

OFCCP approves revised Functional Affirmative Action Plan directive

July 31, 2019

WHAT: The Office of Federal Contract Compliance Programs (OFCCP) has published its revised directive that will govern Functional Affirmative Action Plans (FAAP) for government contractors. An FAAP is an affirmative action program that is based on a business function or business unit and can be instituted in the place of an establishment-based AAP in agreement with the OFCCP. The new directive changes the applicable guidelines in the following ways:

- Extending the re-certification period for FAAPs from 3 to 5 years.
- Eliminating the requirement that FAAP contractors undergo at least one compliance evaluation during the term of their agreements.
- Expanding the exemption period for FAAP units that have undergone a compliance evaluation from 24 months to 36 months from the date OFCCP closed the previous evaluation.
- Eliminating consideration of the contract's equal employment EEO compliance history when deciding whether to approve an FAAP request.
- Removing the 3-year waiting period for reapplying for an FAAP following termination of an agreement.
- Eliminating the annual requirement for contractors to modify their FAAP agreements.

WHEN: The new directive is effective as of June 20, 2019 and will govern any FAAP agreements that are made following that date.

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WHAT DOES IT MEAN FOR INDUSTRY: This directive is an indication that the OFCCP is looking to ease the burdens associated with obtaining and maintaining FAAP agreements, and by extension, promote the use of FAAPs. The new directive is more contractor-friendly than the previous directive. The changes will make it easier for government contractors to have AAPs that reflect how the company actually operates, instead of simply based on where people are physically located as is typical for establishment-based AAPs. The new guidelines also allow contractors to work with the OFCCP to create a combination of both FAAP and establishment-based AAPs in order to be in compliance with the OFCCP mandates.

Government contractors may find that an FAAP is an attractive option now that the process to obtain an FAAP has been simplified and the requirements to maintain that FAAP are eased. Contractors who are organized based on function or lines of business may find that an FAAP will allow them to organize and analyze data more easily, better monitor compliance and respond to audits, and decrease costs related to developing and implementing FAAPs.

The full text of the directive is available [here](#).