsible for providing recommendations to the President on the effects of pending legislation and executive branch policy proposals; for suggesting changes to Federal programs or policies to address issues of special importance to women and girls; for reviewing and recommending changes to policies that have a distinct impact on women in the Federal workforce; and for assisting in the development of legislative and policy proposals of special importance to women and girls. The functions of the Council are advisory only.

SEC. 4. *Outreach.* Consistent with the objectives set out in this order, the Council, in accordance with applicable law, in addition to regular meetings, shall conduct outreach with representatives of nonprofit organizations, State and local government agencies, elected officials, and other interested persons that will assist with the Council's development of a detailed set of recommendations.

SEC. 5. *Federal Interagency Plan.* The Council shall, within 150 days of the date of this order, develop and submit to the President a Federal interagency plan with recommendations for interagency action consistent with the goals of this order. The Federal interagency plan shall include an assessment by each member executive department, agency, or office of the status and scope of its efforts to further the progress and advancement of women and girls. Such an assessment shall include a report on the status of any offices or programs that have been created to develop, implement, or monitor targeted initiatives concerning women or girls. The Federal interagency plan shall also include recommendations for issues, programs, or initiatives that should be further evaluated or studied by the Council. The Council shall review and update the Federal interagency plan periodically, as appropriate, and shall present to the President any updated recommendations or findings.

SEC. 6. *General Provisions.* (a) The heads of executive departments and agencies shall assist and provide information to the Council, consistent with applicable law, as may be necessary to carry out the functions of the Council. Each executive department and agency shall bear its own expense for participating in the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13583. ESTABLISHING A COORDINATED GOVERNMENT-WIDE INITIATIVE TO PROMOTE DIVERSITY AND INCLUSION IN THE FEDERAL WORKFORCE

Ex. Ord. No. 13583, Aug. 18, 2011, 76 F.R. 52847, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the Federal workplace as a model of equal opportunity, diversity, and inclusion, it is hereby ordered as follows:

SECTION 1. *Policy.* Our Nation derives strength from the diversity of its population and from its commitment to equal opportunity for all. We are at our best when we draw on the talents of all parts of our society, and our greatest accomplishments are achieved when diverse perspectives are brought to bear to overcome our greatest challenges.

A commitment to equal opportunity, diversity, and inclusion is critical for the Federal Government as an employer. By law, the Federal Government's recruitment policies should "endeavor to achieve a work force from all segments of society." (5 U.S.C. 2301(b)(1)). As the Nation's largest employer, the Federal Government has a special obligation to lead by example. Attaining a diverse, qualified workforce is one of the cornerstones of the merit-based civil service.

Prior Executive Orders, including but not limited to those listed below, have taken a number of steps to address the leadership role and obligations of the Federal Government as an employer. For example, Executive Order 13171 of October 12, 2000 (Hispanic Employment in the Federal Government), directed executive departments and agencies to implement programs for recruitment and career development of Hispanic employees and established a mechanism for identifying best practices in doing so. Executive Order 13518 of November 9,

2009 (Employment of Veterans in the Federal Government), required the establishment of a Veterans Employment Initiative. Executive Order 13548 of July 26, 2010 (Increasing Federal Employment of Individuals with Disabilities), and its related predecessors, Executive Order 13163 of July 26, 2000 (Increasing the Opportunity for Individuals With Disabilities to be Employed in the Federal Government), and Executive Order 13078 of March 13, 1998 (Increasing Employment of Adults With Disabilities), sought to tap the skills of the millions of Americans living with disabilities.

To realize more fully the goal of using the talents of all segments of society, the Federal Government must continue to challenge itself to enhance its ability to recruit, hire, promote, and retain a more diverse workforce. Further, the Federal Government must create a culture that encourages collaboration, flexibility, and fairness to enable individuals to participate to their full potential.

Wherever possible, the Federal Government must also seek to consolidate compliance efforts established through related or overlapping statutory mandates, directions from Executive Orders, and regulatory requirements. By this order, I am directing executive departments and agencies (agencies) to develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion as a key component of their human resources strategies. This approach should include a continuing effort to identify and adopt best practices, implemented in an integrated manner, to promote diversity and remove barriers to equal employment opportunity, consistent with merit system principles and applicable law.

SEC. 2. *Government-Wide Diversity and Inclusion Initiative and Strategic Plan.* The Director of the Office of Personnel Management (OPM) and the Deputy Director for Management of the Office of Management and Budget (OMB), in coordination with the President's Management Council (PMC) and the Chair of the Equal Employment Opportunity Commission (EEOC), shall:

(a) establish a coordinated Government-wide initiative to promote diversity and inclusion in the Federal workforce;

(b) within 90 days of the date of this order:

(i) develop and issue a Government-wide Diversity and Inclusion Strategic Plan (Government-wide Plan), to be updated as appropriate and at a minimum every 4 years, focusing on workforce diversity, workplace inclusion, and agency accountability and leadership. The Government-wide Plan shall highlight comprehensive strategies for agencies to identify and remove barriers to equal employment opportunity that may exist in the Federal Government's recruitment, hiring, promotion, retention, professional development, and training policies and practices;

(ii) review applicable directives to agencies related to the development or submission of agency human capital and other workforce plans and reports in connection with recruitment, hiring, promotion, retention, professional development, and training policies and practices, and develop a strategy for consolidating such agency plans and reports where appropriate and permitted by law; and

(iii) provide guidance to agencies concerning formulation of agency-specific Diversity and Inclusion Strategic Plans prepared pursuant to section 3(b) of this order;

(c) identify appropriate practices to improve the effectiveness of each agency's efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce, consistent with merit system principles and applicable law; and

(d) establish a system for reporting regularly on agencies' progress in implementing their agency-specific Diversity and Inclusion Strategic Plans and in meeting the objectives of this order.

SEC. 3. *Responsibilities of Executive Departments and Agencies.* All agencies shall implement the Government-wide Plan prepared pursuant to section 2 of this order, and such other related guidance as issued from

time to time by the Director of OPM and Deputy Director for Management of OMB. In addition, the head of each executive department and agency referred to under subsections (1) and (2) of section 901(b) of title 31, United States Code, shall:

(a) designate the agency's Chief Human Capital Officer to be responsible for enhancing employment and promotion opportunities within the agency, in collaboration with the agency's Director of Equal Employment Opportunity and Director of Diversity and Inclusion, if any, and consistent with law and merit system principles, including development and implementation of the agency-specific Diversity and Inclusion Strategic Plan;

(b) within 120 days of the issuance of the Government-wide Plan or its update under section 2(b)(i) of this order, develop and submit for review to the Director of OPM and the Deputy Director for Management of OMB an agency-specific Diversity and Inclusion Strategic Plan for recruiting, hiring, training, developing, advancing, promoting, and retaining a diverse workforce consistent with applicable law, the Government-wide Plan, merit system principles, the agency's overall strategic plan, its human capital plan prepared pursuant to Part 250 of title 5 of the Code of Federal Regulations, and other applicable workforce planning strategies and initiatives;

(c) implement the agency-specific Diversity and Inclusion Strategic Plan after incorporating it into the agency's human capital plan; and

(d) provide information as specified in the reporting requirements developed under section 2(d).

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted to a department or agency or the head thereof, including the authority granted to EEOC by other Executive Orders (including Executive Order 12067) or any agency's authority to establish an independent Diversity and Inclusion Office; or

(ii) functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13665. NON-RETALIATION FOR DISCLOSURE OF COMPENSATION INFORMATION

Ex. Ord. No. 13665, Apr. 8, 2014, 79 F.R. 20749, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act [of 1949], 40 U.S.C. 101 *et seq.*, and in order to take further steps to promote economy and efficiency in Federal Government procurement, it is hereby ordered as follows:

SECTION 1. *Policy.* This order is designed to promote economy and efficiency in Federal Government procurement. It is the policy of the executive branch to enforce vigorously the civil rights laws of the United States, including those laws that prohibit discriminatory practices with respect to compensation. Federal contractors that employ such practices are subject to enforcement action, increasing the risk of disruption, delay, and increased expense in Federal contracting. Compensation discrimination also can lead to labor disputes that are burdensome and costly.

When employees are prohibited from inquiring about, disclosing, or discussing their compensation with fellow workers, compensation discrimination is much more difficult to discover and remediate, and more likely to persist. Such prohibitions (either express or tacit) also restrict the amount of information available to participants in the Federal contracting labor pool,

which tends to diminish market efficiency and decrease the likelihood that the most qualified and productive workers are hired at the market efficient price. Ensuring that employees of Federal contractors may discuss their compensation without fear of adverse action will enhance the ability of Federal contractors and their employees to detect and remediate unlawful discriminatory practices, which will contribute to a more efficient market in Federal contracting.

SEC. 2. [Amended Ex. Ord. No. 11246, set out above.]

SEC. 3. *Regulations.* Within 160 days of the date of this order, the Secretary of Labor shall propose regulations to implement the requirements of this order.

SEC. 4. *Severability.* If any provision of this order, or the application of such provision or amendment to any person or circumstance, is held to be invalid, the remainder of this order and the application of the provisions of such to any person or circumstances shall not be affected thereby.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to limit the rights of an employee or applicant for employment provided under any provision of law. It also shall not be construed to prevent a Federal contractor covered by this order from pursuing a defense, as long as the defense is not based on a rule, policy, practice, agreement, or other instrument that prohibits employees or applicants from discussing or disclosing their compensation or the compensation of other employees or applicants, subject to paragraph (3) of section 202 of Executive Order 11246, as added by this order.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 6. *Effective Date.* This order shall become effective immediately, and shall apply to contracts entered into on or after the effective date of rules promulgated by the Department of Labor under section 3 of this order.

BARACK OBAMA.

