



# Town Hall Action Plan

## Background

While OFCCP has historically provided compliance assistance at both the national and regional levels, the Government Accounting Office's (GAO) *Strengthening Oversight Could Improve Federal Contractor Nondiscrimination Compliance* report,<sup>1</sup> published September 2016, recommended that OFCCP review its compliance assistance efforts to identify options for enhancing contractors' understanding of their nondiscrimination and affirmative action requirements. To ensure that OFCCP considered contractors' perspectives in addressing this GAO recommendation, OFCCP conducted three Compliance Assistance Town Halls on September 19 (Washington, DC), September 26 (San Francisco, CA), and September 28 (Chicago, IL) 2017. These sessions were later followed by three stakeholder meetings in Washington, DC in January 2018.

A professional facilitator facilitated the town halls. While the three town halls were open to the public, the target audience was contractors' human resource managers, equal employment opportunity and/or compliance officers, and other personnel responsible for overseeing contractors' compliance with OFCCP's laws and regulations. OFCCP provided notice of this event via its website and by email to subscribers to its OFCCP listserv. The facilitator took steps to create an environment where the participants felt free to be creative and openly discuss their ideas. Throughout the town halls the facilitator encouraged the participants to provide specific feedback and suggestions to help OFCCP develop tools and resources for educating contractors about their compliance requirements. Although the discussions primarily centered on two questions provided by the facilitator, participants provided feedback and insight on a number of compliance assistance and contractor engagement related issues. This resulted in the identification of three general areas of focus: **training, communication, and trust**.

Based on this and other feedback, OFCCP has developed the below action plan that is consistent with its existing budgetary and human resources. The agency further expects that this plan will not only respond to the three common themes identified in the town halls in FY 2017, but will also contribute to the agency's response to recommendations four, five, and six in the 2016 GAO report.

In consideration of the training, communication, and trust issues, the action plan envisions achieving meaningful change by way of three initiatives.

1. Review and enhance contractor compliance assistance materials
2. Assess and improve the quality of contractor and compliance officer training and education
3. Increase transparency and communication with agency stakeholders

<sup>1</sup> EQUAL EMPLOYMENT OPPORTUNITY: Strengthening Oversight Could Improve Federal Contractor Nondiscrimination Compliance, GAO-16-750, Sept. 22, 2016 at <https://www.gao.gov/products/GAO-16-750> (last accessed April 6, 2018).

## Action Plan and Deliverables

### 1. Review and Enhance Contractor Compliance Assistance

As a result of changes in the law and rulemaking to update its existing regulations, OFCCP's existing technical assistance guides or TAGs became outdated. Though the agency removed them from its website to avoid confusion surrounding compliance, the TAGs were not immediately replaced and other compliance assistance was made available to contractors. Therefore, to enhance the agency's existing compliance assistance efforts, OFCCP is creating three comprehensive technical guides to replace old and outdated contractor guidance.

- *Supply & Service Technical Assistance Guide*
- *Construction Technical Assistance Guide*
- *Academic Institutions Technical Assistance Guide*

OFCCP's goal, using these three guides, is to provide the responsible personnel within a contractor's organization with a user-friendly product that will help them implement their obligations under the laws OFCCP enforces.

Other actions will be taken beyond creating these TAGs that include those listed below.

- Redesigning the Mega Construction webpage and launching new tools
- Updating the *New and Small Contractors Technical Assistance Guide*
- Developing new infographics on the internet applicant definition, recordkeeping, and posting and notice requirements
- Updating the *OFCCP At A Glance* brochure

Compliance assistance can both support and incentivize compliance by contractors. Resources like technical assistance guides support compliance by educating contractors about their obligations. However, awards and other recognition programs may incentivize compliance. Therefore, OFCCP will create a recognition program to recognize publicly one or more sound and successful equal employment opportunity and nondiscrimination compliance programs. The selected contractor programs and initiatives would be highlighted by OFCCP in various outreach and education material, and in other ways, as models for other contractors.

### 2. Assess and Improve the Quality of Contractor and Compliance Officer Training and Education

The goal of the training provided by the national office is to inform compliance officers of national standards and policies that apply to conducting and resolving compliance evaluations and complaint investigations. Moreover, a competent and trained staff of compliance officers should be able to provide effective compliance assistance to contractors regarding their contractual obligations under Executive Order 11246, Section 503 of the Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Assistance Act.

In order to improve the quality of contractor and compliance officer training and education, the agency will focus on improving the overall quality and credibility of its training program. These efforts include:

- Conducting an assessment of the current training program,
- Determining and assessing the skills gap of existing training staff and training to address those gaps, as appropriate,

- Standardizing procedures for the development of training courses and issuing or updating agency guidance as required,
- Adopting a competency model that clearly identified the skills, knowledge and abilities that all compliance officers should possess, and
- Creating and implementing a plan of action for seeking third party accreditation for OFCCP's national office training program.

