

LABOR AND EMPLOYMENT

ALERT

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Is Your Business One of the 3,500 Scheduled by the Department of Labor for an Affirmative Action Program Audit in 2019?

By Jo Bennett

On Monday, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) **identified 3,500 work sites that the agency intends to audit** for compliance with federal non-discrimination and affirmative action laws and regulations. The list – referred to as the Corporate Scheduling Announcement List (CSAL) – provides a courtesy notification to federal contractors that the agency has targeted them for varying types of review.

The CSAL identifies five distinct types of review that OFCCP intends to conduct: establishment reviews; corporate management compliance evaluations; reviews of so-called functional affirmative action programs; focused reviews of a contractor's compliance with Section 503 of the Rehabilitation Act; and compliance checks on a contractor's affirmative action goals, outreach activities, and recruitment efforts.

These government audits are important because they can lead to financial penalties. From January 2017 through September 2018, OFCCP collected more than \$39 million in monetary relief.

The CSAL provides contractors 45 days' advance listing before OFCCP begins sending official notices that the companies have been selected for an evaluation. Once a contractor receives official notice of an audit, the contractor will have 30 days to submit its Affirmative Action Program (AAP). As a result, all contractors on the current list are receiving 75 days' advance notice to have their AAP's ready for submission. OFCCP also has indicated that it will grant contractors a one-time 30-day extension to submit supporting data for their AAP's.

Excluded from the published list are contractor establishments that, within the last two years, received a scheduling letter, concluded a review, or completed progress reports arising under a conciliation agreement or consent decree.

Federal contractors that are not identified on the CSAL still may be subject to review. A review could occur because of a complaint, a contract award notice, or because the contractor has not met its obligations under a conciliation agreement or consent decree.

Businesses should check the published list ASAP and take appropriate action to prepare for the government audit. Based on past experience, businesses can improve their audit results by analyzing their hiring and selection activity in the prior year and reviewing compensation practices to ensure equity. ♦

- *CSAL and related materials* - <https://www.dol.gov/ofccp/scheduling/index.html>
- *DOL's Q&A* - <https://www.dol.gov/ofccp/regs/compliance/faqs/csalfags.htm>

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