EX. ORD. NO. 13672. FURTHER AMENDMENTS TO EXECUTIVE ORDER 11478, EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT, AND EXECUTIVE ORDER 11246, EQUAL EMPLOYMENT OPPORTUNITY

Ex. Ord. No. 13672, July 21, 2014, 79 F.R. 42971, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 121, and in order to provide for a uniform policy for the Federal Government to prohibit discrimination and take further steps to promote economy and efficiency in Federal Government procurement by prohibiting discrimination based on sexual orientation and gender identity, it is hereby ordered as follows:

SECTION 1. [Amended Ex. Ord. No. 11478, set out above.]

SEC. 2. [Amended Ex. Ord. No. 11246, set out above.]

SEC. 3. *Regulations.* Within 90 days of the date of this order, the Secretary of Labor shall prepare regulations to implement the requirements of section 2 of this order.

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 5. *Effective Date.* This order shall become effective immediately, and section 2 of this order shall apply to contracts entered into on or after the effective date of the rules promulgated by the Department of Labor under section 3 of this order.

BARACK OBAMA.

EX. ORD. NO. 13988. PREVENTING AND COMBATING DISCRIMINATION ON THE BASIS OF GENDER IDENTITY OR SEXUAL ORIENTATION

Ex. Ord. No. 13988, Jan. 20, 2021, 86 F.R. 7023, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* Every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love. Children should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports. Adults should be able to earn a living and pursue a vocation knowing that they will not be fired, demoted, or mistreated because of whom they go home to or because how they dress does not conform to sex-based stereotypes. People should be able to access healthcare and secure a roof over their heads without being subjected to sex discrimination. All persons should receive equal treatment under the law, no matter their gender identity or sexual orientation.

These principles are reflected in the Constitution, which promises equal protection of the laws. These principles are also enshrined in our Nation's anti-discrimination laws, among them Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e *et seq.*). In *Bostock v. Clayton County*, 590 U.S.—(2020), the Supreme Court held that Title VII's prohibition on discrimination "because of . . . sex" covers discrimination on the basis of gender identity and sexual orientation. Under *Bostock's* reasoning, laws that prohibit sex discrimination—including Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), the Fair Housing Act, as amended (42 U.S.C. 3601 *et seq.*), and section 412 of the Immigration and Nationality Act, as amended (8 U.S.C. 1522), along with their respective implementing regulations—prohibit discrimination on the basis of gender identity or sexual orientation, so long as the laws do not contain sufficient indications to the contrary.

Discrimination on the basis of gender identity or sexual orientation manifests differently for different individuals, and it often overlaps with other forms of prohibited discrimination, including discrimination on the basis of race or disability. For example, transgender Black Americans face unconscionably high levels of workplace discrimination, homelessness, and violence, including fatal violence.

It is the policy of my Administration to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII and other laws that prohibit discrimination on the basis of gender identity or sexual orientation. It is also the policy of my Administration to address overlapping forms of discrimination.

SEC. 2. *Enforcing Prohibitions on Sex Discrimination on the Basis of Gender Identity or Sexual Orientation.* (a) The head of each agency shall, as soon as practicable and in consultation with the Attorney General, as appropriate, review all existing orders, regulations, guidance documents, policies, programs, or other agency actions ("agency actions") that:

(i) were promulgated or are administered by the agency under Title VII or any other statute or regula-

tion that prohibits sex discrimination, including any that relate to the agency's own compliance with such statutes or regulations; and

(ii) are or may be inconsistent with the policy set forth in section 1 of this order.

(b) The head of each agency shall, as soon as practicable and as appropriate and consistent with applicable law, including the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), consider whether to revise, suspend, or rescind such agency actions, or promulgate new agency actions, as necessary to fully implement statutes that prohibit sex discrimination and the policy set forth in section 1 of this order.

(c) The head of each agency shall, as soon as practicable, also consider whether there are additional actions that the agency should take to ensure that it is fully implementing the policy set forth in section 1 of this order. If an agency takes an action described in this subsection or subsection (b) of this section, it shall seek to ensure that it is accounting for, and taking appropriate steps to combat, overlapping forms of discrimination, such as discrimination on the basis of race or disability.

(d) Within 100 days of the date of this order [Jan. 20, 2021], the head of each agency shall develop, in consultation with the Attorney General, as appropriate, a plan to carry out actions that the agency has identified pursuant to subsections (b) and (c) of this section, as appropriate and consistent with applicable law.

SEC. 3. *Definition.* "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

SEC. 4. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

EX. ORD. NO. 14020. ESTABLISHMENT OF THE WHITE HOUSE GENDER POLICY COUNCIL

Ex. Ord. No. 14020, Mar. 8, 2021, 86 F.R. 13797, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* Advancing gender equity and equality is a matter of human rights, justice, and fairness. It is also a strategic imperative that reduces poverty and promotes economic growth, increases access to education, improves health outcomes, advances political stability, and fosters democracy. The full participation of all people—including women and girls—across all aspects of our society is essential to the economic well-being, health, and security of our Nation and of the world.

It is therefore the policy of my Administration to establish and pursue a comprehensive approach to ensure that the Federal Government is working to advance equal rights and opportunities, regardless of gender or gender identity, in advancing domestic and foreign policy—including by promoting workplace diversity, fairness, and inclusion across the Federal workforce and military. This order is intended to advance gender equity and equality, with sensitivity to the experiences of those who suffer discrimination based on multiple factors, including membership in an underserved community.

SEC. 2. *The White House Gender Policy Council.* (a) There is established a White House Gender Policy

Council (Council) within the Executive Office of the President.

(b) The Council shall coordinate Federal Government efforts to advance gender equity and equality, including policies and programs to:

(i) combat systemic biases and discrimination, including sexual harassment, and to support women's human rights;

(ii) increase economic security and opportunity by addressing the structural barriers to women's participation in the labor force and by decreasing wage and wealth gaps;

(iii) address the caregiving needs of American families and support the care-workers they depend upon;

(iv) support gender equity and combat gender stereotypes in education, including promoting participation in science, technology, engineering, and math (STEM) fields;

(v) promote gender equity in leadership;

(vi) increase access to comprehensive health care, address health disparities, and promote sexual and reproductive health and rights;

(vii) empower girls;

(viii) prevent and respond to all forms of gender-based violence;

(ix) address responses to the effects of the coronavirus disease 2019 (COVID-19) on women and girls, especially those related to health, gender-based violence, educational access and attainment, and economic status;

(x) advance gender equality globally through diplomacy, development, trade, and defense;

(xi) implement United States Government commitments to women's involvement in peace and security efforts; and

(xii) recognize the needs and contributions of women and girls in humanitarian crises and in development assistance.

(c) The Council shall work across executive departments and agencies (agencies) to advance gender equity and equality and provide a coordinated Federal response on issues that have a distinct impact on gender equity and equality. The Council shall also work with each agency to ensure that agency operations are conducted in a manner that promotes gender equity and equality, to the extent permitted by law.

(d) The Council shall provide legislative and policy recommendations to the President, evaluate other proposed policies and legislation for their potential impact on issues of gender equity and equality, propose improvement in the collection of data related to gender and gender identity, and suggest changes to Federal programs or policies to address issues of significance to women and girls.

(e) The Council shall, consistent with applicable law, conduct outreach with, and consider ways to increase coordination, communication, and engagement with, representatives of a diverse range of nonprofit and community-based organizations, civil society groups, and faith-based organizations; State, local, Tribal and territorial government officials; labor unions and worker organizations; private sector representatives; foreign government officials; multilateral organizations; and other interested persons who can inform the Council's work.

(f) The Council shall be led by two Co-Chairs designated by the President, one of whom shall also serve as the Executive Director of the Council (Executive Director). The Council staff shall also include a Special Assistant to the President and Senior Advisor on Gender-Based Violence and other sufficient staff as may be necessary to carry out the provisions of this order.

(g) In addition to the Co-Chairs, the Council shall consist of the following members:

- (i) the Secretary of State;
- (ii) the Secretary of the Treasury;
- (iii) the Secretary of Defense;
- (iv) the Attorney General;
- (v) the Secretary of the Interior;
- (vi) the Secretary of Agriculture;

(vii) the Secretary of Commerce;

(viii) the Secretary of Labor;

(ix) the Secretary of Health and Human Services;

(x) the Secretary of Housing and Urban Development;

(xi) the Secretary of Transportation;

(xii) the Secretary of Energy;

(xiii) the Secretary of Education;

(xiv) the Secretary of Veterans Affairs;

(xv) the Secretary of Homeland Security;

(xvi) the Administrator of the Environmental Protection Agency;

(xvii) the Director of the Office of Management and Budget;

(xviii) the United States Trade Representative;

(xix) the Administrator of the Small Business Administration;

(xx) the Director of National Intelligence;

(xxi) the Representative of the United States of America to the United Nations;

(xxii) the Director of the Office of Science and Technology Policy;

(xxiii) the Assistant to the President for National Security Affairs;

(xxiv) the Assistant to the President for Domestic Policy;

(xxv) the Assistant to the President for Economic Policy;

(xxvi) the Assistant to the President on National Climate;

(xxvii) the Assistant to the President on COVID-19 Response;

(xxviii) the Chief of Staff to the Vice President;

(xxix) the Chair of the Council of Economic Advisers;

(xxx) the Chair of the Council on Environmental Quality;

(xxxi) the Director of the National Science Foundation;

(xxxii) the Administrator of General Services;

(xxxiii) the Administrator of the National Aeronautics and Space Administration;

(xxxiv) the Chair of the Equal Employment Opportunity Commission;

(xxxv) the Administrator of the United States Agency for International Development;

(xxxvi) the Director of the Office of Personnel Management; and

(xxxvii) the heads of such other agencies and offices as the Co-Chairs may from time to time invite to participate.

(h) Members of the Council shall designate, within 30 days of the date of this order [Mar. 8, 2021], a senior official within their respective agency or office who shall coordinate with the Council and who shall be responsible for overseeing the agency's or office's efforts to advance gender equity and equality. The Director of National Intelligence shall designate a National Intelligence Officer for Gender Equality, who shall coordinate intelligence support for the Council's work on issues implicating national security. The Co-Chairs may coordinate subgroups consisting exclusively of Council members or their designees under this section, as appropriate.

(i) Each agency shall bear its own expenses for participating in the Council.

