



Affirmative Action Plan Compliance: Federal Contractors Must Prepare for OFCCP's 2023 Certification Deadline

Insights

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For the second year in a row, federal contractor and subcontractors will have to certify that their affirmative action plans are compliant with federal requirements. This week, the Office of Federal Contract Compliance Programs (OFCCP) announced that it will open the certification portal on March 31, and supply and service contractors and subcontractors will have until June 29 to submit their required certification. What do you need to know about your compliance obligations for 2023?

What is Required?

In 2022, OFCCP announced its first-ever certification deadline, which required federal contractors and subcontractors to certify that they have a compliant affirmative action plan for each of their physical locations, which are called establishments. Starting this year, supply and service contractors and subcontractors will also need to provide the start date of the affirmative action plan they are certifying.

Meeting the deadline is important, as OFCCP has also stated that existing contractors that do not certify by June 29 are more likely to be scheduled for an audit by the agency. In fact, the scheduling methodology OFCCP released related to the 2022 audit cycle expressly included those contractors that did not complete their certification process last year.

Notably, the OFCCP considers the following companies to not be certified: (1) those that did not certify compliance via the contractor portal AND (2) those certifying that they have not developed or maintained an affirmative action plan.

As always, new contractors have 120 days (from the date they become eligible federal contractors subject to the affirmative action regulations) to develop and implement their affirmative action programs. According to OFCCP, new contractors will need to certify through the contractor portal within 90 days of developing their AAPs — and the contractor portal will remain open to accommodate those new contractors.

How Can You Prepare?

Federal supply and service contractors should review your affirmative action programs and ensure you have a solid plan to certify compliance before June 29. OFCCP has not yet released an updated

you have a solid plan to certify compliance before June 27, OFCCP has not yet released an updated user guide or revisions to the FAQs and relevant documents from last year's certification process. So, you should stay tuned for updated information from the agency prior to the portal opening.

We will monitor these developments and provide updates when warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) get the most up-to-date information. If you need assistance preparing your affirmative action plan or if you are audited by the OFCCP, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on our [Affirmative Action and Federal Contract Compliance Practice Group](#).

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