From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 11/17/2020 5:20:11 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Kaiser, Javaid - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1e5f5c483d9741aa8d6ed6b0dadd6027-Kaiser, Jav]; Fort, Harvey D - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f10edeb3ed442e3a4f1b0ef426f9703-Fort, Harve]; Carter, Quintin - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a41f98b62d0c464289980d75f1dce342-Carter, Qui]
Subject: RE: FY20 Data Quality Attestation
Attachments: 19898_AFR_PPO_OFCCPComments(pages19-20).pdf; 19898_OCFO_FY2020_DRAFTAgency Financial Report_AgencyHeadApproval_of_OFCCPComments; Measures Report_OFCCP-en-us (002).pdf; Measures Report_OFCCP_COVID-en.pdf; FY 2020 Data Quality Attestation 11.16.20.pdf

Hi Craig,

The Data Quality Attestation is an annual requirement under the Government Performance and Results Act (GPRA) Modernization Act and it's related to the data we provide to OMB under our reporting/planning documents: The Annual Financial Report/Program Performance Overview/Annual Performance Report and Strategic Reviews (which are published with the President's budget). The data included on these reports are the data that we enter in the DEBS budget tool at the end of the FY 2020.

I'm attaching the documents. I'm also attaching your approval of the Program Performance Overview/Annual Performance Report.

Let us know if you need additional information.

Thanks,
Lissette

From: Leen, Craig - OFCCP (b) 6
Sent: Tuesday, November 17, 2020 3:04 PM
To: Davidson, Patricia J - OFCCP (b) 6
Cc: Kaiser, Javaid - OFCCP (b) 6; Gean, Lissette - OFCCP (b) 6 Fort, Harvey D - OFCCP (b) 6 Carter, Quintin - OFCCP (b) 6
Subject: RE: FY20 Data Quality Attestation

Please provide the underlying document. Thanks.

Craig E. Leen
OFCCP Director

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From: Davidson, Patricia J - OFCCP (b) 6
Sent: Tuesday, November 17, 2020 12:43 PM
To: Leen, Craig - OFCCP (b) 6
Cc: Kaiser, Javaid - OFCCP (b) 6 Gean, Lissette - OFCCP (b) 6 Fort, Harvey D - OFCCP (b) 6; Carter, Quintin - OFCCP (b) 6
Subject: FW: FY20 Data Quality Attestation

Craig,

Please sign and return the attached data attestation. If you have questions or concerns, DPO will respond.

Best,
Patty

Patricia Davidson
Deputy Director
Office of Federal Contract
Compliance Programs
(O) 202-693 (b) 6
(C) (b) 6

From: Kaiser, Javaid - OFCCP (b) 6
Sent: Tuesday, November 17, 2020 12:16 PM
To: Davidson, Patricia J - OFCCP (b) 6
Cc: Gean, Lissette - OFCCP (b) 6; Fort, Harvey D - OFCCP (b) 6; Carter, Quintin - OFCCP (b) 6
Subject: FW: FY20 Data Quality Attestation

Hi Patty,
We are seeking Craig's signatures on the attached Data Quality Attestation document to submit to PMC.
Thanks,
Javaid

From: Fort, Harvey D - OFCCP (b) 6
Sent: Tuesday, November 17, 2020 10:07 AM
To: Kaiser, Javaid - OFCCP (b) 6
Subject: FW: FY20 Data Quality Attestation

FYI

Message

From: Williams, Tina T - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DE1CA1BB58004746A50104BD40A50623-WILLIAMS, T]
Sent: 12/11/2020 3:54:38 PM
To: Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aadb6b7613f2f9041f3-Gean, Lisse]
CC: Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
Subject: FW: OFCCP 2020 year in review
Attachments: OFCCP 2020 Year in Review (Accomplishments-Policy)_12.11.20.docx