SEC. 3. *Government-Wide Strategy to Advance Gender Equity and Equality.* (a) Within 200 days of the date of this order, the Council, after coordination by the Co-Chairs, shall develop and submit to the President a Government-wide strategy for advancing gender equity and equality in the United States and, when applicable, around the world (the "Strategy"). The Strategy should include recommendations on policies, programs, and initiatives that should be proposed, passed, or implemented to advance gender equity and equality in the United States and around the world.

(b) Recognizing the gender and racial disparities that COVID-19 has both magnified and exacerbated, in formulating its recommendations to address the effects of the COVID-19 pandemic and related economic disrup-

tion on women and girls, the Council shall coordinate with the White House Office of the COVID-19 Response and the COVID-19 Health Equity Task Force, established by section 2 of Executive Order 13995 of January 21, 2021 (Ensuring an Equitable Pandemic Response and Recovery) [42 U.S.C. 247d note].

(c) In developing the Strategy, the Council shall consider the unique experiences and needs of women and girls who are also members of other underserved communities. In implementing this approach, the Council shall work closely with the Domestic Policy Council, which coordinates the interagency, whole-of-government strategy for advancing equity, as set forth in Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government) [5 U.S.C. 601 note].

SEC. 4. *Implementation.* (a) After the Strategy has been submitted to the President, the heads of agencies, or their designees, shall, in consultation with the Council and the Office of Management and Budget (OMB), select certain of their respective agency's programs and policies for review for consistency with the Strategy. As appropriate and consistent with law, the heads of agencies shall suspend, revise, or rescind, or publish for notice and comment proposed rules suspending, revising, or rescinding, any directives, orders, regulations, policies, or guidance inconsistent with the Strategy. As appropriate, the heads of agencies shall consult with the Attorney General to the extent that any proposed actions require consultation or review under Executive Order 12250 of November 2, 1980 (Leadership and Coordination of Nondiscrimination Laws) [42 U.S.C. 2000d-1 note]. As part of its review, the Administrator of the United States Agency for International Development shall, as appropriate and consistent with law, review the 2020 Gender Equality and Women's Empowerment Policy and revise or rescind it as appropriate.

(b) The Council shall coordinate a comprehensive, interagency response to gender-based violence at home and abroad, including intervention, prevention, and public health strategies to reduce incidence and impacts. The Special Assistant to the President and Senior Advisor on Gender-Based Violence, working with the Executive Director, shall create a National Action Plan to End Gender-Based Violence that establishes a Government-wide approach to preventing and addressing gender-based violence in the United States and shall work, in conjunction with the Assistant to the President for National Security Affairs, to lead a comprehensive, interagency review and update of the 2016 United States Strategy to Prevent and Respond to Gender-Based Violence Globally, as appropriate and consistent with law.

(c) Following the submission of the Strategy developed pursuant to section 3 of this order, the heads of agencies shall report to the Council semi-annually, and the Council shall prepare an annual report for submission to the President—a version of which shall be made public—on progress made in implementing the Strategy.

(d) The Council shall coordinate with the Domestic Policy Council, OMB, and other agencies and offices to advance my Administration's efforts to achieve greater equity as set forth in Executive Order 13985. In particular, among other things, the Council shall coordinate with the Interagency Working Group on Equitable Data, established in section 9 of Executive Order 13985.

(e) The Council shall coordinate with the National Security Council on all issues related to gender equality globally, including women's economic participation, health, and involvement in peace and security efforts.

(f) Consistent with section 6 of Executive Order 13985, the Director of OMB shall identify opportunities to promote gender equity and equality in the budget that the President submits to the Congress.

(g) The heads of agencies, interagency working groups, and task forces shall assist and provide information to the Council, as appropriate and consistent with applicable law, as may be helpful to carry out the functions of the Council.

SEC. 5. *Termination.* The Working Group created by section 2 of the Presidential Memorandum of February 7, 2019 (Promoting Women's Global Development and Prosperity) (NSPM-16), is terminated. NSPM-16 is amended by substituting, in section 3(e), "the Council" for "the Working Group".

SEC. 6. *Definitions.* (a) The term "equity" means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as women and girls; Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

(b) The term "underserved communities" refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of "equity."

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

EX. ORD. NO. 14035, DIVERSITY, EQUITY, INCLUSION, AND ACCESSIBILITY IN THE FEDERAL WORKFORCE

Ex. Ord. No. 14035, June 25, 2021, 86 F.R. 34593, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 1104, 3301, and 3302 of title 5, United States Code, and in order to strengthen the Federal workforce by promoting diversity, equity, inclusion, and accessibility, it is hereby ordered as follows:

SECTION 1. *Policy.* On my first day in office, I signed Executive Order 13985 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government) [5 U.S.C. 601 note], which established that affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. To further advance equity within the Federal Government, this order establishes that it is the policy of my Administration to cultivate a workforce that draws from the full diversity of the Nation.

As the Nation's largest employer, the Federal Government must be a model for diversity, equity, inclusion, and accessibility, where all employees are treated with dignity and respect. Accordingly, the Federal Government must strengthen its ability to recruit, hire, develop, promote, and retain our Nation's talent and remove barriers to equal opportunity. It must also provide resources and opportunities to strengthen and advance diversity, equity, inclusion, and accessibility across the Federal Government. The Federal Government should have a workforce that reflects the diversity of the American people. A growing body of evidence demonstrates that diverse, equitable, inclusive, and accessible workplaces yield higher-performing organizations.

Federal merit system principles include that the Federal Government's recruitment policies should "en-

deavor to achieve a work force from all segments of society” and that “[a]ll employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management” (5 U.S.C. 2301(b)(1), (2)). As set forth in Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce) [set out above], the Presidential Memorandum of October 5, 2016 (Promoting Diversity and Inclusion in the National Security Workforce) [set out below], Executive Order 13988 of January 20, 2021 (Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation) [set out above], the National Security Memorandum of February 4, 2021 (Revitalizing America’s Foreign Policy and National Security Workforce, Institutions, and Partnerships), and Executive Order 14020 of March 8, 2021 (Establishment of the White House Gender Policy Council) [set out above], the Federal Government is at its best when drawing upon all parts of society, our greatest accomplishments are achieved when diverse perspectives are brought to bear to overcome our greatest challenges, and all persons should receive equal treatment under the law. This order reaffirms support for, and builds upon, the procedures established by Executive Orders 13583, 13988, and 14020, the Presidential Memorandum on Promoting Diversity and Inclusion in the National Security Workforce, and the National Security Memorandum on Revitalizing America’s Foreign Policy and National Security Workforce, Institutions, and Partnerships. This order establishes that diversity, equity, inclusion, and accessibility are priorities for my Administration and benefit the entire Federal Government and the Nation, and establishes additional procedures to advance these priorities across the Federal workforce.

SEC. 2. *Definitions.* For purposes of this order, in the context of the Federal workforce:

(a) The term “underserved communities” refers to populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. In the context of the Federal workforce, this term includes individuals who belong to communities of color, such as Black and African American, Hispanic and Latino, Native American, Alaska Native and Indigenous, Asian American, Native Hawaiian and Pacific Islander, Middle Eastern, and North African persons. It also includes individuals who belong to communities that face discrimination based on sex, sexual orientation, and gender identity (including lesbian, gay, bisexual, transgender, queer, gender non-conforming, and non-binary (LGBTQ+) persons); persons who face discrimination based on pregnancy or pregnancy-related conditions; parents; and caregivers. It also includes individuals who belong to communities that face discrimination based on their religion or disability; first-generation professionals or first-generation college students; individuals with limited English proficiency; immigrants; individuals who belong to communities that may face employment barriers based on older age or former incarceration; persons who live in rural areas; veterans and military spouses; and persons otherwise adversely affected by persistent poverty, discrimination, or inequality. Individuals may belong to more than one underserved community and face intersecting barriers.

(b) The term “diversity” means the practice of including the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities.

(c) The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment.

(d) The term “inclusion” means the recognition, appreciation, and use of the talents and skills of employees of all backgrounds.

(e) The term “accessibility” means the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design.

(f) The term “agency” means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than one considered to be an independent regulatory agency, as defined in 44 U.S.C. 3502(5).

SEC. 3. *Government-Wide Diversity, Equity, Inclusion, and Accessibility Initiative and Strategic Plan.* The Director of the Office of Personnel Management (OPM) and the Deputy Director for Management of the Office of Management and Budget (OMB)—in coordination with the Chair of the Equal Employment Opportunity Commission (EEOC) and in consultation with the Secretary of Labor, the Director of the Office of Science and Technology Policy, the Assistant to the President for National Security Affairs, the Assistant to the President for Domestic Policy (APDP), the Director of the National Economic Council, and the Co-Chairs of the Gender Policy Council—shall:

(a) reestablish a coordinated Government-wide initiative to promote diversity and inclusion in the Federal workforce, expand its scope to specifically include equity and accessibility, and coordinate its implementation with the provisions of Executive Order 13985 and the National Security Memorandum on Revitalizing America’s Foreign Policy and National Security Workforce, Institutions, and Partnerships;

(b) develop and issue a Government-wide Diversity, Equity, Inclusion, and Accessibility Strategic Plan (Government-wide DEIA Plan) within 150 days of the date of this order [June 25, 2021] that updates the Government-wide plan required by section 2(b)(i) of Executive Order 13583. The Government-wide DEIA Plan shall be updated as appropriate and at a minimum every 4 years. The Government-wide DEIA Plan shall:

(i) define standards of success for diversity, equity, inclusion, and accessibility efforts based on leading policies and practices in the public and private sectors;

(ii) consistent with merit system principles, identify strategies to advance diversity, equity, inclusion, and accessibility, and eliminate, where applicable, barriers to equity, in Federal workforce functions, including: recruitment; hiring; background investigation; promotion; retention; performance evaluations and awards; professional development programs; mentoring programs or sponsorship initiatives; internship, fellowship, and apprenticeship programs; employee resource group and affinity group programs; temporary employee details and assignments; pay and compensation policies; benefits, including health benefits, retirement benefits, and employee services and work-life programs; disciplinary or adverse actions; reasonable accommodations for employees and applicants with disabilities; workplace policies to prevent gender-based violence (including domestic violence, stalking, and sexual violence); reasonable accommodations for employees who are members of religious minorities; and training, learning, and onboarding programs;

