

# New Federal Contracts Providing Hurricane Relief Get Some Relief From OFCCP Requirements

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On August 31, 2017, the U.S. Department of Labor (DOL) announced that the agency will support Hurricane Harvey and Irma relief efforts in a number of ways, including by relaxing federal contractors' requirements on a temporary basis. As part of the initiative, the Office of Federal Contract Compliance Programs (OFCCP) will be temporarily suspending certain requirements on federal contractors to allow "businesses involved in hurricane relief the ability to prioritize recovery efforts."

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## **The Exemptions**

According to the National Interest Exemption (NIE) for Hurricane Harvey and the NIE for Hurricane Irma, for a period of three months, new federal contracts to provide Hurricane Harvey and Hurricane Irma relief will be exempt from the requirement to develop written affirmative action programs as required by:

- Executive Order 11246;
- the Vietnam Era Veterans Readjustment Assistance Act; and
- Section 503 of the Rehabilitation Act of 1973, as amended.

## **Applicability Period**

OFCCP issued the Hurricane Harvey NIE on August 31, 2017, and revised it on September 7, 2017, to clarify that it also applies to construction contracts. The Harvey exemption started on September 1, 2017, and will end on December 1, 2017, and is subject to extension.

The Hurricane Irma NIE lasts for three months—starting on September 8, 2017, and ending on December 8, 2017—subject to possible extension.

### **Covered Contracts**

According to the Harvey NIE frequently asked questions (FAQ) page and the Irma NIE FAQ page, OFCCP notified all federal contracting agencies of the NIE and provided them with “language to include in new supply & service and construction contracts,” which are entered into specifically to provide Hurricane Harvey and Hurricane Irma relief. The FAQ pages also state that contracting officers “are in the best position to determine what constitutes a supply & service or construction contract specifically to provide” hurricane relief.

In addition to prime contractors, both NIEs cover subcontractors that provide “goods or services as part of a prime contract” specifically for Hurricane Harvey and Hurricane Irma relief that explicitly contain “the national interest exemption provision” detailed in OFCCP’s September 7, 2017 Harvey NIE memorandum and September 7, 2017 Irma NIE memorandum.

### **Geographic Boundaries**

The Harvey NIE covers “[a]ny area that has been designated a Designated Area by FEMA to receive both individual and public assistance (FEMA categories A and B).” The list of covered counties includes Fort Bend, Galveston, Jackson, and Liberty.

The Irma NIE’s FAQ page describes the covered areas to include “[a]ny area that has been designated a Designated Area by FEMA to receive both individual and public assistance (FEMA categories A and B).” The FAQs page states that FEMA’s [Disaster Declarations page](#) includes a list of designated areas.

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## TOPICS

Government Contractors, OFCCP Compliance, Government Contracting, and Reporting