Importance: High

L - Here are the Policy accomplishments. Tina

From: Leen, Craig - OFCCP (b)6
Sent: Thursday, December 10, 2020 5:28 PM
To: LaJeunesse, Robert - OFCCP (b)6 Kaiser, Javaid - OFCCP (b)6 Fort, Harvey D - OFCCP (b)6 Carter, Quintin - OFCCP (b)6 Williams, Tina T - OFCCP (b)6 ; Seely, Christopher - OFCCP (b)6
Cc: Gean, Lissette - OFCCP (b)6 ; Gaglione, Robert J - OFCCP (b)6 Davidson, Patricia J - OFCCP (b)6
Subject: FW: OFCCP 2020 year in review
Importance: High

Please see attached and below, and please provide updated stats on each item for FY20 to Lissette (preferably by COB Friday): b(5)
b(5)

Lissette, I'd also like to reference the following policies from FY20-21 (please coordinate with Tina and Chris):

b(5)

Thanks,
Craig

Craig E. Leen
OFCCP Director

From: Rische, Robert M - OCIA (b)6
Sent: Thursday, December 10, 2020 4:57 PM
To: Leen, Craig - OFCCP (b)6; Gean, Lissette - OFCCP (b)6
Subject: OFCCP 2020 year in review

Hi Craig and Lissette,

OSEC has asked us to compile each agency's braggables with updated 2020 information. Could OFCCP please update the attached sheet with the most recent information and return by COB on Monday (12/14)? As always, please let me know if you have any questions.

Thanks,
Robert

Robert Rische
Senior Legislative Officer
Office of Congressional and Intergovernmental Affairs (OCIA)
U.S. Department of Labor
(202) 693 (b)6
(b)6

2020 Year in Review

I. Three Rulemakings

Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors: TRICARE Providers, removes TRICARE providers from OFCCP jurisdiction. This Final Rule is in the national interest and in the interest of the health of veterans and their families. OFCCP was concerned that health care providers were increasingly unwilling to accept federal contracts due to the regulatory burden they expect to incur, which may result in veterans and their families having difficulty accessing health care services.

Nondiscrimination Obligations of Federal Contractors and Subcontractors: Procedures to Resolve Potential Employment Discrimination, to codify procedures that OFCCP will use to resolve potential employment discrimination. The intention of the rule is to increase clarity and ensures certainty for OFCCP's stakeholders, and enhance the agency's efficiency in remedying employment discrimination. This rule is effective.

Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption, which is part of Executive Order 11246 and its implementing regulations, permits religious organizations to make employment decisions on the basis of religion, just as the Civil Rights Act always has. The purpose behind OFCCP's rulemaking is to clarify the scope and application of the religious exemption contained in section 204(c) of Executive Order 11246, as amended. The proposed clarifications would help organizations with federal government contracts and subcontracts, and federally assisted construction contracts, better understand their Executive Order 11246 obligations. This rule is effective on January 8, 2021.

II. Establishment of EO 13950 Hotline

The President issued Executive Order 13950 on September 21, 2020. OFCCP received 205 inquires related to this Executive Order; 55 anonymous complaints, 112 named complaints, 25 compliance assistance requests, and 13 inquiries opposed to the Executive Order. OFCCP issued internal guidance (INT 2021-01) for processing Executive Order 13950 "Hotline"

complaints. OFCCP assigned the hotline complaints to the appropriate regional offices for investigation.

III. OFCCP-EEOC-DOJ CRD MOU

OFCCP entered into a Memorandum of Understanding (MOU) with the Equal Employment Opportunity Commission (EEOC) and the Department of Justice Civil Rights Division (DOJ CRD). This MOU revises and expands OFCCP's original MOU with EEOC (1970) by adding the Assistant Attorney General for the U.S. Department of Justice Civil Rights Division (DOJ CRD), as a signatory; along with several provisions to strengthen and streamline interagency coordination in the enforcement of EEO laws. The MOU adopts several measures to ensure that senior leadership at all three agencies is directly involved in the ongoing coordination efforts pursuant to the MOU, a step that will elevate the MOU's importance and utility.