(iii) include a comprehensive framework to address workplace harassment, including sexual harassment, which clearly defines the term “harassment”; outlines policies and practices to prevent, report, respond to, and investigate harassment; promotes mechanisms for employees to report misconduct; encourages bystander intervention; and addresses training, education, and monitoring to create a culture that does not tolerate harassment or other forms of discrimination or retaliation; and

(iv) promote a data-driven approach to increase transparency and accountability, which would build upon, as appropriate, the EEOC's Management Directive 715 reporting process;

(c) establish an updated system for agencies to report regularly on progress in implementing Agency DEIA Strategic Plans (as described in section 4(b) of this order) and in meeting the objectives of this order. New reporting requirements should be aligned with ongoing reporting established by Executive Order 13985 and the National Security Memorandum on Revitalizing America's Foreign Policy and National Security Workforce, Institutions, and Partnerships. Agency reports on actions taken to meet the objectives of this order shall include measurement of improvements, analysis of the effectiveness of agency programs, and descriptions of lessons learned. The Director of OPM and the Deputy Director for Management of OMB shall support agencies in developing workforce policies and practices designed to advance diversity, equity, inclusion, and accessibility throughout agencies by, for example, providing updated guidance and technical assistance to ensure that agencies consistently improve, evaluate, and learn from their workforce practices;

(d) pursue opportunities to consolidate implementation efforts and reporting requirements related to advancing diversity, equity, inclusion, and accessibility established through related or overlapping statutory mandates, Presidential directives, and regulatory requirements; and

(e) support, coordinate, and encourage agency efforts to conduct research, evaluation, and other evidence-building activities to identify leading practices, and other promising practices, for broadening participation and opportunities for advancement in Federal employment, and to assess and promote the benefits of diversity, equity, inclusion, and accessibility for Federal performance and operations and barriers to achieving these goals. Agencies should use the capabilities of their evaluation officers and chief statistical officers and requirements under the Foundations for Evidence-Based Policymaking Act of 2018, Public Law 115-435 [see Tables for classification], to advance this goal.

SEC. 4. Responsibilities of Executive Departments and Agencies. The head of each agency shall make advancing diversity, equity, inclusion, and accessibility a priority component of the agency's management agenda and agency strategic planning. The head of each agency shall implement the Government-wide DEIA Plan prepared pursuant to section 3 of this order and such other related guidance as issued from time to time by the Director of OPM or the Deputy Director for Management of OMB. In addition, the head of each agency shall:

(a) within 100 days of the date of this order, submit to the APDP, the Director of OPM, and the Deputy Director for Management of OMB a preliminary assessment of the current state of diversity, equity, inclusion, and accessibility in the agency's human resources practices and workforce composition. In conducting such assessment, the head of each agency should:

(i) assess whether agency recruitment, hiring, promotion, retention, professional development, performance evaluations, pay and compensation policies, reasonable accommodations access, and training policies and practices are equitable;

(ii) take an evidence-based and data-driven approach to determine whether and to what extent agency practices result in inequitable employment outcomes, and whether agency actions may help to overcome systemic societal and organizational barriers;

(iii) assess the status and effects of existing diversity, equity, inclusion, and accessibility initiatives or programs, and review the amount of institutional resources available to support human resources activities that advance the objectives outlined in section 1 of this order; and

(iv) identify areas where evidence is lacking and propose opportunities to build evidence to advance diversity, equity, inclusion, and accessibility and address those gaps identified;

(b) within 120 days of the issuance of the Government-wide DEIA Plan, and annually thereafter, develop and submit to the APDP, the Director of OPM, and the Deputy Director for Management of OMB an Agency Diversity, Equity, Inclusion, and Accessibility Strategic Plan (Agency DEIA Strategic Plan), as described by section 3(b) of Executive Order 13583 and as modified by this order. Agency DEIA Strategic Plans should identify actions to advance diversity, equity, inclusion, and accessibility in the workforce and remove any potential barriers to diversity, equity, inclusion, and accessibility in the workforce identified in the assessments described in subsection (a) of this section. Agency DEIA Strategic Plans should also include quarterly goals and actions to advance diversity, equity, inclusion, and accessibility initiatives in the agency workforce and in the agency's workplace culture;

(c) on an annual basis, report to the President on the status of the agency's efforts to advance diversity, equity, inclusion, and accessibility within the agency, and the agency's success in implementing the Agency DEIA Strategic Plan. Consistent with guidance issued as part of the Government-wide DEIA Plan, the agency head shall also make available to the general public information on efforts to advance diversity, equity, inclusion, and accessibility in the agency's workforce;

(d) oversee, and provide resources and staffing to support, the implementation of the Agency DEIA Strategic Plan;

(e) enhance diversity, equity, inclusion, and accessibility within the agency, in collaboration with the agency's senior officials and consistent with applicable law and merit system principles;

(f) seek opportunities to establish a position of chief diversity officer or diversity and inclusion officer (as distinct from an equal employment opportunity officer), with sufficient seniority to coordinate efforts to promote diversity, equity, inclusion, and accessibility within the agency;

(g) strongly consider for employment, to the extent permitted by applicable law, qualified applicants of any background who have advanced diversity, equity, inclusion, and accessibility in the workplace; and

(h) in coordination with OMB, seek opportunities to ensure alignment across various organizational performance planning requirements and efforts by integrating the Agency DEIA Strategic Plan and diversity, equity, inclusion, and accessibility goals into broader agency strategic planning efforts described in 5 U.S.C. 306 and the agency performance planning described in 31 U.S.C. 1115.

SEC. 5. Data Collection. (a) The head of each agency shall take a data-driven approach to advancing policies that promote diversity, equity, inclusion, and accessibility within the agency's workforce, while protecting the privacy of employees and safeguarding all personally identifiable information and protected health information.

(b) Using Federal standards governing the collection, use, and analysis of demographic data (such as OMB Directive No. 15 (Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity) [81 F.R. 67398] and OMB Memorandum M-14-06 (Guidance for Providing and Using Administrative Data for Statistical Purposes)), the head of each agency shall measure demographic representation and trends related to diversity in the agency's overall workforce composition, senior workforce composition, employment applications, hiring decisions, promotions, pay and compensation, professional development programs, and attrition rates.

(c) The Director of OPM, the Chair of the EEOC, and the Deputy Director for Management of OMB shall review existing guidance, regulations, policies, and practices (for purposes of this section, "guidance") that govern agency collection of demographic data about Federal employees, and consider issuing, modifying, or revoking such guidance in order to expand the collection of such voluntarily self-reported data and more effectively measure the representation of underserved

communities in the Federal workforce. In revisiting or issuing any such guidance, the Director of OPM, the Chair of the EEOC, and the Deputy Director for Management of OMB shall take steps to promote the protection of privacy and to safeguard personally identifiable information; facilitate intersectional analysis; and reduce duplicative reporting requirements. In considering whether to revisit or issue such guidance, the Director of OPM, the Chair of the EEOC, and the Deputy Director for Management of OMB shall consult with the Chief Statistician of the United States, the Chair of the Chief Data Officers Council, and the Co-Chairs of the Interagency Working Group on Equitable Data established in section 9 of Executive Order 13985.

(d) The head of each agency shall implement any such revised guidance issued pursuant to subsection (c) of this section to expand the collection of voluntarily self-reported demographic data. The head of each agency shall also take steps to ensure that data collection and analysis practices allow for the capture or presence of multiple attributes and identities to ensure an intersectional analysis.

(e) The head of each agency shall collect and analyze voluntarily self-reported demographic data regarding the membership of advisory committees, commissions, and boards in a manner consistent with applicable law, including privacy and confidentiality protections, and with statistical standards where applicable. For agencies that have external advisory committees, commissions, or boards to which agencies appoint members, agency heads shall pursue opportunities to increase diversity, equity, inclusion, and accessibility on such committees, commissions, and boards.

SEC. 6. *Promoting Paid Internships.* (a) The Director of OPM and the Deputy Director for Management of OMB shall issue guidance to agencies and the Executive Office of the President with respect to internships and similar programs within the Federal Government, including guidance on how to:

(i) increase the availability of paid internships, fellowships, and apprenticeships, and reduce the practice of hiring interns, fellows, and apprentices who are unpaid;

(ii) ensure that internships, fellowships, and apprenticeships serve as a supplement to, and not a substitute for, the competitive hiring process;

(iii) ensure that internships, fellowships, and apprenticeships serve to develop individuals' talent, knowledge, and skills for careers in government service;

(iv) improve outreach to and recruitment of individuals from underserved communities for internship, fellowship, and apprenticeship programs; and

(v) ensure all interns, fellows, and apprentices with disabilities, including applicants and candidates, have a process for requesting and obtaining reasonable accommodations to support their work in the Federal Government, without regard to whether such individuals are covered by the Rehabilitation Act of 1973, Public Law 93-112 [29 U.S.C. 701 et seq.].

(b) The head of each agency shall, as part of the annual reporting process described in section 4(c) of this order, measure and report on the agency's progress with respect to the matters described in subsection (a) of this section.

