

Affirmative Action, OFCCP and Government Contract Compliance



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 thousands 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, we design the plan structure and compose individual AAPs, affording attorney-client privilege protections that non-attorney consultants cannot provide.

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.

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 either by 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 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' Office;
- Negotiation of consent decrees;
- Systemic discrimination analysis;
- Reduction-in-force analysis; and
- Representation in debarment proceedings.

Training for Industry Groups, Management and HR Staff

Employers can ensure compliance with 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

Our diverse group of more than 40 attorneys, analysts, data specialists and statisticians annually prepare and skillfully defend more than 4,500 AAPs throughout the country in 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.

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