

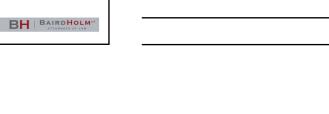
Down with OFCCP (Yeah You Know Me): Federal Contractor/Affirmative Action Update

Kelli P. Lieurance

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OFCCP Contractor Portal		
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What is the Portal?



 A secure web-based interface created to improve communication and the transfer of Affirmative Action Program data, between Federal Contractors and the OFCCP.

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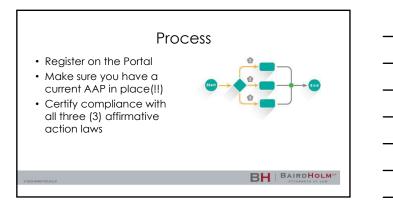
Two Purposes

- Annual certification by contractors regarding whether they have developed and maintained AAP for each establishment.
- Secure submission of AAPS (and other requested information) to the OFCCP during compliance evaluations (aka, "audits").

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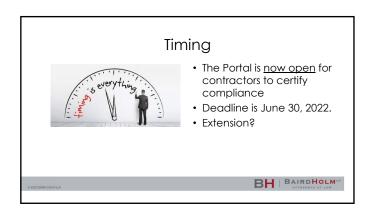
Who Must Certify?

- Supply and services federal contractors and subcontractors with
 - 50 or more employees; and
 - A federal contractor/subcontract in excess of \$50,000
- Construction contractors are currently excluded



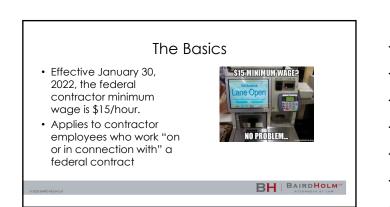


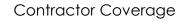
- [The contractor] has developed and maintained affirmative action programs at each establishment, as applicable, and/or for each functional or business unit. See 41 CFR Chapter 60.
 [The contractor] has been party to a qualifying federal contract or subcontract for 120 days or more and has not developed and maintained affirmative action programs at each establishment, as applicable. See 41 CFR Chapter 60.
 [The contractor] became a covered federal contractor or subcontractor within the past 120 days and therefore has not yet developed applicable affirmative action programs. See 41 CFR Chapter 60.











- Procurement contracts for construction covered by the Davis-Bacon Act ("DBA");
- Service contracts covered by the Service Contract Act ("SCA");
 Concessions contracts, including any concessions contracts excluded from the SCA by the Department's regulations at 29 C.F.R. 4.133(b); and
- 4. Contracts in connection with federal property or lands and related to offering services for federal employees, their dependents, or the general public.





Directive on Pay Equity Audits

- Requirement: Contractors must conduct annual compensation review and correct problem areas
- Directive: OFCCP will review pay for similarly situated employees; and also broadly across workforce to identify "patterns of segregation"
- · Analyses not protected by "attorney-client privilege"

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New Proposed Rule

- Rescind prior "rigid" evidentiary standards
- Clarify the use of the Predetermination Notice and the Notice of Violation as part of OFCCP's pre-enforcement notice and conciliation procedures.
- Return the Predetermination Notice response period to the 15-calendar day period.
- Retain the regulatory language regarding early resolution.
 Give the agency the right to add violations between each stage of bringing a claim.

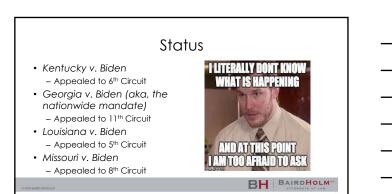
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New Enforcement Directive

- Rescinds Trump OFCCP's "four pillars:"
 - Certainty
 - Efficiency
 - Recognition
 - Transparency









Odds and Ends

- New Census Data
- Veteran Hiring Benchmark now 5.5%
- Non-binary data collection
- EEO-1 pay data collection

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Questions?

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