IV. AAVI ICR (ongoing)

OFCCP's Affirmative Action Program (AAP) Verification Initiative (AAP-VI) is the agency's proposed annual AAP online certification portal for federal contractors. In addition to collecting annual certifications from contractors, AAP-VI will also provide a secure method for federal contractors to submit AAPs electronically to OFCCP when they are scheduled for a compliance evaluation. OFCCP would be able to identify contractors who do not certify, and use failure to certify as one of its neutral criteria for scheduling contractors under the view that contractors who do not certify their compliance would also be at the greatest risk of not following their equal employment opportunity and affirmative action requirements. The Information Collection Request (ICR) was published in the *Federal Register* for 60-day comment period that has ended. Comments were reviewed and the package revised accordingly. Once cleared, the updated ICR will be published for 30-day comment period prior to the program being finalized and initiated.

V. Focused Review Initiatives

OFCCP may conduct a focused review to determine the contractor's compliance with a particular legal authority or may conduct a focused review of a particular employment practice under all of the laws OFCCP enforces. The agency's public website includes a general "Focused Reviews" landing page, as well as individual landing pages for Section 503, VEVRAA, Accommodations, and Promotions focused reviews. During the second quarter of fiscal year 2021 (FY2021) it will add a new page for Affirmative Action focused reviews. OFCCP has completed its Section 503 focused review phase, and is currently conducting VEVRAA focused reviews. The agency submitted a non-substantive change request to OMB for the Supply & Service ICR to include two new focused review letters for the Accommodations and Promotions reviews, and plans to begin incorporating those reviews in the second quarter of FY2021.

VI. HBCU/HACU/TCU/APIACU Initiative

OFCCP began leading the Departmental efforts in support of this White House Initiative. OFCCP is establishing relationships with HBCU's to provide federal contractors with resources to increase the representation of minorities and women in career-level jobs through outreach and recruitment. OFCCP has expanded this effort to include Hispanic Association of Colleges and Universities (HACU) members, Asian Pacific Islander American Association of Colleges and Universities, and Tribal Colleges and Universities (TCU).

VII. INAERP

OFCCP continues to develop enforcement initiatives related to the Indian and Native American Employment Rights Program (INAERP). The agency completed a refresh of the INAERP Internet page that included best practices for creating an inclusive workforce for Native Americans, a list of resources, and frequently asked questions for stakeholders. OFCCP was also able to create an Indian Preference presentation; and expanded our recruitment portfolio to include the 37 accredited Tribal Colleges and Universities (TCU).

VIII. Technical Assistance Guides

OFCCP released (2) new Technical Assistance Guides (TAGs) for contractors – Supply and Service; and Small Contractors. Both provide a plethora of information and resources to their intended audience. The publication of both guides was the culmination of a lot of hard work and attention to detail along the numerous steps it takes to draft, design, and publish such documents.

IX. Help Desk responses

The OFCCP Help Desk logged 3,477 calls and responded to 1,288 written inquiries. Improvements targeting efficiency were implemented and the 'Average Time to Respond' significantly decreased. Transitioned to Salesforce Lightning which is a user-friendly environment that promotes increased productivity. We are developing a new directive and guidance to improve help desk functions.

Message

From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 12/14/2020 5:08:26 PM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
CC: Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]
Subject: ACTION: Review & Clear - OFCCP 2020 year in review
Attachments: OFCCP_Braggables_12142020.docx

Hi Craig,

I'm sorry this took so long...

The edits are significant, so I would prefer if you take a look at the document. OK?

