

DOL to Propose Roll Back Trump-Era Religious Contractor Exemption Rule

By Monica L. Frantz

The Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) intends to propose a roll back of the Trump-era religious contractor exemption rule that expanded the defenses religious federal contractors can raise against employment discrimination claims.

On December 7, 2020, the OFCCP issued a final rule clarifying the scope of a religious exemption to workplace anti-discrimination laws that applies to certain organizations that contract with the federal government. Under the rule, certain "religious-exercising" federal contractors are allowed to assert a defense to employment discrimination claims based on religion. The rule was intended to protect the autonomy of religious organizations to hire employees who will further their religious missions and to correct any misperception that religious organizations are disfavored in government. The final rule took effect on January 8, 2021.

The OFCCP intends to propose rescission of the rule "in the near future." Rescission of the rule could take several months, as it would require the notice-and-comment rulemaking process, a common rulemaking procedure under which a proposed rule is open to comment by the general public.

Roetzel will continue to monitor developments at it relates to the religious contractor exemption rule. For more information and insight on this matter, please contact one of the listed Roetzel attorneys.

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