SEC. 7. *Partnerships and Recruitment.* (a) The Director of the Office of Science and Technology Policy (OSTP), the Director of OPM, and the Deputy Director for Management of OMB, in consultation with the Chair of the EEOC, shall coordinate a Government-wide initiative to strengthen partnerships (Partnerships Initiative) to facilitate recruitment for Federal employment opportunities of individuals who are members of underserved communities. To carry out the Partnerships Initiative, the Director of OSTP, the Director of OPM, and the Deputy Director for Management of OMB shall take steps to increase diversity in the Federal employment pipeline by supporting and guiding agencies in building or strengthening partnerships with Historically Black Colleges and Universities, including Historically Black Graduate Institutions; Hispanic-Serving Institutions;

Tribal Colleges and Universities; Native American-serving, nontribal institutions; Asian American and Pacific Islander-serving institutions; Tribally controlled colleges and universities; Alaska Native-serving and Native Hawaiian-serving institutions; Predominantly Black Institutions; women's colleges and universities; State vocational rehabilitation agencies that serve individuals with disabilities; disability services offices at institutions of higher education; organizations dedicated to serving veterans; public and non-profit private universities serving a high percentage of economically disadvantaged students or first-generation college or graduate students; community colleges and technical schools; and community-based organizations that are dedicated to serving and working with underserved communities, including return-to-work programs, programs that provide training and support for older adults seeking employment, programs serving formerly incarcerated individuals, centers for independent living, disability rights organizations, and organizations dedicated to serving LGBTQ+ individuals.

(b) The head of each agency shall work with the Director of OSTP, the Director of OPM, and the Deputy Director for Management of OMB to make employment, internship, fellowship, and apprenticeship opportunities available through the Partnerships Initiative, and shall take steps to enhance recruitment efforts through the Partnerships Initiative, as part of the agency's overall recruitment efforts. The head of each agency shall, as part of the reporting processes described in sections 3(c) and 4(c) of this order, measure and report on the agency's progress on carrying out this subsection.

SEC. 8. *Professional Development and Advancement.* (a) The Director of OPM, in consultation with the Deputy Director for Management of OMB, shall issue detailed guidance to agencies for tracking demographic data relating to participation in leadership and professional development programs and development opportunities offered or sponsored by agencies and the rate of the placement of participating employees into senior positions in agencies, in a manner consistent with privacy and confidentiality protections and statistical limitations.

(b) The head of each agency shall implement the guidance issued pursuant to subsection (a) of this section, and shall use demographic data relating to participation in professional development programs to identify ways to improve outreach and recruitment for professional development programs offered or sponsored by the agency, consistent with merit system principles. The head of each agency shall also address any barriers to access to or participation in such programs faced by members of underserved communities.

SEC. 9. *Training and Learning.* (a) The head of each agency shall take steps to implement or increase the availability and use of diversity, equity, inclusion, and accessibility training programs for employees, managers, and leadership. Such training programs should enable Federal employees, managers, and leaders to have knowledge of systemic and institutional racism and bias against underserved communities, be supported in building skillsets to promote respectful and inclusive workplaces and eliminate workplace harassment, have knowledge of agency accessibility practices, and have increased understanding of implicit and unconscious bias.

(b) The Director of OPM and the Chair of the EEOC shall issue guidance and serve as a resource and repository for best practices for agencies to develop or enhance existing diversity, equity, inclusion, and accessibility training programs.

SEC. 10. *Advancing Equity for Employees with Disabilities.* (a) As established in Executive Order 13548 of July 26, 2010 (Increasing Federal Employment of Individuals with Disabilities) [29 U.S.C. 791 note], the Federal Government must become a model for the employment of individuals with disabilities. Because a workforce that includes people with disabilities is a stronger and more effective workforce, agencies must provide an equi-

table, accessible, and inclusive environment for employees with disabilities. In order for Federal employees and applicants with disabilities to be assessed on their merits, accessible information technologies must be provided and, where needed, reasonable accommodations must be available that will allow qualified individuals with disabilities to perform the essential functions of their positions and access advancement opportunities. To that end, the relevant agencies shall take the actions set forth in this section.

(b) The Secretary of Labor, the Director of OPM, the Chair of the EEOC, the Deputy Director for Management of OMB, and the Executive Director of the Architectural and Transportation Barriers Compliance Board (Access Board), in consultation with the Administrator of General Services, as appropriate, shall coordinate with agencies to:

(i) support the Federal Government's effort to provide people with disabilities equal employment opportunities and take affirmative actions within the Federal Government to ensure that agencies fully comply with applicable laws, including sections 501, 504, and 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, 794, 794d);

(ii) assess current practices in using Schedule A hiring authority to employ people with disabilities in the Federal Government, and evaluate opportunities to enhance equity in employment opportunities and financial security for employees with disabilities through different practices or guidance on the use of Schedule A hiring authority; and

(iii) ensure that:

(A) applicants and employees with disabilities have access to information about and understand their rights regarding disability self-identification;

(B) applicants and employees with disabilities have access to information about Schedule A hiring authority for individuals with disabilities;

(C) applicants and employees with disabilities have access to information about, understand their rights to, and may easily request reasonable accommodations, workplace personal assistance services, and accessible information and communication technology;

(D) the process of responding to reasonable accommodation requests is timely and efficient;

(E) the processes and procedures for appealing the denial of a reasonable accommodation request are timely and efficient; and

(F) all information and communication technology and products developed, procured, maintained, or used by Federal agencies are accessible and usable by employees with disabilities consistent with all standards and technical requirements of the Rehabilitation Act of 1973.

(c) To ensure that all Federal office buildings and workplaces are accessible to employees with disabilities, the Administrator of General Services, the Director of OPM, the Deputy Director for Management of OMB, and the Executive Director of the Access Board shall work with Federal agencies to ensure that Federal buildings and leased facilities comply with the accessibility standards of the Architectural Barriers Act of 1968, Public Law 90-480 [42 U.S.C. 4151 et seq.], and related standards.

(d) Beyond existing duties to comply with the Architectural Barriers Act of 1968 and related standards, the head of each agency shall maximize the accessibility of the physical environment of the agency's workplaces, consistent with applicable law and the availability of appropriations, so as to reduce the need for reasonable accommodations, and provide periodic notice to all employees that complaints concerning accessibility barriers in Federal buildings can be filed with the Access Board.

(e) The Secretary of Defense and the Secretary of Labor shall review the use of the Workforce Recruitment Program (WRP) for college students and recent graduates with disabilities and take steps, as appropriate and consistent with applicable law, to expand the WRP. The Secretaries shall submit a report to the

APDP describing any steps taken pursuant to this subsection and providing recommendations for any Presidential, administrative, or congressional actions to further expand and strengthen the program and expand job opportunities.

SEC. 11. *Advancing Equity for LGBTQ+ Employees.* (a) As established in Executive Order 13988, it is the policy of my Administration to prevent and combat discrimination on the basis of gender identity or sexual orientation. Each Federal employee should be able to openly express their sexual orientation, gender identity, and gender expression, and have these identities affirmed and respected, without fear of discrimination, retribution, or disadvantage. To that end, the relevant agencies shall take the actions set forth in this section.

(b) The head of each agency shall, in coordination with the Director of OPM, ensure that existing employee support services equitably serve LGBTQ+ employees, including, as appropriate, through the provision of supportive services for transgender and gender non-conforming and non-binary employees who wish to legally, medically, or socially transition.

(c) To ensure that LGBTQ+ employees (including their beneficiaries and their eligible dependents), as well as LGBTQ+ beneficiaries and LGBTQ+ eligible dependents of all Federal employees, have equitable access to healthcare and health insurance coverage:

(i) the Director of OPM shall take actions to promote equitable healthcare coverage and services for enrolled LGBTQ+ employees (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents, including coverage of comprehensive gender-affirming care, through the Federal Employees Health Benefits Program; and

(ii) the Secretary of Defense shall take actions to promote equitable healthcare coverage and services for LGBTQ+ members of the uniformed services (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents, including coverage of comprehensive gender-affirming care, through the Military Health System.

(d) To ensure that LGBTQ+ employees (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents have equitable access to all other insurance coverage and employee benefits, the head of each agency shall, in coordination with the Director of OPM, ensure that the Federal Government equitably provides insurance coverage options and employee benefits for LGBTQ+ employees (including their beneficiaries and their eligible dependents), LGBTQ+ beneficiaries, and LGBTQ+ eligible dependents, including long-term care insurance, sick leave, and life insurance. This includes ensuring that Federal benefits, programs, and services recognize the diversity of family structures.

(e) To ensure that all Federal employees have their respective gender identities accurately reflected and identified in the workplace:

(i) the head of each agency shall, in coordination with the Director of OPM, take steps to foster an inclusive environment where all employees' gender identities are respected, such as by including, where applicable, non-binary gender marker and pronoun options in Federal hiring, employment, and benefits enrollment forms;

(ii) the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall update, as appropriate and in consultation with any other relevant agencies, any relevant Federal employee identification standards to ensure that Federal systems for issuing employee identity credentials account for the needs of transgender and gender non-conforming and non-binary employees. The Secretary, in coordination with any other relevant agencies, shall take steps to reduce any unnecessary administrative burden for transgender and gender non-conforming and non-binary employees to update their names, photographs, gender markers, and pronouns on federally issued employee identity credentials, where applicable; and

(iii) the head of each agency shall, in consultation with the Director of OPM, update Federal employee

identification standards to include non-binary gender markers where gender markers are required in employee systems and profiles, and shall take steps to reduce any unnecessary administrative burden for transgender and gender non-conforming and non-binary employees to update their gender markers and pronouns in employee systems and profiles, where applicable.

(f) To support all Federal employees in accessing workplace facilities aligned with their gender identities, the head of each agency shall explore opportunities to expand the availability of gender non-binary facilities and restrooms in federally owned and leased workplaces.

(g) The Director of National Intelligence, in consultation with the Director of OPM and the heads of agencies, shall take steps to mitigate any barriers in security clearance and background investigation processes for LGBTQ+ employees and applicants, in particular transgender and gender non-conforming and non-binary employees and applicants.

(h) The Director of OPM shall review and update, if necessary, OPM's 2017 Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace.

SEC. 12. Pay Equity. Many workers continue to face racial and gender pay gaps, and pay inequity disproportionately affects women of color. Accordingly:

(a) The Director of OPM shall review Government-wide regulations and guidance and, as appropriate and consistent with applicable law, in order to address any pay inequities and advance equal pay, consider whether to:

(i) work with agencies to review, and revise if necessary, job classification and compensation practices; and

(ii) prohibit agencies from seeking or relying on an applicant's salary history during the hiring process to set pay or when setting pay for a current employee, unless salary history is raised without prompting by the applicant or employee.

