

FEDERAL CONTRACTORS SHOULD REVIEW OFCCP'S LATEST AUDIT SCHEDULING LIST AND EXECUTE THIS 7-STEP PLAN IF YOU'VE BEEN SELECTED

Insights
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The Office of Federal Contract Compliance Programs (OFCCP) just released its 2024 Corporate Scheduling Announcement List (CSAL), which identified 500 establishments of supply and service contractors that have been selected for an upcoming audit. Federal contractors and subcontractors should immediately examine the list, which was just released last Friday, to determine if one or more of your establishments have been identified for such 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 [2024 Corporate Scheduling Announcement List \(CSAL\) by clicking on this link](#) and choosing "FY 2024 CSAL Supply & Service Scheduling List." Doing so will generate an Excel document as a downloadable file, which contains the actual list.

What Should Contractors on the FY2024 List Do?

Contractors who are on the 2024 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.

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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. Similarly, if the selected location is on a campus or in a “campus-like” setting, OFCCP will likely audit all establishments on that campus.
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 Contractors?

Contractors often ask themselves, “why us?” For this CSAL list, [OFCCP published the following scheduling methodology](#) online, explaining that it applied the following criteria in selecting establishments for the CSAL:

- OFCCP accessed the USAspending database and downloaded a list of federal contracts valued at \$50,000 or more. OFCCP removed contracts awarded to federal, state, local, municipal, tribal, city, and foreign

governments, school districts, universities and colleges, and construction companies from the list.

- OFCCP then matched company names and addresses against the 2021 EEO-1 filings to identify establishments with 500 employees in all U.S.-based establishments, with at least 150 employees in the selected establishment, to be included in the pool of federal contractors and prime subcontractors to be considered for audit selection. Notably, financial institutions, which are often the source of much discussion regarding OFCCP's jurisdictional reach, were selected by downloading listings of FDIC-insured banks from the FDIC's publicly available database.
- The OFCCP also cross-referenced all eligible establishments and functional units with the agency's compliance management system to remove those that were currently: under review; in a monitoring period pursuant to a conciliation agreement; within the exemption period following a closed review; or pending scheduling for review from a prior scheduling list. It also removed those that have an active separate facilities waiver.
- To finalize reviews, the OFCCP selected the establishments with the highest employee counts in each district office. The OFCCP did not include more than two establishments of any parent company reviews per region. OFCCP selected four Functional Affirmative Action Plans (FAAP), prioritizing those with the highest employee count in each district office's jurisdiction. Two financial institutions per OFCCP region were selected for review and one college/university per OFCCP region were also selected.
- District office codes and regions were assigned to each establishment and functional unit based on the postal address. Compliance evaluations were distributed across regions and their district offices based on available staff, measured in full-time equivalents. Where a parent company had two or more establishments on the scheduling list, the OFCCP reassigned those compliance reviews to the same region so that both the agency and the contractor can engage in those reviews in a coordinated manner.

What Else Do You Need to Know?

Notably, the CSAL list also identifies the several types of audits that federal contractors and subcontractors will be subject upon receipt of their official audit notice:

- Full Compliance Review (Establishment Review);
- Corporate Management Compliance Evaluation (CMCE);
or
- Functional Affirmative Action Program (FAAP) Review.

You can learn more about each type of review on OFCCP's website or by speaking with your Fisher Phillips attorney.

Notably, contractors on prior CSAL lists should not breathe a sigh of relief, OFCCP does not purge unscheduled cases from prior lists, so those contractors can, and likely will, be scheduled for an audit.

Importantly, **federal contractors not identified on the CSAL list may be selected for an audit in certain circumstances.** This could happen through a complaint, contract award notice, or as a result of a conciliation agreement or consent decree progress report monitoring.

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](#).