

GAO Report Finds Weaknesses in OFCCP Compliance Evaluations

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On September 22, 2016, the U.S. Government Accountability Office (GAO) released a report evaluating the U.S. Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP). The report, entitled "Equal Employment Opportunity: Strengthening Oversight Could Improve Federal Contractor Nondiscrimination Compliance," largely covers the weaknesses in OFCCP's compliance evaluations, which, according to the report, have an impact on the effectiveness of its enforcement efforts.

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The highlights of the 56-page report note that the GAO assessed how OFCCP conducts its supply and service compliance evaluations in terms of OFCCP's methodology, resources, and results. It also evaluated OFCCP's "outreach, assistance, and guidance efforts" for contractors. The GAO concludes with six recommendations for OFCCP to ensure federal contractors' compliance with equal employment opportunity requirements.

According to the report, since 2010, "OFCCP has not found violations in the vast majority of its compliance evaluations." OFCCP's process of selecting contractors for evaluation, the GAO noted, "cannot ensure that contractors with the highest risk of not following equal employment opportunity and affirmative action requirements will be selected." The report also found that because OFCCP relies on voluntary compliance by federal contractors, it cannot ensure compliance. According to the report:

when it selects contractors for evaluations, OFCCP does not use a generalizable sample that would allow for conclusions about the federal contractor population. Therefore, it does not have reasonable assurance that it is focusing its compliance efforts on those contractors with the greatest risk of noncompliance.

The report points to a decrease in the last four years in the outreach events and general compliance assistance that OFCCP offers. Finally, while OFCCP makes guidance materials available to contractors, the report found that OFCCP does not offer contractor guides, “which assist contractors in understanding OFCCP compliance processes and policies,” on its website.

The GAO makes six recommendations to ensure that federal contractors are complying with equal employment opportunity laws:

“Make changes to the contractor scheduling list development process so that compliance efforts focus on those contractors with the greatest risk of not following equal employment opportunity and affirmative action requirements.

Develop a mechanism to monitor [Affirmative Action Programs] AAPs from covered federal contractors on a regular basis. Such a mechanism could include electronically collecting AAPs and contractor certification of annual updates.

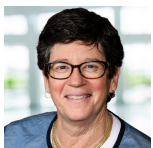
Make changes to the current scheduling list distribution process so that it addresses changes in human capital and does not rely exclusively on geographic location.

Provide timely and uniform training to new staff, as well as provide continuing training opportunities to assist compliance officers in maintaining a level of competence to help ensure quality and consistency of evaluations across regions and district offices.

Review outreach and compliance assistance efforts and identify options for improving information provided to federal contractors and workers to enhance their understanding of nondiscrimination and affirmative action requirements to ensure equal employment opportunities for protected workers.

Assess existing contractor guidance for clarity to ensure that contractors have information that helps them better understand their responsibilities regarding nondiscrimination and affirmative action requirements to ensure equal employment opportunities for protected workers.”

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