

HUSCH BLACKWELL

OFCCP Compliance

Emphasizing a proactive and strategic approach to program compliance and audit defense, our employment attorneys represent federal contractors and subcontractors in a range of industries across the country. Our Office of Federal Contract Compliance Programs (OFCCP) practice is both highly specialized and practical. We begin by examining the threshold question of whether our clients are accurately classified as federal contractors or subcontractors subject to the affirmative action requirements of Executive Order (EO) 11246 and related laws. We have successfully argued against contractor status in numerous circumstances. If contractor status exists, we structure and develop a contractor's initial affirmative action plan (AAP) and we update, monitor, and audit AAPs to assure their full compliance. We also defend our clients with OFCCP audits, and offer training and related services for clients subject to the jurisdiction of the OFCCP.

AAP Preparation and Analysis

We prepare annual affirmative action plans for numerous companies in various industries. Where our clients have multiple locations and/or entities, we apply our significant experience in plan architecture to analyze the business organization and design the AAP accordingly. As a testament to our work product and the positive relationships we have developed, the vast majority of our clients return each year for us to renew and update their affirmative action plans. Our plan format has survived the scrutiny of OFCCP on numerous occasions.

Our OFCCP practice includes identifying, refining and resolving potential problem areas at the time AAPs are developed, drafted, or updated. We encourage clients to review applicant/hire data at least semi-annually to help assess and gauge full compliance at the end of the plan year and to allow adequate time for corrective strategies where needed. Specifically, we draw attention to, and provide legal strategies to resolve, initial areas of potential adverse impact in applicant/hire data, and the race and gender salary comparison studies now emphasized by OFCCP. Attorney involvement in plan design, annual AAP preparation, and mid-year checks help to identify and resolve issues in a confidential manner, likely protecting some or all such information from disclosure under the attorney-client and/or work product privileges.

OFCCP Audit Defense

We represent and defend our clients in OFCCP desk and onsite audits throughout the year. We proactively help clients understand and highlight what their AAP and supporting data reveals, and we work diligently to avoid any suggestion of statistically significant adverse impact. On occasion we are not retained until mid-way through a client's OFCCP audit, after the government has presented allegations of class-based discrimination and is seeking back pay. We have significant experience in negotiating Conciliation Agreements with OFCCP.

Training Services

We conduct human resource and management training specific to EO 11246 and related laws. On numerous occasions we have trained human resource or compliance representatives in advance of OFCCP onsite audits. We have also trained our clients on the mechanics of careful applicant/hire recordkeeping and effectively capturing all the information needed to prepare an annual AAP or prepare for an OFCCP audit.

Related Services

We can prepare and file the annual EEO-1 and Vets-100/Vets-100A forms for covered employers. We can also assist in proper categorization of employees for these forms, and can help resolve related issues.