

Compliance Check 2020

June 2019

Welcome to the sixth issue in our series, *Compliance Check 2020*, a monthly publication that will help you perform a self-assessment of your company's compliance with federal, state and local employment laws and regulations.

If your business is a government contractor or subcontractor, this edition will help you evaluate your company's level of preparedness for an OFCCP affirmative action compliance audit.

If your company does business with the federal government, there is a very good chance that it will be subject to an affirmative action compliance audit in the near future. The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) recently revamped its enforcement efforts and expanded the scope of government contractors or subcontractors it seeks to audit. In late March 2019, the OFCCP released its annual audit scheduling list, where it identified 3,500 contractors it has targeted for audits in 2019.

When initiating an audit, the OFCCP typically sends a contractor a comprehensive list of 22 demands for documents related to equal opportunity and affirmative action compliance. These requests are purposely intrusive and all-encompassing, ranging from copies of your current affirmative action plans to specific evidence of your outreach efforts to minority, veteran and disability-affiliated organizations. While burdensome enough for contractors, these initial requests are just the tip of the iceberg in a typical audit. The OFCCP's compliance officers are famous for making multiple follow-up demands for information and documents during the audit process.

A company that is unprepared for an audit can face severe consequences from the OFCCP. The agency's default position is that government contractors are required by law to maintain all employment-related documents for at least a two-year period, so they expect such documents to be

readily available during an audit. If a contractor is unable to provide the required information, the OFCCP has an array of monetary and non-monetary sanctions at its disposal. Given these potential consequences, it is critical for your company to confirm whether you are properly documenting your equal opportunity and affirmative action efforts.

Here are some questions to help you evaluate if your company is well-prepared for a future OFCCP audit:

- ☑ **Does your company annually prepare affirmative action plans for women, minorities, veterans and individuals with disabilities?**
- ☑ **Do you provide a list of job openings at your company to state workforce agencies (e.g., Ohio Department of Job and Family Services, New York State Job Bank) and track when and where the openings are posted?**
- ☑ **Does your company have a process or system in place for tracking job applications and related decisions for interviews, offers and hires?**
- ☑ **Does your application system provide applicants the opportunity to self-identify their race, gender, veteran or disability status as a part of their initial job application?**
- ☑ **Do you have an appropriate retention policy for personnel files, job applications and resumes,**

interview notes and hiring materials, promotion or compensation documents, and other documentation of employment-related decisions?

- ☑ Does your company perform periodic self-audits of your compensation structure, policies and practices to determine whether any disparities exist amongst employee groups?
- ☑ Does your company conduct outreach to organizations that provide employment assistance services for women, minorities, individuals with disabilities or veterans, such as colleges, universities, technical schools, community groups or service organizations, and how do you document those efforts?

FOR MORE INFORMATION

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