Improvements in how OFCCP identifies, develops and delivers training will benefit contractors seeking compliance assistance because the quality of that assistance should improve. In addition, contractors should, over time, see an improvement in the quality and timeliness of OFCCP's compliance evaluations. Finally, having a formal, standardized and accredited training program will improve the quality of training OFCCP provides to contractors. The training improvements create a "win-win" strategy.

### **3. Increase Transparency and Communication**

A common thread discussed during the town halls was the desire to have written expectations for compliance officers and contractors during compliance evaluations to ensure transparency and consistency in communication during compliance evaluations. These written expectations would enhance communications between contractors and OFCCP, improve the transparency in OFCCP's work, and begin to address trust issues. OFCCP will create a "roadmap" or written guide to the compliance evaluation process for contractors.

As part of OFCCP's ongoing efforts to achieve consistency across regional and district offices, increase transparency about preliminary findings with contractors, and encourage communication throughout the compliance evaluation process, OFCCP has instituted a uniform approach to the use of Predetermination Notices (PDN) in compliance evaluations where the agency believes discrimination findings may exist. Going forward, OFCCP will issue PDNs for preliminary individual and systemic discrimination findings identified during the course of compliance evaluations. The use of the PDN encourages communication with contractors and provides them an opportunity to respond to preliminary findings prior to OFCCP deciding to issue a Notice of Violation (NOV). Regional discretion is no longer permitted and the national office will review all PDNs to ensure appropriate consistency and uniformity.

The agency will develop policy guidance for creating greater transparency around the identification of indicators of a violation, explaining the basis for a supplemental data request, and conducting a meaningful compensation self-assessment.

Also, in response to the desire for "written expectations," the agency will develop a document entitled, *What Contractors Can Expect*. This "Bill of Rights" styled document will outline certain OFCCP principles that contractors can expect to exist during an engagement with OFCCP. These principles include, but are not limited to, things such as timeliness, accuracy, communication, confidentiality, and professionalism.

Additionally, OFCCP will make greater use of technology and should be able to expand the options for contractors to reach out to the agency. OFCCP plans to do this by using online Communities of Practice (COP) for contractors and other stakeholders. Within the contractor COP, they will be able to ask questions and share information and experiences with other contractors, as well as interact with OFCCP online on discuss groups. A similar COP will be developed for other OFCCP stakeholders.

## Moving Forward

Although an enforcement agency, we are committed to providing compliance assistance that will help federal contractors understand and comply with their legal obligations to provide employees and jobseekers with equal employment opportunity and not discriminate in their employment practices. Reaching out and engaging the various stakeholders, through the various listening sessions, has afforded the agency great insight as we move forward in addressing the GAO recommendations and building a more collaborative partnership with the contractor community.

In the past, OFCCP used an ombudsman program to address communication and trust issues. The agency is exploring reviving the program. An ombudsman could bring an impartial and independent perspective to attempts to resolve communication and trust issues, and certain problems with pending reviews. The ombudsman would not have the authority to make or change agency decisions.

Finally, OFCCP will encourage the use of apprenticeship programs by contractors as a way to create a pipeline of diverse and qualified talent. If that pipeline is created, maintained, and used correctly, an apprenticeship program may help federal contractors meet their outreach and recruitment, and equal employment opportunity requirements. By 2020, it is estimated by some that there will be 55 million job vacancies. This, when viewed in combination with the existing skills gap, highlights the need to create policies and programs that produce skilled workers to fill vacancies and keep the economy growing. They provide people the opportunity to work for an employer while learning a skill and earning a pay check. Contractors benefit from their investment in an apprenticeship program by getting ready access to skilled talent that understands the job and the employer's workplace.

## Summary of Deliverables

Each of these initiatives will have specific deliverables, below is a *nonexhaustive list* of OFCCP's proposed deliverables related to enhancing its contractor compliance assistance materials, improving the quality of contractor and compliance officer training and education, and generally increasing transparency and communication with agency stakeholders.

- Supply & Service Technical Assistance Guide
- Construction Technical Assistance Guide
- Academic Institution Technical Assistance Guide
- New and Small Contractors Technical Assistance Guide
- Mega Construction Tools and Resources
- Internet Applicant Definition Infographic
- Recordkeeping Infographic
- Postings and Notices Requirements Guide
- OFCCP At A Glance Brochure
- Standardized and Written Training Protocols
- Improved Contractor and Compliance Officer Training
- Policy Guidance that Supports Transparency
- What Federal Contractors Can Expect Booklet
- Roadmap to a Compliance Evaluation for Contractors
- Online Community of Practice
- Contractor Recognition Programs
- Encourage the use of Apprenticeships
- Ombudsman Program



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