(b) The head of each agency that administers a pay system other than one established under title 5 of the United States Code shall review the agency's regulations and guidance and, as appropriate and consistent with applicable law, revise compensation practices in order to address any pay inequities and advance equal pay. Agencies should report to OPM any revisions to compensation practices made to implement this direction.

(c) The Director of OPM shall submit a report to the President describing any changes to Government-wide and agency-specific compensation practices recommended and adopted pursuant to this order.

SEC. 13. Expanding Employment Opportunities for Formerly Incarcerated Individuals. To support equal opportunity for formerly incarcerated individuals who have served their terms of incarceration and to support their ability to fully reintegrate into society and make meaningful contributions to our Nation, the Director of OPM shall evaluate the existence of any barriers that formerly incarcerated individuals face in accessing Federal employment opportunities and any effect of those barriers on the civil service. As appropriate, the Director of OPM shall also evaluate possible actions to expand Federal employment opportunities for formerly incarcerated individuals, including the establishment of a new hiring authority, and shall submit a report to the President containing the results of OPM's evaluation within 120 days of the date of this order.

SEC. 14. Delegation of Authority. The Director of OPM is hereby delegated the authority of the President under sections 3301 and 3302 of title 5, United States Code, for purposes of carrying out the Director's responsibilities under this order.

SEC. 15. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are strongly encouraged to comply with the provisions of this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

ENHANCED COLLECTION OF RELEVANT DATA AND STATISTICS RELATING TO WOMEN

Memorandum of President of the United States, Mar. 4, 2011, 76 F.R. 12823, provided:

Memorandum for the Heads of Executive Departments and Agencies

I am proud to work with the White House Council on Women and Girls, the Office of Management and Budget, and the Department of Commerce on this week's release of *Women in America*, a report detailing the status of American women in the areas of families and income, health, employment, education, and violence and crime. This report provides a snapshot of the status of American women today, serving as a valuable resource for Government officials, academics, members of non-profit, nongovernmental, and news organizations, and others.

My Administration is committed to ensuring that Federal programs achieve policy goals in the most cost-effective manner. The *Women in America* report, together with the accompanying website collection of relevant data, will assist Government officials in crafting policies in light of available statistical evidence. It will also assist the work of the nongovernmental sector, including journalists, public policy analysts, and academic researchers, by providing data that allow greater understanding of policies and programs.

Preparation of this report revealed the vast data resources of the Federal statistical agencies. It also revealed some gaps in data collection. Gathering and analyzing additional data to fill in the gaps could help policymakers gather a more accurate and comprehensive view of the status and needs of American women.

Accordingly, I hereby request the heads of executive departments and agencies, where possible within existing collections of data and in light of budgetary constraints, to identify and to seek to fill in gaps in statistics and improve survey methodology relating to women wherever appropriate, including in the broad areas covered by the *Women in America* report: families and income, health, employment, education, and violence and crime.

Examples of some of the efforts that could be undertaken by departments and agencies with respect to the gathering or design of comprehensive data related to women include the following:

(a) **Maternal Mortality.** I encourage the National Center for Health Statistics (NCHS) to continue to work with States and other registration areas to complete the expeditious adoption of the most current standards for the collection of information on vital events, as well as the transition to electronic reporting systems. Maternal mortality is an important indicator of women's health both internationally and nationally. In the United States, maternal mortality statistics are based upon the information recorded on death certificates and collected by State and local vital records offices. The NCHS compiles the data across the 50 States and other registration areas. Due to concerns about data quality in the ascertainment of maternal mortality statistics, the 2003 revision of the standard death certificate introduced improved standards for collecting data. Until all 50 States and registration areas adopt the new data standards, formulating a national-level maternal mortality ratio remains difficult.

(b) **Women in Leadership in Corporate America.** Women participate in every sector of the workforce.

Their current role in corporate leadership is an important indicator of their progress. I encourage the Chair of the Securities and Exchange Commission to seek to supplement the information it already collects by seeking to collect, among other data, information on the presence of women in governance positions in corporations, in order to shed further light on the role of women in corporate America.

(c) Women in Leadership in Public Service. I encourage the Corporation for National and Community Service to include statistics about the role of women in diverse aspects of public service within its planned work on measuring civic engagement.

This memorandum shall be carried out to the extent permitted by law, consistent with the legal authorities of executive departments and agencies and subject to the availability of appropriations. Nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to a department or agency, or the head thereof; or the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

PROMOTING DIVERSITY AND INCLUSION IN THE NATIONAL SECURITY WORKFORCE

Memorandum of President of the United States, Oct. 5, 2016, 81 F.R. 69993, provided:

Memorandum for the Heads of Executive Departments and Agencies

Our greatest asset in protecting the homeland and advancing our interests abroad is the talent and diversity of our national security workforce. Under my Administration, we have made important progress toward harnessing the extraordinary range of backgrounds, cultures, perspectives, skills, and experiences of the U.S. population toward keeping our country safe and strong. As the United States becomes more diverse and the challenges we face more complex, we must continue to invest in policies to recruit, retain, and develop the best and brightest from all segments of our population. Research has shown that diverse groups are more effective at problem solving than homogeneous groups, and policies that promote diversity and inclusion will enhance our ability to draw from the broadest possible pool of talent, solve our toughest challenges, maximize employee engagement and innovation, and lead by example by setting a high standard for providing access to opportunity to all segments of our society.

The purpose of this memorandum is to provide guidance to the national security workforce in order to strengthen the talent and diversity of their respective organizations. That workforce, which comprises more than 3 million people, includes the following departments, agencies, offices, and other entities (agencies) that are primarily engaged in diplomacy, development, defense, intelligence, law enforcement, and homeland security: 1) Department of State: Civil Service and Foreign Service; 2) United States Agency for International Development (USAID): Civil Service and Foreign Service; 3) Department of Defense (DOD): commissioned officers, enlisted personnel, and civilian personnel; 4) the 17 members of the Intelligence Community; 5) Department of the Treasury: Office of International Affairs and Office of Critical Infrastructure Protection; 6) Department of Justice: National Security Division and Federal Bureau of Investigation; and 7) Department of Homeland Security.

The data collected by these agencies do not capture the full range of diversity in the national security

workforce, but where data allow for broad comparison, they indicate that agencies in this workforce are less diverse on average than the rest of the Federal Government. For example, as of 2015, only the Department of State and USAID Civil Services were more diverse in terms of gender, race, and ethnicity than the Federal workforce as a whole. When comparing the agencies' workforces to their leadership personnel (Senior Executive Service (SES) or its equivalent), all agencies' leadership staffs were less diverse than their respective workforces in terms of gender, and all but DOD enlisted personnel and USAID Civil Service had less diverse leadership in terms of race and ethnicity. While these data do not necessarily indicate the existence of barriers to equal employment opportunity, we can do more to promote diversity in the national security workforce, consistent with merit system principles and applicable law.

When I issued Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce), I directed all departments and agencies to develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion. This memorandum supports that effort by providing guidance that 1) emphasizes a data-driven approach in order to increase transparency and accountability at all levels; 2) takes into account leading practices, research, and experience from the private and public sectors; and 3) complements ongoing actions that agencies are taking pursuant to Executive Order 13583 and under the leadership of the Diversity and Inclusion in Government Council, including but not limited to efforts related to gender, race, ethnicity, disability status, veterans, sexual orientation and gender identity, and other demographic categories. This memorandum also supports Executive Order 13714 of December 15, 2015 (Strengthening the Senior Executive Service), by directing agencies to take additional steps to expand the pipeline of diverse talent into senior positions.

This memorandum also aligns with congressional efforts to promote the diversity of the national security workforce, which have been reflected in legislation such as the:

- FOREIGN SERVICE ACT OF 1980, which urged the Department of State to develop policies to encourage the "entry into and advancement in the Foreign Service by persons from all segments of American society";
- INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004, which called on the Intelligence Community to prescribe personnel policies and programs that ensure its personnel "are sufficiently diverse for purposes of the collection and analysis of intelligence through the recruitment and training of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds"; and
- NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013, which mandated that the U.S. military develop and implement a plan to accurately measure the efforts of the military to "achieve a dynamic, sustainable level of members of the armed forces (including reserve components) that, among both commissioned officers and senior enlisted personnel of each armed force, will reflect the diverse population of the United States eligible to serve in the armed forces, including gender specific, racial, and ethnic populations."

Promoting diversity and inclusion within the national security workforce must be a joint effort and requires engagement by senior leadership, managers, and the entire workforce, as well as effective collaboration among those responsible for human resources, equal employment opportunity, and diversity and inclusion issues. In implementing the guidance in this memorandum, agencies shall ensure their diversity and inclusion practices are fully integrated into broader succession planning efforts and supported by sufficient resource allocations and effective programs that invest in personnel development and engagement. Where appropriate, they shall also support, coordinate, and encourage research and other efforts by the Federal Gov-

ernment to expand the knowledge base of best practices for broadening participation and understanding the impact of diversity and inclusion on national security, including in the fields of science and technology.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Collection, Analysis, and Dissemination of Workforce Data.* Although collected data do not necessarily indicate the existence of barriers to equal employment opportunity, the collection and analysis of metrics allows agencies to assess their workforce talent gaps, as well as the effectiveness of their diversity and inclusion efforts and the adequacy of their resources to address these gaps. The dissemination of data to the public and to agency personnel may increase the transparency and accountability of their efforts. Accordingly, agencies in the national security workforce shall:

(a) *Make aggregate demographic data and other information available to the public and broader workforce.* Agencies shall make available to the general public information on the state of diversity and inclusion in their workforces. That information, which shall be updated at least once a year, shall include aggregate demographic data by workforce or service and grade or rank; attrition and promotion demographic data; validated inclusion metrics such as the New Inclusion Quotient (New IQ) index score; demographic comparisons to the relevant civilian labor force; and unclassified reports and barrier analyses related to diversity and inclusion. Agencies may publish data in proportions or percentages to account for classification concerns, and the Intelligence Community may publish a community-wide report with the data outlined in this section. In addition, agencies shall provide to their workforces, including senior leadership at the Secretary or Director level, a report that includes demographic data and information on the status of diversity and inclusion efforts no later than 90 days after the date of this memorandum and on an annual basis thereafter (or in line with existing annual reporting requirements related to these issues, if any).

