

PUBLICATION

Is Your Construction Company Complying with OFCCP Regulations? An Updated Technical Assistance Guide Has Been Issued

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The Office of Federal Contract Compliance Program's (OFCCP) mission is to ensure that construction companies conducting business with the federal government are complying with applicable equal employment laws and Executive Orders. The main ones are Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA). These laws mandate that contractors entering into contracts with the federal government may not discriminate with respect to terms and conditions of employment. Covered construction contractors must ensure compliance with all applicable OFCCP regulations and not just with the wage determinations under the Davis-Bacon Act. Not all construction contracts fall within the jurisdiction of the OFCCP. The thresholds for construction, however, are fairly low; they vary from \$10,000 to \$150,000. A contractor doing business with the federal government may not realize that once it performs a contract that triggers the non-discrimination requirements, the commitment extends to all of the contractor's operations.

The OFCCP recently released an updated [Technical Assistance Guide](#) (Guide) for construction contractors and subcontractors to help them "review the practices they have in place to eliminate discrimination and achieve their equal employment opportunity goals." In other words, the Guide is to help the contractor conduct a self-audit. According to Craig Leen, Director of the OFCCP, "the [Guide] provides comprehensive and clear guidance that will help ensure equal employment opportunity and non-discrimination in the construction sector."

The Guide specifically discusses required recordkeeping, and details the type of personnel and other records a federal contractor should retain to demonstrate compliance with OFCCP obligations. The Guide also provides an overview of the 16 affirmative action steps, participation goals for women and minorities, how to prepare for an OFCCP compliance audit, and it provides samples of written affirmative action plans to ensure Section 503 and VEVRAA compliance.

Although under the current administration the OFCCP has been compliance focused, no doubt exists that if a covered contractor willfully ignores its regulatory obligations, the OFCCP will act. We have experienced an uptick in the number of audits conducted by the OFCCP, so we encourage you to take the time to conduct a self-audit and then take any necessary steps to ensure that your business is in compliance.

If you have any questions about the Guide, or how to make sure your company complies with the regulations, please contact [Donna Glover](#), [Reba Letsa](#), or any of the members of Baker Donelson's [Construction Group](#).