



Are You on the List? Construction Contractors Should Review OFCCP's Latest Audit Scheduling List and Follow This 7-Step Plan If Selected

Insights

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Construction contractors should take immediate action to find out if any of their establishments have been selected for an upcoming audit by the Office of Federal Contract Compliance Programs (OFCCP). Earlier this week, the agency released its 2023 Corporate Scheduling Announcement List (CSAL) specifically for construction contractors. The CSAL Construction Scheduling List serves as a courtesy notification to 250 federal and federally assisted construction contractors and subcontractors that they have been selected for an audit. This Insight explains how to find out if you've been selected, summarizes the scheduling methodology in more detail so you can learn why you were chosen, and provides a seven-step plan for responding.

How Can We Find Out If We've Been Selected for Audit?

You should immediately review the 2023 Corporate Scheduling Announcement List (CSAL) [by clicking on this link](#) and choosing "[FY 2023 CSAL Construction Scheduling List](#)." Doing so will generate an Excel document as a downloadable file, which contains the actual list.

What Should Contractors on the FY2023 List Do?

Contractors who are on the 2023 CSAL list should consider following this seven-point plan:

1. The OFCCP has produced a set of [Frequently Asked Questions](#) and other information to assist affected contractors. Your first step is reviewing this information to make sure you understand the process.
2. Ensure that your affirmative action programs and other regulatorily required documents and postings are prepared for a compliance review.
3. Notify your EEO coordinators, as well as your top U.S. ranking officials, to be on the lookout for a [Scheduling Letter and Itemized Listing](#) from OFCCP. The letters may arrive via U.S. mail or via email.
4. If you have more than one establishment selected for audit, you should anticipate that your audits may occur simultaneously and will likely be handled by the same regional office, regardless of the geographic location of the establishments selected for audit. Prepare accordingly.

5. Understand that receiving the Scheduling Letter begins the timeline for the compliance reviews. Once the Scheduling Letter is received, you will have the standard 30 days to submit the items listed in the Scheduling Letter. This includes your affirmative action plans as well as items that may be requested in an Itemized Listing, including documentation of your outreach efforts, compensation information, and more.
6. Be mindful that the OFCCP is no longer delaying scheduling contractors for 45 days after it issues the CSAL as it had previously done in the past. Thus, if you are on the CSAL list, you should expect that you may receive Scheduling Letters at any point.
7. Finally, and most importantly, you should consult with your legal counsel to prepare your audit responses.

What Was the OFCCP's Methodology for Selecting Construction Contractors?

The OFCCP has published its full [methodology](#) online, explaining that it applied the following criteria in selecting establishments for the Construction Scheduling List:

- The OFCCP accessed the USAspending database and downloaded a list of federal construction contracts valued over \$10,000. The agency also received information from the U.S. Department of Transportation for federally assisted construction contracts valued over \$10,000.
- The OFCCP retained contract records with estimated start dates prior to May 15, 2022, and estimated end dates after May 15, 2025.
- The agency then cross-referenced its compliance management system and removed those contractors that were:
 1. currently under review;
 2. currently in a monitoring period pursuant to a conciliation agreement; or
 3. currently within the exemption period following a closed review.
- The OFCCP said it further refined the list by selecting contractors with the highest aggregated contract value for all contract work performed in their assigned OFCCP district office's jurisdiction — and the total number of contractors selected by region and district office was based on available staff measured in full-time equivalents. The agency noted that regions can transfer cases across their district offices or to other regions to balance their workload when appropriate.
- The OFCCP also explained that it does not purge unscheduled cases from prior lists before releasing a new scheduling list, and the district offices will exhaust prior lists before selecting contractors from a newly released scheduling list.

Conclusion

Fisher Phillips will continue to monitor any further developments in this area as they occur, so you should ensure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information. If you have any questions about how this development impacts your organization, please consult your Fisher Phillips attorney, the authors of this Insight, or a member of Fisher Phillips' [Affirmative Action and Federal Contract Compliance Practice Group](#).

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