



What is the Office of Federal Contract Compliance Programs (OFCCP)?

Established in 1965, the Office of Federal Contract Compliance Programs (OFCCP) is a civil rights agency within the United States Department of Labor.

OFCCP maintains a headquarters in Washington, DC, and several regional offices across the country. The headquarters office sets and coordinates the agency's enforcement priorities, compliance evaluation scheduling process, compliance assistance activities, staff and contractor education, contractor outreach and engagement, worker and community outreach, and performance data collection and reporting. The agency's regional offices oversee, conduct, and coordinate compliance evaluations and complaint investigations, and local and regional stakeholder engagement.

Compliance evaluations and complaint investigations are used by OFCCP to determine whether companies doing business with the Federal Government, that is, federal contractors and subcontractors (generally referred to as federal contractors), are living up to their obligation to not discriminate when making employment decisions such as hiring, firing, promoting, transferring, laying off, and paying or compensating employees. Federal contractors are also obligated to provide equal employment opportunity to all jobseekers and employees, and compliance evaluations determine whether contractors are meeting this requirement.

OFCCP enforces laws specifically prohibiting federal contractors from discriminating in employment based on race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. The laws OFCCP enforces also require these employers to provide equal employment opportunity to all employees and job applicants.

In addition to these nondiscrimination and equal opportunity obligations, federal contractors are prohibited from discharging or otherwise discriminating by taking adverse actions against their employees and job applicants for discussing, disclosing, or inquiring about their pay or that of their co-workers. OFCCP refers to this prohibition as the "pay transparency" provision. The types of adverse actions that federal contractors are prohibited from taking include, for example, firing, demoting, suspending, or refusing to hire an employee or job applicant. There are two defenses to allegations of discrimination under OFCCP's pay transparency protection: a general defense that can be based on the enforcement of a "workplace rule" that does not prohibit the discussion of compensation information; and an essential job functions defense.

OFCCP requires federal contractors to comply with these legal obligations. To help obtain compliance, OFCCP provides various kinds of compliance assistance to federal contractors. This assistance includes explaining the technical requirements associated with being compliant with OFCCP's requirements. It may also include assistance with how to implement these technical requirements.

What does OFCCP do to carry out its mission?

OFCCP carries out its civil rights mission of protecting workers, promoting diversity, and enforcing the law in three important ways.

- Offering compliance assistance to federal contractors
- Conducting compliance evaluations
- Conducting complaint investigations

The compliance assistance OFCCP provides helps employers understand and comply with their legal obligations to provide employees and jobseekers with equal employment opportunity and not discriminate in their employment practices. OFCCP ***never*** schedules contractors for compliance evaluations because they sought compliance assistance.

Federal contractors have several ways that they can obtain help and compliance support from OFCCP.

- Using the 1-800 Help Desk to ask questions of OFCCP staff
- Attending webinars specifically created for federal contractors
- Using the online video training library
- Downloading factsheets and brochures
- Using OFCCP-prepared samples and templates
- Reviewing technical assistance guides
- Referring to the list of "Frequently Asked Questions" or FAQs
- Attending national and regional compliance assistance events

In addition to offering compliance assistance, as mentioned earlier, OFCCP monitors the employment practices of companies that are federal contractors by conducting compliance evaluations. During these evaluations, OFCCP compliance officers examine companies' employment practices and the affirmative actions that they have taken to provide equal opportunity.



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OFCCP selects employers for evaluation using a neutral selection process that relies on multiple information sources and analytical procedures. Individual contractors are never “targeted,” though OFCCP may focus its resources on particular industries or sectors, geographic regions, or types of employment practices. Compliance evaluations are typically scheduled and conducted at a single establishment (i.e., location or facility). However, OFCCP may also conduct evaluations of corporate headquarters, corporations, and even a business function or business unit. An evaluation of a business function or unit is based upon there being a previous agreement with the contractor, that is, a functional affirmative action program, or FAAP, agreement.

