

Getting Ready for an On-site OFCCP Audit

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As a human resources consultant specializing in developing Affirmative Action Plans, it is interesting that government contractors are still asking the question: "Are Affirmative Action Plans still required?" The answer is "Yes," if you are a government contractor or subcontractor with more than 50 employees and have \$50,000 in contracts. The Plan must also be updated annually.

Affirmative Action is a way of mirroring the demographics of the specific geographic region(s) in which an employer draws its recruits, so that the employer's workforce reflects the immediate community. Affirmative Action does not require an employer to hire unqualified workers to fill a "quota."

Companies are selected for compliance audits for a number of reasons.

Some reasons are predetermined, such as bidding for a government contract. Other times, it is simply the luck of the draw, or certain industries are targeted.

The U.S. Department of Labor and Office of Federal Contract Compliance Program is auditing companies as usual. The Los Angeles OFCCP District handles eight counties and they are: Los Angeles, Santa Barbara, Riverside, San Bernardino, Kern, San Luis Obispo, Tulare, and Ventura. Their staff handles hundreds of audits each year. Each compliance officer handles a usual caseload of five to six companies at a time.

More recently, OFCCP compliance officers are concentrating their efforts on disparate pay between men and women and minority and non-minorities. One client during the on-site audit discovered that White maintenance mechanics were making \$18.00 per hour; the African American maintenance mechanic was making only \$11.00 per hour. It turned out that the two White men had over 10 years of related experience, and the African American man only had 2 years of related experience. However, all three employees had identical job titles—maintenance mechanics. To accommodate the compliance officer's request, two distinctly different job descriptions were developed—one for Senior Main-

When a company is notified for an OFCCP audit, the process is as follows:

- Verify that a company is a government contractor
- Certified letter is sent from OFCCP and the company must submit an AAP to the Department of Labor within 30 days from the receipt of the letter
- On-Site Audit
 - Meet with the President/CEO
 - Plant tour
 - Review employee folders
 - I-9 Audit
 - Review of employees on adverse impact analysis
 - Interview employees and management
 - Additional review as necessary
 - Exit Interview
- Off-site analysis
- Method of closure

Penalties for non-compliance are:

- Publish names of contractors or unions that have failed to comply
- Justice Department can bring appropriate proceedings to enforce the provisions of the order
- EEOC can be informed of violations and institute proceedings under the Civil Rights Act
- The Justice Department can prosecute for providing false information
- Government contracts can be canceled, terminated or suspended, and any future contracts with the contractor conditioned demonstrating full compliance.

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tenance Mechanic and one for Junior Maintenance Mechanic with different job requirements and the number of years of experience needed.

Being prepared is the key to a smooth OFCCP Audit. When you complete your AAP and discover that there are pay disparities between men and women and minorities and non-minorities, be proactive and correct any pay disparities that you may discover (if possible). This way there will not be any back pay issues.

***Recommendations
Regarding the Audit:***

- Build a good rapport from the start with the compliance officer
- Be cordial and cooperative at all times
- Maintain accurate records

If you should receive a call from the Department of Labor, hopefully some of the points in this article will assist you in preparing for the on-site audit.

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