



MEET THE OFCCP COMPLIANCE TEAM

Nancy Van der Veer Holt, Partner
Washington, D.C. Office

Consuela A. Pinto, Partner
Washington, D.C. Office

Jill M. Harrison, Partner
Atlanta, Georgia Office

Erica Johnson, Associate
Memphis, Tennessee Office

Danielle E. Pierre, Counsel
Washington, D.C. Office

Debbie Hooper
Senior AAP Analyst/Paralegal

Lynn Dodson
AAP Analyst/Paralegal



PRACTICE GROUP CONTACTS:

Nancy Holt
Direct: (202) 719-2010
nholt@fordharrison.com

Consuela Pinto
Direct: (202) 719-2055
cpinto@fordharrison.com

With a new scheduling letter on the horizon and firm 30 day deadline to respond, the key to a successful compliance review is pre-planning. Below are actions contractors can take immediately to be audit ready.

- (1) Meaningfully tailor the generic narratives provided by AAP vendors to tell the contractor's compliance story.
- (2) Develop a protocol for retaining records of action oriented programs undertaken during the AAP year.
- (3) Determine scope of a 2.17(b) assessment to address any "problem areas." Contractors have great latitude to determine the type and scope of their "in-depth assessment" of recruiting, hiring, promotion, termination and compensation practices.

(a) **Recruiting Assessment:**

Establish a process to evaluate the effectiveness of outreach and recruiting efforts under EO 11246, Section 503, and VEVRAA. For example, consider tracking the (1) number of individuals who attended each recruiting event or applied in response to a particular outreach effort; (2) number of minimally qualified applicants from each referral sources; and/or (3) level of public engagement with the recruiting page on the company's website. Document any changes to the outreach and recruiting strategies and add it to your narratives.

Develop a protocol for retaining records of action oriented programs undertaken during the AAP year.

(b) **Assessment of Personnel Activities:**

With assistant of counsel, conduct a privileged review of statistical disparities in hiring, promotion and termination activity. Document non-discriminatory reasons for any disparities. Discuss with counsel any areas of concern in advance of a compliance review.

(c) **Compensation Assessment:**

Prepare documentation of a compensation assessment. The assessment may be statistical and/or anecdotal. A statistical approach does not have to be a regression. The assessment can be as simple as cohort analysis or a wage gap calculation. Investigate any irregularities. An



anecdotal assessment may include a review of applicable policies and trainings to ensure they align with current practices. Revision is necessary. Gather relevant policies and training materials for submission to OFCCP.

- (4) Develop a standard communication to be sent to staffing agencies requesting relevant compensation data and establishing timelines for receiving the requested information.
- (5) Gather relevant employment policies related to internal compliant procedures, recruiting, screening and hiring and promotion processes.
- (6) Be prepared to identify “artificial intelligence, algorithms, automated systems, or other technology-based selection procedures.” Frequently assess outputs for adverse impact. Consult outside experts and counsel on whether validation is necessary.

Contactors should consider partnering with legal counsel well in advance of a compliance review to conduct a privileged mock audit. The new scheduling letter is a game changer. Advance preparation and self-assessment are the key to a successful end to an OFCCP audit.

FORDHARRISON RESOURCES

Clients have access to a wide array of firm resources including legal alerts, newsletters, webinars and white papers. These resources cover recent court decisions, pending legislation, and regulatory updates.

SourceBook
→ BOUNDLESS

Additionally, we will provide members of your legal department with complementary online access to FordHarrison’s [Boundless SourceBook](#). This resource is exclusively available to FordHarrison clients and contains over 1000 pages and more than 28 sections on the full range of topics that comprise the labor and employment laws in which FordHarrison practices. The [Boundless SourceBook](#) is updated on an on-going basis to incorporate current legal developments that impact the various issues addressed and will help ensure that our clients are never caught off guard by developments in the labor and employment area.