

OFCCP Issues New Directive For Analyzing Compensation

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Organizations doing business with the federal government may be subject to affirmative action requirements, overseen by the Office of Federal Contract Compliance Programs (OFCCP). In an effort to provide more transparency and efficiency in its compliance evaluations, the OFCCP recently issued a new directive providing information on how it will analyze contractor compensation. Under [Executive Order 11246](#), covered contractors and subcontractors are required to periodically [self-audit their compensation practices](#) to identify and eliminate pay disparities based upon race/national origin and gender. If selected for a compliance evaluation by the OFCCP, contractors must provide compensation information to the government. Under the current scheduling letter modified under the Obama administration, contractors must provide, as part of their initial submission to OFCCP, individual compensation information for all employees in the affirmative action plan that is under review by the OFCCP. OFCCP's new directive aims to:

- Provide more transparency in how OFCCP will evaluate compensation evaluations.
- Provide information so contractors can conduct self-audits and proactively address compensation issues that may exist.
- Improve the consistency and efficiency of OFCCP's compensation analyses during compliance evaluations.

The new directive addresses issues such as confidentiality of the compensation information submitted to OFCCP and specifies how OFCCP will analyze compensation data. Helpful elements of the new directive include OFCCP's commitment to transparency in sharing information with a contractor when it finds disparities in compensation and a commitment to providing the contractor with an opportunity to respond and explain disparities. OFCCP has also stated that unless there are "exceptionally strong" statistical indicators of discrimination, OFCCP will not be inclined to pursue a matter based upon statistical indicators of discrimination alone. OFCCP will pursue the matter if there are also non-statistical indicators of discrimination. The directive went into effect on Aug. 24, 2018, and applies to compliance reviews scheduled on or after that date. Access the [full OFCCP compensation directive](#) at the U.S. Department of Labor website.

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