

## Services

Labor & Employment  
OFCCP Compliance

## *HR Compliance Law Bulletin: Husch Blackwell's Molly Kurt Discusses the OFCCP's More Aggressive Auditing Procedures Under New Active Case Enforcement Policy*

Thomson Reuters Westlaw's *HR Compliance Law Bulletin's* article titled "OFCCP's New, More Aggressive Stance," quotes Husch Blackwell's Molly Kurt on new procedures the Office of Federal Contract Compliance Programs (OFCCP) is enacting for compliance evaluations. The agency is transitioning to more aggressive and fact-intensive audits, and "employers will see more frequent onsite visits, even in the absence of statistical evidence of discrimination," Kurt says. Effective January 1, 2011, the OFCCP initiated a new Active Case Enforcement (ACE) policy to replace its Active Case Management (ACM) policy. The new policy broadens the definition of what factors indicate discrimination and takes into consideration both statistical and anecdotal evidence. In addition, the OFCCP will now automatically review a contractor's history for the past three years to look for any possible noncompliance patterns. This includes looking at whether there are other complaints or cases against the employer with other federal or state employment law agencies, Kurt said. Under the new ACE, all compliance evaluations will begin with a full desk audit, including an evaluation of the organization's selection decisions, and a full Compliance Review will be automatically conducted during every 25th audit. To prepare for these new procedures, Kurt advises employers to stay current with annual Affirmative Action Plan updates, ensure understanding of the company's applicant hire analysis results, engage in outreach to veterans and the disabled and document efforts, post job openings with the state job service, and be prepared for an audit at all times. Kurt's best advice: Be proactive.