

One Minute Memo[®]



OFCCP News Roundup

OMB Approves OFCCP'S Proposed Revisions to FAAP Directive

Health On December 11, 2012, the Office of Management and Budget (OMB) approved the Office of Federal Compliance Programs' (OFCCP) proposed revisions to its Functional Affirmative Action Program (FAAP) Directive (No. 296). The revised Directive was created to guide contractors in the application and approval process for entering into FAAP agreements. The approved FAAP Directive is available [here](#).

A FAAP is an affirmative action plan based on a contractor or subcontractor's business functions or business units, rather than the contractor's physical locations. A contractor must seek approval and reach an agreement with the OFCCP before it can begin submitting FAAPs. There are no changes under the revised Directive affecting the approval criteria or the required elements of a FAAP once approved. Similarly, the basic principles governing FAAP Agreements and the procedures for requesting a FAAP Agreement remain the same under the revised Directive.

The most significant change in the Directive is that contractors will no longer be required to submit race, gender, and workforce and job group analysis information -- key pieces of the AAP itself -- in support of an application for a FAAP Agreement. Pursuant to Attachment B of the new FAAP Directive:

- Contractors no longer need to submit the most recent VETS 100/100-A Reports;
- Contractors are no longer required to submit information on race, gender, and workforce analysis within each proposed functional or business unit; and
- Contractors do not have to identify or provide any information regarding the major job groups that would be included in the FAAP.

In addition, Attachment C of the new FAAP Directive provides a list of topics that will be discussed during the FAAP conference, in contrast to Attachment C of Directive 296, which sets forth a list of items to be "discussed and furnished" during the FAAP conference.

Finally, the revised Directive makes one key change relating to the procedures for modifying, updating, and renewing an approved FAAP Agreement: Contractors will now have 60 calendar days (as opposed to 30) to notify the OFCCP of any significant changes to the corporate structure that would alter the functions upon which it based the original FAAP Agreement.

Employers considering moving to FAAPs should seek the advice of counsel to evaluate the implications of such a decision.

New Regional Director of OFCCP's Northeast Region

OFCCP's Northeast Region has a new Regional Director, Diana Sen, Esq. Prior to joining OFCCP, Ms. Sen served as Senior Counsel for LatinoJustice PRLDEF and is the Immediate Past President of the Hispanic National Bar Association. Ms. Sen replaces Michele Hodge, who continues to serve as Regional Director for OFCCP's Mid-Atlantic Region.

If you have questions about this OFCCP News Roundup, please contact the Seyfarth Shaw attorney with whom you work or any attorney on our OFCCP & Affirmative Action Compliance Team.

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