Thanks,
Lissette

From: Leen, Craig - OFCCP (b)6
Sent: Thursday, December 10, 2020 5:28 PM
To: LaJeunesse, Robert - OFCCP (b)6; Kaiser, Javaid - OFCCP (b)6; Fort, Harvey D - OFCCP (b)6; Carter, Quintin - OFCCP (b)6; Williams, Tina T - OFCCP (b)6; Seely, Christopher - OFCCP (b)6
Cc: Gean, Lissette - OFCCP (b)6; Gaglione, Robert J - OFCCP (b)6; Davidson, Patricia J - OFCCP (b)6
Subject: FW: OFCCP 2020 year in review
Importance: High

Please see attached and below, and please provide updated stats on each item for FY20 to Lissette (preferably by COB Friday): (b)5 (b)5

Lissette, I'd also like to reference the following policies from FY20-21 (please coordinate with Tina and Chris):

(b)5

Thanks,
Craig

Craig E. Leen
OFCCP Director

From: Rische, Robert M - OCIA (b) 6
Sent: Thursday, December 10, 2020 4:57 PM
To: Leen, Craig - OFCCP (b) 6 ; Gean, Lissette - OFCCP (b) 6
Subject: OFCCP 2020 year in review

Hi Craig and Lissette,

OSEC has asked us to compile each agency's braggables with updated 2020 information. Could OFCCP please update the attached sheet with the most recent information and return by COB on Monday (12/14)? As always, please let me know if you have any questions.

Thanks,
Robert

Robert Rische
Senior Legislative Officer
Office of Congressional and Intergovernmental Affairs (OCIA)
U.S. Department of Labor
(202) 693 (b) 6
(b) 6

Message

From: Gean, Lissette - OFCCP [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE]
Sent: 12/14/2020 6:08:16 PM
To: Rische, Robert M - OCIA [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ff5ba52e6a704615ae3d4965b5959dc4-Rische, Rob]
CC: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]
Subject: RE: OFCCP 2020 year in review
Attachments: OFCCP_Braggables_12142020.docx

Hi Robert,

Thank you for your patience! We are attaching the updated OFCCP Braggables document.

Please let me know if you have any questions or need additional information.

Have a good evening!

Lissette

From: Rische, Robert M - OCIA [(b)6]
Sent: Monday, December 14, 2020 5:22 PM
To: Gean, Lissette - OFCCP [(b)6]
Subject: RE: OFCCP 2020 year in review

Hi Lissette- Just checking in to see if this will be ready soon. Thanks.

From: Leen, Craig - OFCCP [(b)6]
Sent: Monday, December 14, 2020 11:34 AM
To: Rische, Robert M - OCIA [(b)6]; Gean, Lissette - OFCCP [(b)6]
Subject: RE: OFCCP 2020 year in review

Hi Robert. We are almost finished and will have it to you before COB today. Thanks, Craig

Craig E. Leen
OFCCP Director

From: Rische, Robert M - OCIA [(b)6]
Sent: Thursday, December 10, 2020 4:57 PM
To: Leen, Craig - OFCCP [(b)6]; Gean, Lissette - OFCCP [(b)6]
Subject: OFCCP 2020 year in review

Hi Craig and Lissette,

OSEC has asked us to compile each agency's braggables with updated 2020 information. Could OFCCP please update the attached sheet with the most recent information and return by COB on Monday (12/14)? As always, please let me know if you have any questions.

Thanks,
Robert

Robert Rische
Senior Legislative Officer
Office of Congressional and Intergovernmental Affairs (OCIA)
U.S. Department of Labor
(202) 693- (b)6
(b)6

From: Katz, Tracy - OIG <b(6)>
To: Stewart, Milton Al - ASAM; Cloud, Braye G - ASAM; Rose, Sydney T - OASAM OHR; Hooper, Shawn - OASAM OHR; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM OHR; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP; Davidson, Patricia J - OFCCP; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T - OFCCP; Campbell, Carl V - OASAM OSPE
CC: Kenyon, Geoffrey - OASAM DBC; Ritchie, Duyen T - OASAM OSPE; Costa, Jessica W - ASAM
Sent: 12/18/2020 3:22:49 PM
Subject: RE: EO 13950 Exit Conference
Attachments: EO 13950 Draft Report for Exit.docx

All,

I have attached the current version of our EO 13950 draft report for the Exit conference Monday afternoon. We will be discussing this document. Please not that this is a preliminary draft and is subject to change. However, do to the short reporting period that we have discussed, we will be requesting a quick turn-around on the response when the official draft is issued. As such, we are asking they you begin to develop your official repose to the draft report based on this version.

