

THE NEED FOR AN EXECUTIVE ORDER

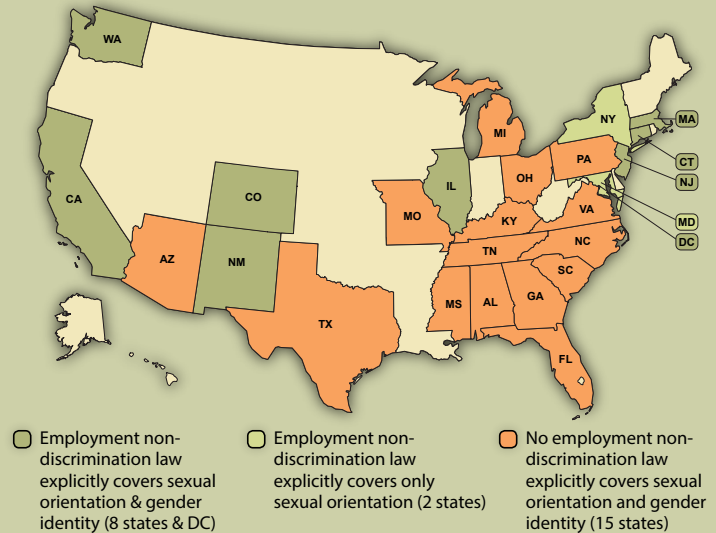
Banning Federal Contractors From Discriminating Against LGBT Workers

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The federal government protects LGBT federal employees from job discrimination. Yet, it still funnels almost \$300 billion each year to businesses that can discriminate.

- Federal government¹ employees have specific nondiscrimination protections stemming from two Presidential executive orders. These orders protect federal government workers based on “race, color, religion, sex, national origin, handicap and age”²—and, as of 1998, sexual orientation.³ A 2012 EEOC decision finds that transgender federal workers are protected under prohibitions on discrimination based on a worker’s “sex.”⁴
- Unfortunately, these protections do not extend to LGBT employees of companies that do business with the federal government.
- In 2012 alone, \$293 billion contract dollars were awarded in states that have no state-level nondiscrimination protections for gender identity/expression, with \$249 billion of that total going to states that also have no protections for sexual orientation.
- More than 60% of the 25 states that received \$5 billion or more in federal contracts in 2012 have no employment nondiscrimination laws explicitly covering sexual orientation—and 68% lack laws covering gender identity.
- Subsidizing discrimination with taxpayer money is a lose/lose proposition—and it breaks America’s basic bargain that workers will be judged and rewarded based on their contributions and capabilities, not what they look like, who they are, or who they love. It’s bad for workers and bad for America’s competitiveness.

Status of Employment Nondiscrimination Protections in the 25 States Where Federal Contracts Totaled \$5 Billion or More in FY 2012



Source: Movement Advancement Project analysis of public data for Fiscal Year 2012 (October 2011-September 2012) available at <http://www.usaspending.gov>.

An executive order requiring federal contractors to adopt policies barring discrimination against LGBT workers would help ensure employment protections for the majority of the American workforce.

- For more than 70 years, presidents have used executive orders for federal contractors to advance workplace protections.
- In 1941, President Roosevelt issued an executive order that banned federal contractors from discriminating against workers because of race, creed, color or national origin, serving as an important precursor to the passage of Title VII of the Civil Rights Act.
- A 1965 executive order prohibits federal contractors and subcontractors with contracts in excess of \$10,000 from discriminating in employment decisions on the basis of race, color, religion, sex or national origin.⁵
- Executive orders can be more specific and have broader reach than existing statutes. This order would cover all employers—including those with fewer than 15 employees—who contract for amounts exceeding \$10,000 in any 12-month period. It would allow for proactive investigation and enforcement, even when a particular employee has not filed a complaint.
- An executive order covering LGBT employees would cover more than 20% of American civilian workforce—including extending protections to an additional 16 million workers.⁶

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