The agency also investigates complaints filed by jobseekers and employees of federal contractors. An individual can file a complaint, or an organization or group can file a complaint on behalf of someone who may be the victim of employment discrimination by a federal contractor. Complaints alleging discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin must be filed within 180 days from the date of the alleged violation, unless the time for filing is extended for good cause shown. Similarly, discrimination complaints based on compensation inquiries, discussions, or disclosures, must also be filed within 180 days from the date of the alleged violation, unless a good cause extension is granted. Complaints alleging a violation based on disability or status as a protected veteran must be filed within 300 days from the date of the alleged violation, unless the time for filing is extended for good cause shown.

Everyday examples

Here are some everyday examples of ways OFCCP helps contractors live up to their legal obligations, protects workers, and fulfills its civil rights mission.

- Creating relationships by connecting federal contractors with local outreach, recruitment, and job training resources. These resources should help covered federal contractors identify pools of diverse and qualified talent to fill available job openings.
- Reviewing the employment policies, practices, and procedures of federal contractors to determine whether they comply with the nondiscrimination and equal employment opportunity laws OFCCP enforces.
- Negotiating settlements with federal contractors when OFCCP finds violations of the laws it enforces. Settlement may include providing a remedy to the victims, when appropriate, and correcting the employment practices that created the violation.



- Monitoring whether federal contractors fulfill the terms of the settlement agreements that they entered into to resolve violations of the laws OFCCP enforces.
- Investigating complaints filed by individuals alleging employment discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. Employees and applicants for employment may also file complaints of discrimination if a contractor took adverse action against them for discussing, inquiring or disclosing compensation of an employee or applicant.
- Recommending, as appropriate, that the Solicitor of Labor initiate an administrative enforcement action against a federal contractor when access to requested data is denied or when a negotiated settlement that resolves a violation cannot be reached.

Which laws does OFCCP enforce as a federal civil rights agency?

OFCCP protects the employment rights of job applicants and employees of companies that are federal contractors. Federal contractors are covered by the three laws that OFCCP enforces if they hold a qualifying federal contract or subcontract that meets certain threshold requirements.

- **Executive Order (EO) 11246** prohibits discrimination and requires affirmative action for all applicants and employees to ensure equal employment opportunity without regard to race, color, sex, sexual orientation, gender identity, religion, and national origin. In addition, contractors 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. EO 11246 applies when a company has federal contracts or subcontracts exceeding \$10,000.





- **Section 503 of the Rehabilitation Act of 1973 (Section 503)** prohibits discrimination and requires affirmative action in all employment practices for qualified individuals with disabilities. A disability is defined as a physical or mental impairment that substantially limits one or more major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment. Section 503 applies when a company has a federal supply and service or direct (i.e., not federally-assisted) construction contract or subcontract exceeding \$15,000. It does not apply to federally-assisted construction contracts.
- **The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)** prohibits discrimination and requires affirmative action in all employment practices for protected veterans. Protected veterans are disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and Armed Forces service medal veterans. VEVRAA applies to a company with a federal supply and service or direct construction contract or subcontract of \$150,000 or more. It does not apply to federally-assisted construction contracts.

Employers that are federal contractors are covered by the basic nondiscrimination and equal employment opportunity requirements of these three laws regardless of how many employees they have. However, those federal contractors that meet certain dollar thresholds (i.e., a contract of \$50,000 or more for EO 11246 and Section 503; a contract of \$150,000 or more for VEVRAA) **and** have at least 50 employees must have a **written** affirmative action program (AAP). Federal contractors must prepare a separate written AAP for each law for which they have met the dollar and employee thresholds.

What are some of the other specific compliance responsibilities of federal contractors?

Covered federal contractors have several responsibilities. The specific obligations vary somewhat under the three laws; however, contractors should be aware of all of the requirements. Below is a list of several important compliance requirements.

