



2020 OFCCP Refresh and Reset

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Sara advises employers on a range of workplace-related matters, with a focus on legal and regulatory compliance. She devotes a significant amount of her practice to assisting clients in drafting policies, handbooks, employment-related agreements, and overall best practices to ensure compliance with federal, state, and local laws. Sara also has experience handling workplace investigations and drafting and conducting workplace-related trainings, including sexual harassment and anti-discrimination and harassment trainings.

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Nicole has over 15 years of full-cycle Human Resource experience and has worked on contracts with the DHS, DoD, NASA, FAA, and the IC. She is well versed in SCA Administration, federal reporting requirements, audits and responses, employee relations, labor / union relations, strategic workforce planning, compensation planning, new employee onboarding, data and analytics, and HRIS implementation. Nicole leads clients through the HR lifecycle from onboarding to exit interviews and everything in between.

About PilieroMazza

PilieroMazza—a business law firm—serves as a strategic partner to government contractors and commercial businesses from across the United States.

We deliver results for our clients by implementing legal and business solutions that take the client's best interests into consideration. Moreover, PilieroMazza's efficient operational structure and lean approach to staffing matters translates into competitive pricing for our clients, while providing the highest standard of client service and legal acumen.

PilieroMazza is privileged to represent clients in the following areas:

- Audits & Investigations
- Business & Corporate
- Cybersecurity & Data Privacy
- False Claims Act
- Government Contracts
- Intellectual Property & Technology Rights
- Labor & Employment
- Litigation & Dispute Resolution
- Mergers & Acquisitions
- Native American Law & Tribal Advocacy
- Private Equity & Joint Ventures

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About BOOST

At BOOST, we exclusively serve GovCons – and we've seen it all: sequestration, fiscal cliff, elections and federal uncertainty.

We help clients navigate complicated compliance issues and win business. We perform the time-consuming, back office functions of running a business so our clients can focus their time and energy on the things they do best.

Specifically, we help clients in the following areas:

- **Accounting:** We can fully manage your accounting functions or provide expert-level support when you need a hand.
- **Branding and Marketing:** We develop and implement strategies for employer branding and digital outreach.
- **Contracts:** We know how to write, review and negotiate government-compliant contracts.
- **Recruiting and Sourcing:** We provide recruiting support for technical, corporate and highly cleared positions.
- **Human Resources:** We can lead the HR functions for your growing company. Or use BOOST to extend your current team. It's like phoning a friend when you need expert advice.
- **Strategic Pricing:** We help you evaluate and pursue each opportunity so you're positioned to win.



Visit us at www.BOOSTllc.net

The Office of Federal Contract Compliance Programs (OFCCP)

- A subdivision of the US Department of Labor
- The OFCCP is responsible for ensuring that employers doing business with the federal government comply with the laws and regulations requiring nondiscrimination

Mission Statement of the OFCCP

“At the Office of Federal Contract Compliance Programs (OFCCP), we protect workers, promote diversity and enforce the law, OFCCP holds those who do business with the federal government (contractors and subcontractors) responsible for complying with the legal requirement to take affirmative action and not discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. In addition, contractors and subcontractors are prohibited from discharging or otherwise discriminating against applicants or employees who inquire about, discuss or disclose their compensation or that of others, subject to certain limitations.”

The OFCCP Administers and Enforces Three EEO Laws

- EO 11246
 - Established requirements for non-discriminatory practices in hiring and employment on the part of U.S. government contractors
- Section 503 of the Rehabilitation Act of 1973
 - Requires affirmative action and prohibits employment discrimination by Federal government contractors and subcontractors with contracts of more than \$10,000
- Vietnam Era Veterans' Readjustment Assistance Act of 1974
 - Originally enacted to protect returning Veterans from the Vietnam war from discrimination, it now covers all Veterans

Jurisdictional Thresholds

JURISDICTIONAL THRESHOLDS

EXECUTIVE ORDER 11246	
SUPPLY & SERVICE Basic Coverage Any + Contracts more than \$10,000 number of employees	CONSTRUCTION Basic Coverage Any + Contracts more than \$10,000 number of employees
AAP Coverage 50 + A contract of \$50,000 or more or more employees	16 SPECIFICATIONS Any + Contracts more than \$10,000 number of employees

VEVRAA	
SUPPLY & SERVICE Basic Coverage Any + A contract of \$150,000 or more number of employees	CONSTRUCTION Basic Coverage Any + A contract of \$150,000 or more number of employees
AAP Coverage 50 + A contract of \$150,000 or more or more employees	AAP Coverage 50 + A contract of \$150,000 or more or more employees

SECTION 503	
	CONSTRUCTION Basic Coverage Any + A contract of more than \$15,000 number of employees
AAP Coverage 50 + A contract of \$50,000 or more or more employees	

Please note the coverage requirements for Section 503 and VEVRAA do not apply to federally assisted construction contractors. Additionally, both Section 503 and VEVRAA are subject to a federal statute that adjusts certain requisition-related dollar thresholds for inflation.