We will discuss further on Monday. Thanks.

Tracy Michael Katz
Audit Director
U.S. Department of Labor
Office of Inspector General
Office: 202.6 b(6) Fax: 202.693.5169

-----Original Appointment-----
From: Katz, Tracy - OIG
Sent: Monday, December 14, 2020 2:58 PM
To: Katz, Tracy - OIG; Stewart, Milton Al - OASAM BOC; Cloud, Braye G - OASAM CPPR; Rose, Sydney T - OASAM HRC; Hooper, Shawn - OWCP; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP; Davidson, Patricia J - WHD; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T. ETA; Campbell, Carl V - OASAM OSPE
Cc: Kenyon, Geoffrey - OASAM DBC; Ritchie, Duyen T - OASAM OSPE; Costa, Jessica W - ASAM
Subject: EO 13950 Exit Conference
When: Monday, December 21, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Draft copy of report will be provided before the meeting. Please invite anyone else who needs to attend. Thanks.

Microsoft Teams meeting

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From: Leen, Craig - OFCCP </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS /CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG>
To: Kilberg, Andrew G - OSEC; Swearingen, Brett A - OSEC; Squitieri, Chad C - OSEC; Taylor, Timothy J - SOL
Sent: 12/18/2020 3:36:19 PM
Subject: FW: EO 13950 Exit Conference
Attachments: EO 13950 Draft Report for Exit.docx

I'm pleased to report that the draft OIG report indicates that OFCCP is meeting its obligations under EO 13950. Please see attached. Thanks, Craig

Craig E. Leen
OFCCP Director

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From: Katz, Tracy - OIG b(6) dol.gov>
Sent: Friday, December 18, 2020 3:23 PM
To: Stewart, Milton AI - ASAM <Stewart.Milton@dol.gov>; Cloud, Braye G - ASAM < b(6) dol.gov>; Rose, Sydney T - OASAM OHR < b(6) dol.gov>; Hooper, Shawn - OASAM OHR b(6) dol.gov>; Lacey, Kimberly G. - OASAM OHR b(6) DOL.gov>; Jordan, Maria - OASAM OHR < b(6) @dol.gov>; Paredes, Fernando - OIG < b(6) oig.dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Watson, Laura P - ETA < (b) 6 >; Cerruti, Julie - ETA <Cerruti.Julie@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Davidson, Patricia J - OFCCP < b(6) ia@dol.gov>; Robins, Douglas - ASAM < b(6) s@dol.gov>; Gean, Lissette - OFCCP < b(6) dol.gov>; Slater, Bryan - ASAM <Slater.Bryan@DOL.gov>; Howe, Gerard - OIG <howe.gerard@oig.dol.gov>; Reff, Alisa - OIG b(6) @oig.dol.gov>; Rennett, Anna Laura - SOL b(6) @DOL.gov>; Williams, Tina T - OFCCP < b(6) @dol.gov>; Campbell, Carl V - OASAM OSPE b(6) @dol.gov>
Cc: Kenyon, Geoffrey - OASAM DBC < b(6) @dol.gov>; Ritchie, Duyen T - OASAM OSPE <Ritchie.Duyen.T@dol.gov>; Costa, Jessica W - ASAM b(6) @dol.gov>
Subject: RE: EO 13950 Exit Conference

All,

I have attached the current version of our EO 13950 draft report for the Exit conference Monday afternoon. We will be discussing this document. Please not that this is a preliminary draft and is subject to change. However, do to the short reporting period that we have discussed, we will be requesting a quick turn-around on the response when the official draft is issued. As such, we are asking they you begin to develop your official repose to the draft report based on this version.

We will discuss further on Monday. Thanks.

