

How Does OFCCP REALLY Select Contractors for Audit?

Article By:

Mickey Silberman

At the end of January 2014, [OFCCP sent out a wave of advance notification letters](#) informing select employers that one or more of their establishments had been selected for review. Ever wonder how federal contractors make it on to this list? You're not alone. At [The OFCCP Institute's Annual Conference last week](#), Consuela Pinto, an attorney in the Civil Rights and Labor-Management Division of the DOL's Office of the Solicitor, shared her insights into the process. Contractors are selected according to the Federal Contractor Selection System (FCSS), which is said to be a neutral system based on a number of factors and information sources.

According to Ms. Pinto, the factors OFCCP takes into consideration in the FCSS include:

- Federal acquisition and procurement databases identifying federal contractors, subcontractors and related entities;
- Company EEO-1 Reports identifying the race and gender composition of EEO job groups, as well as whether the company is a federal contractor;
- Dun & Bradstreet data regarding affiliated entities which might also be covered federal contractors;
- Industry type and data regarding industry baselines;
- Dollar value of a federal contract or subcontract;
- Expiration Date of contract; if the contract is set to expire in the near future it doesn't make sense to slate employer for an audit;
- Workforce size; yes, larger contractors and workforces may be more likely to be audited; and
- Time; the longer it's been, the more likely an audit may be.

These insights are useful in helping contractors prepare for upcoming OFCCP audits.

One of the first things an employer should do to preapre is to determine whether it is a covered

contractor – which is not an easy task and requires cataloging federal contracts and subcontracts. The following are useful tips to assess contractor status and ensure that the Company's outward-facing information and data is accurate so an audit isn't triggered by incorrect information:

- Search for federal contracts on websites like [usaspending.gov](https://www.usaspending.gov)
- Make sure your EEO-1 Reports are consistent with your affirmative action plan structure (e.g. separate reports filed for individual locations) so that OFCCP isn't seeing locations that look to have more than 50 employees when they really have fewer employee
- Confirm you NAICS code(s) are accurate
- Update your Dun & Bradstreet information.

Eight months into its fiscal year 2014 (10.1.13 – 9.30.14), [OFCCP has scheduled 2,193 establishments for audit covering 17 industries](#). With only four months remaining until the end of the fiscal year, OFCCP has some catching up to do to meet its projection of 4,000+ audits for the year. To this end, another FCSS generated audit list is likely later this year.

Ultimately, audit selection is not predictable so it's best to determine your federal contractor status now and prepare accordingly.

Jackson Lewis P.C. © 2025

National Law Review, Volume IV, Number 149

Source URL: <https://natlawreview.com/article/how-does-ofccp-really-select-contractors-audit>