(b) *Expand the collection and analysis of voluntary applicant flow data.* Applicant flow data tracks the selection rate variances for job positions among different demographic categories and can assist agencies in examining the fairness and inclusiveness of their recruitment efforts. Agencies shall develop a system to collect and analyze applicant flow data for as many positions as practicable in order to identify future areas for improvement in attracting diverse talent, with particular attention to senior and management positions. The collection of data may be implemented in a phased approach commensurate with agency resources. Agencies shall include such analysis, including the percentage and level of positions for which data are collected, and any resulting policy changes or recommendations in the report required by section 1(a) of this memorandum.

(c) *Identify additional categories for voluntary data collection of current employees.* The Federal Government provides minimum reporting categories for agencies collecting race and ethnicity information in the Office of Management and Budget's (OMB) Statistical Policy Directive "Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity." That standard also encourages agencies to collect more detailed data, which can be compared by aggregating such data into minimum categories when necessary. Further, agencies may also collect additional demographic data, such as information regarding sexual orientation or gender identity. No later than 90 days after the date of this memorandum, agencies shall determine whether they recommend the voluntary collection of more detailed demographic data on additional categories. This process shall involve close consultation with internal stakeholders, such as employee resource or affinity groups; clear communication with the workforce to explain the purpose of, legal protections re-

lated to, and anticipated use of such data; and adherence to relevant standards and guidance issued by the Federal Government. Any determinations shall be submitted to OMB, the Office of Personnel Management (OPM), the Equal Employment Opportunity Commission, and the Department of Labor for consideration.

SEC. 2. *Provision of Professional Development Opportunities and Tools Consistent with Merit System Principles.* An inclusive work environment enhances agencies' ability to retain and sustain a strong workforce by allowing all employees to perform at their full potential and maximize their talent. Professional development opportunities and tools are key to fostering that potential, and each agency should make it a priority to ensure that all employees have access to them consistent with merit system principles. Agencies in the national security workforce shall therefore:

(a) *Conduct stay and exit interviews or surveys.* Agencies shall conduct periodic interviews with a representative cross-section of personnel to understand their reasons for staying with their organization, as well as to receive feedback on workplace policies, professional development opportunities, and other issues affecting their decision to remain. They shall also provide an opportunity for exit interviews or surveys of all departing personnel to understand better their reasons for leaving. Agencies shall include analysis from the interviews and surveys—including if and how the results of the interviews differ by gender, race and national origin, sexual orientation, gender identity, disability status, and other demographic variables—and any resulting policy changes or recommendations in the report required by section 1(a) of this memorandum.

(b) *Expand provision of professional development and career advancement opportunities.* Agencies shall prioritize resources to expand professional development opportunities that support mission needs, such as academic programs, private-public exchanges, and detail assignments to relevant positions in private or international organizations; State, local, and tribal governments; or other branches of the Federal Government. In addition, agencies in the national security workforce shall offer, or sponsor employees to participate in, an SES Candidate Development Program (CDP) or other programs that train employees to gain the skills required for senior-level agency appointments. In determining which employees are granted professional development or career advancement opportunities, agencies shall ensure their SES CDP comports with the provisions of 5 C.F.R. part 412, subpart C, including merit staffing and assessment requirements. Agencies shall also consider the number of expected senior-level vacancies as a factor in determining the number of candidates to select for such programs. Agencies shall track the demographics of program participants as well as the rate of placement into senior-level positions for participants in such programs, evaluate such data on an annual basis to look for ways to improve outreach and recruitment for these programs consistent with merit system principles, and include such data in the report required by section 1(a) of this memorandum.

(c) *Institute a review process for security and counterintelligence determinations that result in assignment restrictions.* For agencies in the national security workforce that place assignment restrictions on personnel or otherwise prohibit certain geographic assignments due to a security determination, these agencies shall ensure a review process exists consistent with the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, as well as applicable counterintelligence considerations. Agencies shall ensure that affected personnel are informed of the right to seek review and the process for doing so.

SEC. 3. *Strengthening of Leadership Engagement and Accountability.* Senior leadership and supervisors play an important role in fostering diversity and inclusion in the workforce they lead and in setting an example for cultivating talent consistent with merit system principles. Toward that end, agencies in the national security workforce shall:

(a) *Reward and recognize efforts to promote diversity and inclusion.* Agencies are strongly encouraged to consider implementing performance and advancement requirements that reward and recognize senior leaders' and supervisors' efforts in fostering an inclusive environment and cultivating talent consistent with merit system principles, such as through participation in mentoring programs or sponsorship initiatives, recruitment events, and other opportunities. They are also encouraged to create opportunities for senior leadership and supervisors to participate in outreach events and to discuss issues related to diversity and inclusion with the workforce on a regular basis, including with employee resource groups.

(b) *Collect and disseminate voluntary demographic data of external advisory committees and boards.* For agencies in the national security workforce that have external advisory committees or boards to which their senior leadership appoints members, they are strongly encouraged to collect voluntary demographic data from the members of committee[s] and boards, and to include such data in the information and report required by section 1(a) of this memorandum.

(c) *Expand training on unconscious bias, inclusion, and flexible work policies.* Agencies shall expand their provision of training on implicit or unconscious bias, inclusion, and flexible work policies and make implicit or unconscious bias training mandatory for senior leadership and management positions, as well as for those responsible for outreach, recruitment, hiring, career development, promotion, and security clearance adjudication. The provision of training may be implemented in a phased approach commensurate with agency resources. Agencies shall also make available training for bureaus, directorates, or divisions whose inclusion scores, such as those measured by the New IQ index, consistently rank below the agency-wide average 3 or more years in a row. Agencies should give special attention to ensuring the continuous incorporation of research-based best practices, including those to address the intersectionality between certain demographics and job positions.

SEC. 4. *Reporting on Progress.* No later than 120 days after the date of this memorandum, and on an annual basis thereafter, the Assistant to the President for National Security Affairs, in consultation with the Directors of OMB and OPM, shall report to the President on the progress of the national security workforce in implementing the requirements of this memorandum, based on information provided by relevant departments and agencies.

SEC. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Director of OPM is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

PROMOTING DIVERSITY AND INCLUSION IN OUR NATIONAL PARKS, NATIONAL FORESTS, AND OTHER PUBLIC LANDS AND WATERS

Memorandum of President of the United States, Jan. 12, 2017, 82 F.R. 6179, provided:

Memorandum for the Heads of Executive Departments and Agencies

Our Federal lands and waters are among our Nation's greatest treasures—from our National Parks and National Forests, to our wild and scenic rivers, recreation areas, and other public lands and waters. These natural and historic sites give us fresh air and clean water, places for recreation and inspiration, and support for our local communities and economies. As a powerful sign of our democratic ideals, these lands belong to all Americans—rich and poor, urban and rural, young and old, from all backgrounds, genders, cultures, religious viewpoints, and walks of life.

Our public lands and waters are treasured in part because they tell the story of our Nation. They preserve the history from our Nation's wars, protect cultural sites considered sacred to countless Americans, and honor the accomplishments of distinctly American leaders ranging from Harriet Tubman to Abraham Lincoln to Cesar Chavez. I am proud that my Administration has greatly expanded the stories that our protected public lands and waters tell about our Nation through designating a diverse collection of cultural and historic sites as new parks and monuments and by restoring the Koyukon Athabascan name of Denali to the tallest mountain in North America. I am proud, too, that my Administration has sought to expand access to our public lands and waters and to make them more welcoming to all Americans, especially those who have not regularly visited our Nation's great outdoors or had the means to do so easily. Initiatives like "Every Kid in a Park" complement additional, ongoing efforts by Federal agencies to improve accessibility, but more work must be done to honor the promise and opportunity of the idea that our public lands belong to every American. Over the last 8 years, Federal land and water management agencies have also shown a renewed commitment to promoting equal opportunity for all employees and in creating work environments where everyone is empowered to reach their full potential.

The purpose of this memorandum is to ensure that all Americans have the opportunity to experience and enjoy our public lands and waters, that all segments of the population have the chance to engage in decisions about how our lands and waters are managed, and that our Federal workforce—not just the sites it manages—is drawn from the rich range of the diversity in our Nation. In this memorandum, "diversity" refers to a range of characteristics including national origin, language, race, color, disability, ethnicity, age, religion, sexual orientation, gender (including gender identity), socioeconomic status, veteran status, and family structure. The term "inclusion" refers to a culture that connects each employee to the organization; encourages collaboration, flexibility, and fairness; and promotes diversity throughout the organization so that all individuals have opportunities to participate and contribute to their full potential.

This memorandum is directed at the Department of the Interior, the U.S. Forest Service, the Office of the Assistant Secretary of the Army for Civil Works, and the National Oceanic and Atmospheric Administration (covered agencies).

Promoting diversity and inclusion is not the sole responsibility of one office within a Federal agency but a joint effort that requires engagement by senior leadership and the entire workforce. In implementing the guidance in this memorandum, each covered agency shall ensure its diversity and inclusion practices are fully integrated into broader planning efforts and supported by sufficient resource allocations and effective programs that promote a wide range of investments in personnel development, public engagement, and opportunities for inclusive access.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Diversity and Inclusion in the Federal Workforce.* The quality and integrity of our National Parks, National Forests, and other public lands and waters de-

pend on the public servants who steward them for the benefit of current and future generations. To ensure we are managing these resources responsibly, we must have a diverse and inclusive Federal workforce practicing public land management that recognizes the challenges facing communities across the Nation. A more diverse and inclusive Federal workforce also creates a more welcoming experience for all Americans, no matter their background or where they live, and encourages engagement with Federal agencies on the management and future of our public lands and waters. Consistent with existing authorities, each covered agency shall prioritize building a more diverse and inclusive Federal workforce reflective of our Nation and its citizens.