Tracy Michael Katz
Audit Director
U.S. Department of Labor

Office of Inspector General
b(6) Fax: 202.693.5169

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From: Katz, Tracy - OIG
Sent: Monday, December 14, 2020 2:58 PM
To: Katz, Tracy - OIG; Stewart, Milton Al - OASAM BOC; Cloud, Braye G - OASAM CPPR; Rose, Sydney T - OASAM HRC; Hooper, Shawn - OWCP; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP; Davidson, Patricia J - WHD; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T. ETA; Campbell, Carl V - OASAM OSPE
Cc: Kenyon, Geoffrey - OASAM DBC; Ritchie, Duyen T - OASAM OSPE; Costa, Jessica W - ASAM
Subject: EO 13950 Exit Conference
When: Monday, December 21, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Draft copy of report will be provided before the meeting. Please invite anyone else who needs to attend. Thanks.

Microsoft Teams meeting

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From: Bickerstaffe, Keir - SOL </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=76946342408840629D14D5B8C536A764-BICKERSTAFF>
To: Leen, Craig - OFCCP; Davidson, Patricia J - OFCCP; Gean, Lissette - OFCCP; Williams, Tina T - OFCCP
CC: Dankowitz, Beverly - SOL; Lee, Lindsy T - SOL
Sent: 12/21/2020 2:12:38 PM
Subject: RE: EO 13950 Exit Conference
Attachments: EO 13950 Draft Report for Exit (KB).docx

All,

CRLM had a couple of minor comments/suggested edits on the draft OIG report. Please see attached. Let me know if you would like to discuss. Thank you!

Keir Bickerstaffe
Counsel for Interpretation and Advice, SOL-CRLM
b(6)

-----Original Appointment-----
From: Katz, Tracy - OIG < b(6) oig.dol.gov>
Sent: Friday, December 18, 2020 3:50 PM
To: Katz, Tracy - OIG; Lee, Lindsy T - SOL; Bickerstaffe, Keir - SOL; Dankowitz, Beverly - SOL; Stewart, Milton AI - ASAM; Cloud, Braye G - ASAM; Rose, Sydney T - OASAM OHR; Hooper, Shawn - OASAM OHR; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM OHR; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP; Davidson, Patricia J - OFCCP; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T - OFCCP
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When: Monday, December 21, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
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Sent: Monday, December 14, 2020 3:00 PM
To: Katz, Tracy - OIG; Stewart, Milton AI - ASAM; Cloud, Braye G - ASAM; Rose, Sydney T - OASAM OHR; Hooper, Shawn - OASAM OHR; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM OHR; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP; Davidson, Patricia J - OFCCP; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T - OFCCP
Subject: EO 13950 Exit Conference
When: Monday, December 21, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Draft copy of report will be provided before the meeting. Please invite anyone else who needs to attend. Thanks.

Microsoft Teams meeting

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Click here to join the meeting

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From: Davidson, Patricia J - OFCCP </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS /CN=881AFF8BF6FB4A85AE33921A0CB1596B-DAVIDSON, P>
To: Gean, Lissette - OFCCP; Leen, Craig - OFCCP
Sent: 12/18/2020 6:01:16 PM
Subject: RE: EO 13950 Exit Conference
Attachments: EO 13950 Draft Report for Exit edit.docx

I found a typo on page 5, please see my edit in track changes.

Patricia Davidson
Deputy Director
Office of Federal Contract
Compliance Programs
(O) 202-
(C) 202- b(6)

From: Gean, Lissette - OFCCP b(6) @dol.gov>
Sent: Friday, December 18, 2020 4:09 PM
To: Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Cc: Davidson, Patricia J - OFCCP b(6) @dol.gov>
Subject: Re: EO 13950 Exit Conference

Will do.
Thanks,
Lissette

Lissette Geán
Chief of Staff
Office of Federal Contract Compliance Programs
b(6) e@dol.gov