- Creating a written AAP and updating it annually.
- Recordkeeping, including annually collecting, maintaining, and analyzing personnel activity data on the basis of race, sex, disability status, and veteran status. Personnel activity data includes, but is not limited to, hiring, assignments, rates of pay or other compensation, promotions, training, transfers, layoffs or terminations, recalls from layoffs, and demotions.
- Incorporating the required Equal Opportunity (EO) clause(s).
- Posting the Equal Employment Opportunity (EEO) poster and other required notices and supplements at their establishment and online if an online application system exists.
- Inserting the EEO tag line into job advertisements. When posting open positions, contractors must include an EEO tagline that states it is an Equal Opportunity Employer (or "EOE") and that minorities, women, veterans, individuals with disabilities, and others are encouraged to apply. Contractors can abbreviate references to the protected groups in several ways. For example, for a contractor complying with all three laws enforced by OFCCP, one acceptable tagline might be "EOE including disability/vet." Another is "EOE race/color/religion/sex/sexual orientation/gender identity/national origin/disability/vet." The intent is to provide as much notice as possible about the protected groups while allowing contractors some flexibility for constructing their taglines.
- Taking specific, documented actions to attain the aspirational 7 percent utilization goal by job group or workforce, depending on the contractor's size, for qualified individuals with disabilities.
- Inviting applicants and employees to voluntarily self-identify as qualified individuals with disabilities or protected veterans.
- Conducting periodic reviews of all physical and mental job qualifications to ensure that qualified individuals with disabilities are not eliminated from consideration on the basis of disability, maintaining documentation on the results of the reviews as well as any corrective actions taken, and removing job qualifications that are not job related and consistent with business necessity.



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An AAP is a management plan for ensuring that covered federal contractors are providing applicants and employees with equal employment opportunity.

- Providing reasonable accommodation to qualified individuals with disabilities and disabled veterans, upon request, unless the accommodation would cause an undue hardship.
- Listing all employment openings with the appropriate state or local employment service delivery system (ESDS). Examples of an ESDS are state and local employment and career agencies, state job banks, and local One-Stop Career Centers. Generally, contractors must send their job listings to the ESDS where the job openings occur. However, this VEVRAA requirement gives contractors other listing options when jobs are 100 percent telework or remote.
- Establishing an annual hiring benchmark or adopting the national benchmark for hiring protected veterans, and comparing the number of protected veterans who apply for jobs and the number of protected veterans hired. The benchmark is used as a measure of progress; no penalty is assessed for not reaching the benchmark.
- Providing OFCCP access to records during a compliance evaluation or a complaint investigation.

What is an affirmative action program or AAP?

Depending on the number of employees at each location, facility, or establishment and the dollar amount of the contract, some federal contractors are required to develop a written AAP. If a contractor is required to have an AAP, it must develop it within 120 days from the start of the contract and must update it annually. Having and implementing the required AAP is the foundation upon which employers base their compliance.

An AAP is a management plan for ensuring that covered federal contractors are providing applicants and employees with equal employment opportunity. An AAP documents the organizational structure, demographic composition of the workforce, and policies, practices and procedures that the company will use to make sure that qualified applicants and employees are receiving an equal opportunity to apply and compete for jobs, promotions, training and other employment opportunities.

Contractors with 50 or more employees that meet the respective thresholds set for the dollar amount of the contract are required to develop written AAPs. The dollar thresholds are \$50,000 or more under EO 11246 and Section 503, and \$150,000 or more under VEVRAA. Multi-establishment companies must have an individual AAP for each location, facility, or establishment that has 50 or more employees.



OFCCP provides free compliance assistance to employers that request help understanding their AAP requirements and developing an AAP. Once the AAP is developed, the contractor must keep and use the AAP and make it available to OFCCP during a compliance review. For contractors that are covered by Section 503 and VEVRAA, their AAPs must also be available to applicants and employees to review, upon request.

How can a federal contractor determine whether it must prepare and maintain an AAP?

OFCCP laws include thresholds for determining which contractors must have AAPs. Each law and the applicable AAP threshold are explained below.

