



Labor & Employment @lert

January 2023

OFCCP 2023 CSAL Targets Contractor Noncompliance with Certification Obligations

On January 20 the Department of Labor Office of Federal Contract Compliance Programs (OFCCP) released its first Corporate Scheduling Announcement List (CSAL) for supply and service contractors for calendar year 2023. The CSAL and the OFCCP's scheduling methodology are [posted](#) on the agency's website for public viewing.

The CSAL is the OFCCP's advance notification to federal government contractors and subcontractors that have been selected as potential targets for compliance evaluations. The 2023 list identifies 500 individual contractor establishments the OFCCP has selected for compliance audits this year. Of those, 452 have been selected for traditional Establishment reviews, while the remainder were selected for either Functional Affirmative Action Plan reviews or Corporate Management Compliance Evaluations.

For the 2023 CSAL, the OFCCP selected contractors that failed to complete the mandatory annual certification of affirmative action compliance through the [OFCCP's Contractor Portal](#), a new compliance initiative introduced in 2022 that requires all covered contractors and subcontractors to electronically certify their affirmative action compliance by June 30. According to the OFCCP, the 2023 CSAL lists contractors that failed to complete this required annual certification as of December 1, 2022.

This methodology signals that the OFCCP is now taking enhanced steps to enforce the annual affirmative action obligations for federal government contractors and is specifically targeting businesses that do not complete the annual certification process. Contractors listed on this initial CSAL can expect to receive a formal OFCCP scheduling letter soon. They should also prepare to explain to the OFCCP why

their organization did not complete the 2022 certification process.

For Establishment audits, the scheduling letter will include a comprehensive list of 22 demands for documents and information related to equal opportunity and affirmative action compliance, which includes not only a contractor's current year affirmative action plan, but also detailed employee-level compensation data and information regarding a contractor's hires, applicants, terminations and promotions from the prior calendar year.

Consistent with [OFCCP guidance](#) issued in August 2022, the agency may also now require contractors to submit proof that they have conducted internal analyses of their compensation practices (i.e., pay equity analyses) as part of the audit process. According to the OFCCP, these analyses (together with similar assessments of hiring, applicant, termination and promotion activity) are specific regulatory requirements that must be completed and documented, and contractors are expected to make this documentation available to the OFCCP upon request.

As in previous years, a contractor will have 30 days to prepare and submit all requested items to a designated OFCCP compliance officer. The OFCCP will then review the submission and will typically request additional supplemental information. A compliance officer is also authorized to conduct interviews with contractor officials and, if necessary, schedule an on-site review at the establishment.

Government contractors should review the 2023 CSAL to determine whether any of their establishments have been

selected for audit. If listed, they should take immediate steps to fulfill all aspects of their annual affirmative action obligations and prepare for the pending OFCCP audit. A contractor should also be prepared to explain why it did not certify its affirmative action compliance by June 30, 2022.

Given the new CSAL's specific focus, there is a strong possibility that the OFCCP may issue a second list later in 2023 that will target additional contractors for compliance audits, including those that have timely completed the Contractor Portal certification process. In light of this, all contractors should develop and implement their annual written affirmative action plans and satisfy their regulatory obligations by June 30.

FOR MORE INFORMATION

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