

Affirmative Action Compliance and OFCCP Defense



Our Approach to AAP Design & Preparation

Jackson Lewis P.C. attorneys recognize that the content and structure of Affirmative Action Plans (AAPs) may influence the outcome of OFCCP audits or how other government agencies view an employer's employment practices. Accordingly, we customize AAP development to each client's size, industry and specific needs. We design our clients' AAPs relying on decades of experience.

Our plans are:

- ▶ Field-tested through the hundreds of OFCCP audits we defend annually;
- ▶ Strategically designed to present a company's workforce demographics and personnel processes in the most favorable light; and
- ▶ Developed to respond to current enforcement trends, agency directives, applicable case law and the multitude of employment and labor laws that affect the workplace.

Unlike most plan preparation providers, the Jackson Lewis Affirmative Action Compliance and OFCCP Defense Practice Group attorneys design the plan structure and compose individual AAPs, affording attorney-client privilege protections that non-attorney consultants cannot provide. Moreover, we do this at competitive prices.

Our Approach to Audit Defense

Having represented clients through thousands of OFCCP compliance evaluations, we take a highly proactive and strategic approach to audits. We start by ensuring complete accuracy of all data and information used to develop the AAP. Then, relying on our understanding of OFCCP enforcement, we endeavor to identify and resolve potential problem areas prior to submission of the AAP.

Our involvement does not end with meticulous preparation of the plan. We leverage our years of experience working with OFCCP to advocate for our clients.

- ▶ We are strong advocates, but we are not unnecessarily combative or argumentative.
- ▶ We are intelligent advocates with precise knowledge of affirmative action regulations and the OFCCP's compliance manual, national office policy, enforcement trends and local office preferences.

Through our preparation and advocacy, we enjoy great success by either avoiding the need for on-site visits or minimizing their duration and scope and effectively resolving the audit.

Affirmative Action Compliance Counseling

No company should ever be unprepared for an OFCCP audit. That is why our services aim to identify and resolve a wide array of issues after the OFCCP does. Compliance issues we regularly provide advice and counsel on include:

- ▶ Analyzing coverage under affirmative action laws;
- ▶ Planning structure analysis and design;
- ▶ Designing functional affirmative action plans (FAAPs) and obtaining FAAP approval from OFCCP;
- ▶ Drafting applications for separate facility waivers;
- ▶ Conducting vulnerability audits and mock corporate management reviews;
- ▶ Reviewing compensation materials, practices and analysis;
- ▶ Assisting employers in design and implementation of online applicant tracking systems; and
- ▶ Analyzing employment procedures for adverse impact and designing validation strategies.

Litigation Avoidance, Defense and Support

We are skilled in helping clients achieve their goals, whether in establishing preventive practices to help avoid class liability, litigating against the Department of Labor or defending private class actions. With more than 20 years of experience dealing with the OFCCP, we know the law and are familiar with the OFCCP's enforcement practices. We also have the experience to perform class-based vulnerability audits to evaluate employers' personnel processes and practices, analyze large volumes of data and model damages in class and collective action litigation.

Our services include the following:

- ▶ Representation during administrative hearings and in federal court;
- ▶ Representation in negotiations before the U.S. Solicitors' Offices;
- ▶ Negotiation of consent decrees;
- ▶ Systemic discrimination analysis;
- ▶ Reduction-in-force analysis; and
- ▶ Representation in debarment proceedings.

Training for Industry Groups, Management and HR Staff

We have found the best way for employers to ensure compliance is to have a full understanding of the regulations, legal developments, OFCCP enforcement trends and the practical impact they have on business operations. Our skilled trainers convey the most complex topics in this area in simple and practical terms. Among our trainers' topics are:

- ▶ How to prepare affirmative action plans;
- ▶ Understanding basic affirmative action obligations;
- ▶ Identifying potential discrimination through analysis;
- ▶ OFCCP enforcement trends;
- ▶ Applicant tracking;
- ▶ Recruiting best practices;
- ▶ Analyzing compensation practices to ensure fair and consistent treatment; and
- ▶ Implementing lawful diversity and inclusion initiatives.

Our Team Approach

As a national employment law firm with established experience in this area, Jackson Lewis offers far more than consulting services. Our Affirmative Action Compliance and OFCCP Defense Practice Group's diverse team of more than 40 attorneys, analysts, data specialists and statisticians annually prepare more than 2,200 affirmative action plans (AAPs), skillfully defends them throughout the country in Office of Federal Contract Compliance Programs (OFCCP) audits and provides sophisticated legal representation in the event of discrimination allegations, back pay demands or pay discrimination claims.

We use a team approach and deploy cutting-edge technologies to offer employers comprehensive and practical solutions to affirmative action compliance. With our nationwide reach, we ensure each client can always reach a Jackson Lewis team member.

Learn more: jacksonlewis.com/practice/affirmative-action-compliance-and-ofc-cp-defense



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