Please note that this page provides general information. It is not intended to substitute for the actual law and regulations regarding the program described herein.

If you have additional questions about jurisdiction thresholds, please contact us at 1-800-397-6251, TTY 1-877-889-5627.



OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
U.S. Department of Labor

January 2016

The OFCCP Administers and Enforces Three EEO laws

Collectively, these laws make it illegal for contractors and subcontractors doing business with the federal government to discriminate in employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran.

Who Is Required to Prepare an AAP?

Federal contractors and subcontractors with at least 50 employees

How to Survive Reporting Season

- Be proactive – perhaps set a calendar reminder for 30 days from the opening of the EEO and VETS reporting (somewhere around July 4th – the report portal typically opens on or about August 1)
 - Ensure username and password is valid and works
 - If this is your organization's first year of reporting, make sure you have plenty of time to register and get your username
 - This will give you some adjustment time if there are system issues, you have recently gone through an HRIS system conversion, etc.

How to Survive Reporting Season

- Be organized – know which payroll week you used the prior year
 - Try to stay consistent with the payroll weeks used for reporting (i.e. – try to use the same week in August or as close to it each reporting year)
 - Keep copies of past reports handy for reference

How to Survive Reporting Season

- Be deliberate about vacations / PTO during reporting season
 - Doesn't mean you can't go on PTO, but keep reporting in mind when planning for you or your team to be out during this time
 - Typically during this time there are multiple mandatory audits and reporting happening simultaneously (e.g. – Benefits Audits, 5500s, etc.)

Handling Employee Complaints

- First and foremost, set up a robust system of intake
- Include your policy and basic process in your employee handbook
- Assign this intake to a central location (typically – HR)
- Allow for confidential complaints to be made
- As part of the complaint process, publish the schedule to address concerns (this does not mean promise a deadline for outcome – just a deadline for acknowledging receipt and scheduling next steps)

OFCCP Audits

On Friday 9/11/20, the OFCCP published a new Corporate Scheduling Announcement List (CSAL) for FY 2020 for supply and service contractors and construction contractors. The CSALs provide contractors a minimum 45-day courtesy notification before OFCCP begins sending its OMB-approved scheduling letters

- After receiving the OMB-approved scheduling letter, contractors will have the standard 30 days to submit their Affirmative Action Programs (AAPs)

OFCCP Audits

- All contractors on the current lists are receiving a minimum of 75 days advance notice to have the AAPs ready for submission
- OFCCP will also grant a one-time 30-day extension for supporting data where AAPs are provided timely
 - Provisions can be found on OFCCP's FAQ page:
 - <https://www.dol.gov/agencies/ofccp/faqs/scheduling-letters>
 - The list of contractors can be found:
 - <https://www.dol.gov/agencies/ofccp/foia/library#Q1>

Best Practices

- Organization is key!
 - These audits ALWAYS come at the “worst time”
 - Have your documents in a central / known place, where multiple people have access to them
 - Keep AAPs for at least 3 years prior

Best Practices

- Always work under the assumption that you are going to get a charge or an audit letter
 - Know the regulations up front
 - Know what the auditor / agency representative will request
 - Keep very detailed files (and keep them centrally located)
 - Anticipate your responses, as well as their questions and their responses

Best Practices

- Desk vs Onsite Audits
 - If the desk audit derails, they will turn it into an on-site
- Having a robust Applicant Tracking System (ATS) is an invaluable investment that will all but ensure that your organization is prepared for an audit

Best Practices

- Careful AAP planning and preparation is imperative
- Investing a little bit of money up front for a very thorough AAP preparation service could very well save you a lot more in the long run
- Be familiar with your organization and its internal practices
- Have a working familiarity with the OFCCP, the laws and regulations they govern, and what they mean to your particular organization and operations

Best Practices

- Try to do an internal audit annually:
 - Create a “Compliance Checklist” of detailed items the OFCCP will be auditing
 - Look for holes in your record-keeping
 - Recordkeeping is the top violation found in OFCCP audits
 - If your recordkeeping isn’t in order, an onsite audit is more likely in your future.

Final Reminders

- Acknowledge, Investigate, Decide, Act
(The basics of any robust Investigative process)
- Take every complaint seriously – you have an obligation to do your due diligence and not pass off any complaint

Questions?



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