

SERVICES

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS

OFCCP Compliance Reviews

Currently, the OFCCP conducts five types of compliance reviews.

1. Establishment Compliance Reviews
2. Functional Affirmative Action Plan (FAAP) Compliance Reviews
3. Focused Reviews
4. Compliance Checks
5. Corporate Management Compliance Evaluations (CMCEs)

Companies have 30 days from when the mailroom signs for the OFCCP's certified letter to submit the requested information. Roffman Horvitz offers training on what to expect in each of these compliance reviews and how to prepare for them.

ESTABLISHMENT COMPLIANCE REVIEWS AND FUNCTIONAL AFFIRMATIVE ACTION PLAN COMPLIANCE REVIEWS

The initial submission of data, and especially its accuracy, is the organization's most important step in the audit. The OFCCP is going to evaluate the initial submission and either reach an impression that the organization is engaging in equal employment opportunity in its decision

making with respect to its hires, applicants, promotions, terminations and compensation, and that the organization is following through on its regulatory commitments, or not. No organization wants to be in the “or not” category, potentially jeopardizing the organization’s ability to do business with the government. It is penny wise and pound foolish not to devote sufficient resources up front to ensure that your submission is complete, accurate, and thorough.

The attorneys at Roffman Horvitz have been helping organizations respond to audit requests for decades. We are very familiar with how OFCCP evaluates contractor data and can help organizations navigate this entire review process.

We firmly believe that if the audit progresses to an onsite phase, the organization should have counsel present. Counsel should be involved in witness preparation and document review. Although counsel are not present in OFCCP’s interviews of non-managers, all employees selected to be interviewed should meet with counsel to understand the process and be comfortable meeting with OFCCP compliance officers.

Thus, the time to ensure that OFCCP does not find violations is not at the end of the audit; it is at the beginning of the audit.

FOCUSED REVIEWS

A focused review is a shortened form of a full compliance review. Instead of evaluating the organization’s compliance with all three of the laws and sets of regulations that OFCCP enforces, the OFCCP elects to evaluate compliance with only one of the three. As of June 2019, it has approval to schedule focused reviews of contractor compliance with Section 503 (Individuals with Disabilities). It is in the process of obtaining approval to schedule focused reviews of compliance with Executive Order 11246 (Women and Minorities) and VEVRAA (Protected Veterans). The OFCCP uses a scheduling methodology that randomly selects government contractors for the different types of reviews.

COMPLIANCE CHECKS

A compliance check is an abbreviated form of audit. The OFCCP requests only three items:

1. Affirmative Action Plan results for the preceding year
2. Examples of job advertisements, including listings with state employment services
3. Examples of accommodations made for persons with disabilities.

Because employers have three separate affirmative action plans -- one for Women and Minorities, one for Protected Veterans, and one for Individuals with Disabilities -- the employer will be submitting AAP results for the preceding year for each of these AAPs.

1. Under the AAP for Women and Minorities, in what job groups did the employer have placement goals last year? Did the employer have opportunities for hire or promotion during the year? Did it make progress?
2. Under the AAPs for Protected Veterans and Individuals with Disabilities, the employer is expected to assess the effectiveness of each outreach initiative it undertook over the course of the past year. It needs to submit these assessments in response to the compliance check request.

The employer has the option of submitting these materials to OFCCP as email attachments, or inviting the OFCCP to come on site and look at the materials.

CORPORATE MANAGEMENT COMPLIANCE EVALUATIONS (CMCES)

The purpose of a Corporate Management Compliance Evaluation is to determine whether individuals are encountering artificial barriers into middle and senior-level corporate management. During a CMCE, OFCCP pays special attention to components of a contractor's employment processes that affect the advancement or promotion into middle and senior-level management positions.

The audit begins with the same scheduling letter as if the audit were an establishment or Functional Affirmative Action Plan compliance review. Unlike an establishment or FAAP compliance review, where OFCCP has discretion to conclude the audit without an on-site, all CMCEs have an on-site visit. Contractors are well-advised to review all of Chapter Four in the OFCCP's Federal Contractor Compliance Manual for more information about the scope and process of a CMCE.