Federal agencies are subject to existing authorities aimed at addressing the leadership role and obligations of the Federal Government as an employer. For example, Executive Order 13583 of August 18, 2011 (Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce), requires Federal agencies to take action to promote equal opportunity, diversity, and inclusion in the Federal workforce. Federal agencies also are required by section 717 of title VII of the Civil Rights Act of 1964 to take proactive steps to ensure equal opportunity for all Federal employees and applicants for Federal employment. This memorandum directs each of the covered agencies to pursue additional actions that create and maintain a diverse and inclusive Federal workforce. Toward that end, each covered agency shall integrate the following activities in its efforts to comply with related statutory mandates, Executive Orders, regulatory requirements, and individual agency policies:

(a) Provide professional development opportunities and tools. A diverse and inclusive work environment enhances the ability of each covered agency to create, retain, and sustain a strong workforce by allowing all employees to perform to their full potential and talent. Professional development opportunities and tools are key to fostering that potential, and ensuring that all employees have access to them should be a priority for all agencies, consistent with merit system principles. Accordingly, each covered agency shall:

(i) Develop a mechanism to conduct periodic interviews with a voluntary representative cross-section of its workforce to gain a more complete understanding of the reasons that employees choose to stay with their organizations, as well as to receive feedback on workplace policies, professional development opportunities, and other issues;

(ii) Provide optional exit interviews or surveys for all departing personnel;

(iii) Collect information as needed to identify methods for attracting applicants to Federal employment and retaining diverse workplace talent through existing workforce programs and initiatives;

(iv) Prioritize resources, as appropriate, to expand professional development opportunities that support mission needs, such as academic and fellowship programs, private-public exchanges, and detail assignments to private or international organizations, State, local and tribal governments, or other branches of the Federal Government;

(v) Offer, or sponsor employees to participate in, a Senior Executive Service Candidate Development Program or other program that trains employees to gain the skills required for senior-level appointments. Each covered agency shall consider the number of expected senior-level vacancies as one factor in determining the number of candidates to select for such programs. In the selection process for these programs, each covered agency shall consider redacting personal information, including applicant names, from all materials provided for review to reduce the potential for unconscious bias. Each covered agency also shall evaluate on a retroactive basis the placement rate of program graduates into senior-level positions, including available demographic data, on an annual basis to look for ways to

improve outreach and recruitment for these programs consistent with merit system principles. Each covered agency shall consult with the Office of Personnel Management (OPM) on the development or enhancement of data-collection tools to conduct these evaluations; and

(vi) Seek additional opportunities for the development and implementation of upward mobility programs.

(b) Strengthen leadership engagement and accountability. Senior leadership and supervisors play an important role in fostering diversity and inclusion in the workforce they lead and setting an example for cultivating this and future generations of talent. Toward that end, each covered agency shall:

(i) Reward and recognize efforts to promote diversity and inclusion in the workforce. Consistent with merit system principles, each covered agency is strongly encouraged to consider implementing performance and advancement requirements that reward and recognize senior leaders' and supervisors' success in fostering diverse and inclusive workplace environments and in cultivating talent, such as through participation in mentoring programs or sponsorship initiatives, recruitment events, and other opportunities. Each covered agency also is encouraged to identify opportunities for senior leadership and supervisors to participate in outreach events and discuss issues related to promoting diversity and inclusion in its workforce on a regular basis with support from any existing employee resource group, as appropriate; and

(ii) Expand training on unconscious bias, diversity and inclusion, and flexible work policies. Each covered agency shall expand its provision of training on unconscious bias, diversity and inclusion, and flexible work policies and make unconscious bias training mandatory for senior leadership and management positions, including for employees responsible for outreach, recruitment, hiring, career development, promotion, and law enforcement. The provision of training may be implemented in a phased approach commensurate with agency resources. Each covered agency shall also make available training on a 2-year cycle for bureaus, directorates, or divisions for which inclusion scores, such as those measured by the New IQ index, demonstrate no improvement since the previous training cycle. Special attention should be given to ensure the continuous incorporation of research-based best practices, including those to address the relationship between certain demographics and job positions.

(c) Analyze existing data and identify opportunities for improvement. Each covered agency shall continue to evaluate and eliminate existing barriers to the successful growth of diversity and inclusion in the Federal workplace. The following actions shall be taken to ensure continued progress on this issue:

(i) Each covered agency shall integrate the activities described under subsections (a) and (b) of this section in the priorities and actions outlined in Executive Order 13583 and the periodic agency self-assessments and barrier analyses required by Equal Employment Opportunity Commission Management Directive 715, and shall make such assessments and analyses publicly available;

(ii) Human resources and any appropriate diversity and leadership staff from each of the covered agencies shall meet at least twice each year with agency leadership to discuss actions pursued under sections 1(a) and 1(b) of this memorandum, including working to identify and eliminate barriers to promoting diversity and inclusion in agency workforces and to discuss potential actions to improve hiring programs, recruitment, and workforce training and development. Where data gaps are identified, each covered agency is encouraged to collect additional information as needed in order to identify methods for attracting and retaining talent from diverse populations, with particular attention to senior and management positions. Each covered agency shall consult with OPM on the development or enhancement of data-collection tools to collect this information; and

(iii) OPM shall continue to review covered agency-specific diversity and inclusion plans and provide recommended modifications for agency consideration, including recommendations on strategies to promote diversity and inclusion in agency workforces and potential improvements to the use of existing agency hiring authorities.

SEC. 2. *Enhancing Opportunities for all Americans to Experience Public Lands and Waters.* (a) Recognizing that our public lands belong to all Americans, it is critical that all Americans can experience Federal lands and waters and the benefits they provide, and that diverse populations are able to provide input to inform the management and stewardship of these important resources. In order to achieve this goal, each covered agency shall:

(i) Identify site-specific opportunities. As each covered agency periodically updates or develops new management plans for its lands and waters, it shall evaluate specific barriers and opportunities, as appropriate, to improve visitation, access, and recreational opportunities for diverse populations;

(ii) Update policies to ensure engagement with diverse constituencies. As policy manuals and handbooks are updated, each covered agency shall ensure that these materials reflect the importance of engaging with diverse populations in resource protection, land and water management, and program planning and decisionmaking, as appropriate;

(iii) Establish internal policies for recipients of Federal funding. Each covered agency shall ensure that State, local, tribal, and private sector recipients of Federal funding are taking action to improve visitation, access, and recreational opportunities for diverse populations;

(iv) Identify public liaisons. Within 90 days of the issuance of this memorandum, each covered agency shall identify multiple public liaisons with a diversity of backgrounds and perspectives to be charged with facilitating input from and engaging with diverse populations in land and water management processes;

(v) Identify opportunities on advisory councils and stakeholder committees. Within 120 days of the issuance of this memorandum, each covered agency shall identify opportunities to promote participation by diverse populations in advisory councils and stakeholder committees established to support public land or water management; environmental, public health, or energy development planning; and other relevant decisionmaking; and

(vi) Develop an action plan. Within 1 year of the issuance of this memorandum, each covered agency shall provide a publicly available action plan to the Chair of the White House Council on Environmental Quality identifying specific actions the agency will take to 1) improve access for diverse populations—particularly for minority, low-income, and disabled populations and tribal communities—to experience and enjoy our Federal lands and waters, and 2) address barriers to their participation in the protection and management of important historic, cultural, or natural areas. Each covered agency shall identify in its action plan any critical barriers to achieving both of these goals. This barrier evaluation should draw on internal staff input as well as external perspectives, including interviews, surveys, and engagement with non-governmental entities, as appropriate and as resources allow. Each action plan should include specific steps that the covered agency will take to address identified barriers, including national as well as regional strategies, and, where appropriate, site-specific initiatives. Each covered agency should work through the Federal Recreation Council (FRC) to assist with the development of this action plan and use the FRC to share best practices and recommendations regarding specific programs and initiatives.

(b) In identifying actions to improve opportunities for all Americans to experience our Federal lands and waters, each covered agency should consider a range of actions including the following:

(i) Conducting active outreach to diverse populations—particularly minority, low-income, and disabled populations and tribal communities—to increase awareness about specific programs and opportunities;

(ii) Focusing on the mentoring of new environmental, outdoor recreation, and preservation leaders to increase diverse representation in these areas and on our public lands;

(iii) Forging new partnerships with State, local, tribal, private, and non-profit partners to expand access for diverse populations, particularly those in the immediate vicinity of a protected area;

(iv) Identifying and making improvements to existing programs to increase visitation and access by diverse populations—particularly minority, low-income, and disabled populations and tribal communities;

(v) Creating new programs, especially those that could address certain gaps that are identified;

(vi) Expanding the use of multilingual and culturally appropriate materials, including American Sign Language, in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations;

(vii) Continuing coordinated, interagency efforts to promote youth engagement and empowerment, including fostering new partnerships with diversity- and youth-serving organizations and new partnerships with urban areas and programs; and

(viii) Identifying possible staff liaisons to diverse populations, particularly those in the immediate vicinity of a given protected area.

(c) In identifying actions to improve opportunities for all Americans to participate in the protection and management of important historic, cultural, and natural areas, each covered agency shall consider a range of actions including the following:

(i) Considering recommendations and proposals from diverse populations to protect at-risk historic, cultural, and natural sites;

(ii) Improving the availability and distribution of relevant information about ongoing land and water management planning and policy revisions;

(iii) Identifying agency staff charged with outreach to diverse populations;

(iv) Identifying opportunities to facilitate public participation from interested diverse populations facing financial barriers, including through partnerships, where appropriate, with philanthropic organizations and tribal, State, and local governments; and

(v) Taking other actions to increase opportunities for diverse populations to provide input and recommendations on protecting, improving access to, or otherwise managing important historic, cultural, or natural areas, with an emphasis on stakeholders facing significant barriers to participation.

SEC. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) The Secretary of the Interior is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 2000e-1. Exemption

(a) Inapplicability of subchapter to certain aliens and employees of religious entities

This subchapter shall not apply to an employer with respect to the employment of aliens