- **Executive Order (EO) 11246:** Supply and service contractors that have 50 or more employees and a contract of \$50,000 or more are required to develop and maintain a written EO 11246 affirmative action program. Construction contractors are not required to have an AAP but rather have their own specific affirmative action requirements.
- **Section 503 of the Rehabilitation Act of 1973 (Section 503):** Covered contractors that have 50 or more employees and a contract of \$50,000 or more are required to develop and maintain a written Section 503 affirmative action program. This requirement applies to both supply and service and direct (i.e., not federally-assisted) construction contractors.
- **The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA):** Covered contractors that have 50 or more employees and a contract of \$150,000 or more are required to develop and maintain a written VEVRAA affirmative action program. This requirement applies to both supply and service and direct (i.e., not federally-assisted) construction contractors.





Can employees and jobseekers file a complaint with OFCCP against a contractor?

OFCCP investigates complaints filed by individuals alleging employment discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. Employees and applicants for employment may also file complaints of discrimination if a contractor took adverse action against them for discussing, inquiring or disclosing compensation of an employee or applicant.

An individual, organization, or group can even file a complaint on behalf of others who may be the victims of employment discrimination by an employer doing business with the Federal Government. The victim, or the person or entity filing the complaint on behalf of the victim, does not need to know whether the employer is a federal contractor. OFCCP will make the determination when it reviews the complaint.

As mentioned before, a jobseeker or employee must file a complaint alleging discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, or based on compensation inquiries, discussions, or disclosures, within 180 days from the date of the alleged discrimination, unless the time for filing is extended for good cause shown. If the complaint alleges a violation based on disability or status as a protected veteran, it must be filed within 300 days from the date of the alleged violation unless the time for filing is extended for good cause shown. Some examples of what might be good cause include the existence of some extraordinary circumstance that prohibited filing before the deadline, such as a significant health issue, military deployment, incarceration, or possibly being unaware of the discrimination.

Complaint forms are on OFCCP's website and are available at all OFCCP offices. The online complaint form is available at www.dol.gov/ofccp. An individual or organization filing a complaint should submit the completed form online, in person, or by mailing it to the nearest OFCCP regional office. The regional office listing is available online on the OFCCP website.

Where are OFCCP's regulations located?

The regulatory requirements that OFCCP enforces are in the Code of Federal Regulations (CFR), specifically in 41 CFR Chapter 60.

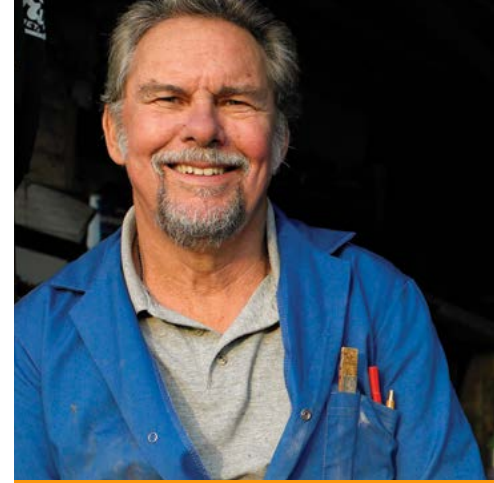
- EO 11246 regulations are in 41 CFR parts 60-1 through 60-50. Construction contractors will want to pay particular attention to 41 CFR part 60-4, which explains their specific affirmative action requirements; construction contractors are not required to have an AAP under the EO.
- VEVRAA regulations on protected veterans' equal employment opportunity and nondiscrimination are in 41 CFR part 60-300.
- Section 503 regulations on disability equal employment opportunity and nondiscrimination are in 41 CFR part 60-741.

How can a contractor obtain help or compliance assistance?

OFCCP never schedules contractors for compliance evaluations because they sought compliance assistance. Therefore, there is no reason to avoid contacting OFCCP for help. To obtain help, contact the OFCCP regional office nearest you for answers to any questions you have related to employment discrimination and equal employment opportunity. The regional office listing is available online.

You may also visit OFCCP's website at www.dol.gov/ofccp or call OFCCP's toll-free Help Desk at 1-800-397-6251 for information or assistance.

Please note that this brochure provides general information and it is not intended to substitute for the actual laws and regulations governing OFCCP and its compliance program. Please contact OFCCP's headquarters or an OFCCP regional office to obtain advice and assistance that is specific to your facts and situation.



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