On Dec 18, 2020, at 3:49 PM, Leen, Craig - OFCCP <Leen.Craig@dol.gov> wrote:

Lissette and Patty, please see below. I agree with the report and only anticipate providing an update. Please coordinate with OFCCP/CRLM and provide our draft response to Tim when you provide it to me. Thanks, Craig

Craig E. Leen
OFCCP Director
<image001.png>

From: Leen, Craig - OFCCP
Sent: Friday, December 18, 2020 3:45 PM
To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Slater, Bryan - ASAM <Slater.Bryan@dol.gov>
Subject: RE: EO 13950 Exit Conference

Thanks. We appreciate your leadership and support as well. I reviewed the ones relating to OFCCP and do not anticipate having much of a response other than providing updates as to where we are with the complaint reviews (it is my understanding they've now been assigned to the field and we are moving forward with them).

Craig E. Leen

OFCCP Director
<image001.png>

From: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Sent: Friday, December 18, 2020 3:40 PM
To: Slater, Bryan - ASAM <Slater.Bryan@DOL.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>
Subject: RE: EO 13950 Exit Conference

Congratulations to your teams—they've done very well in implementing the EO's requirements. I'd like to review our responses / edits to the report before they're sent back to the OIG.

Timothy Taylor
Deputy Solicitor
U.S. Department of Labor
o. 202 b(6)

This message may contain information that is privileged or otherwise exempt from disclosure. Do not disclose this information without consulting the Office of the Solicitor. If you think you have received this email in error, please notify the sender immediately.

From: Katz, Tracy - OIG b(6) @oig.dol.gov>
Sent: Friday, December 18, 2020 3:23 PM
To: Stewart, Milton AI - ASAM <Stewart.Milton@dol.gov>; Cloud, Braye G - ASAM b(6) @dol.gov>; Rose, Sydney T - OASAM OHR < (b) 6 >; Hooper, Shawn - OASAM OHR b(6) @dol.gov>; Lacey, Kimberly G. - OASAM OHR < b(6) DL.gov>; Jordan, Maria - OASAM OHR b(6) @dol.gov>; Paredes, Fernando - OIG @oig.dol.gov>; Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>; Watson, Laura P - P@dol.gov>; Cerruti, Julie - ETA <Cerruti.Julie@dol.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Davidson, Patricia J - OFCCP < (b) 6 ov>; Robins, Douglas - ASAM b(6) @dol.gov>; Gean, Lissette - OFCCP < Slater, Bryan - ASAM <Slater.Bryan@DOL.gov>; Howe, Gerard - OIG <howe.gerard@oig.dol.gov>; Reff, Alisa - OIG < b(6) @oig.dol.gov>; Bennett, Anna Laura - SOL < (b) 6 >; Williams, Tina T - OFCCP b(6) @dol.gov>; Campbell, Carl V - OASAM OSPE b(6) @dol.gov>
Cc: Kenyon, Geoffrey - OASAM DBC b(6) @dol.gov>; Ritchie, Duyen T - OASAM OSPE <Ritchie.Duyen.T@dol.gov>; Costa, Jessica W - ASAM b(6) @dol.gov>
Subject: RE: EO 13950 Exit Conference

All,

I have attached the current version of our EO 13950 draft report for the Exit conference Monday afternoon. We will be discussing this document. Please not that this is a preliminary draft and is subject to change. However, do to the short reporting period that we have discussed, we will be requesting a quick turn-around on the response when the official draft is issued. As such, we are asking they you begin to develop your official repose to the draft report based on this version.

We will discuss further on Monday. Thanks.

Tracy Michael Katz
Audit Director
U.S. Department of Labor
Office of Inspector General
Office: 202 b(6) |Fax: 202.693.5169

-----Original Appointment-----
From: Katz, Tracy - OIG
Sent: Monday, December 14, 2020 2:58 PM
To: Katz, Tracy - OIG; Stewart, Milton AI - OASAM BOC; Cloud, Braye G - OASAM CPPR; Rose, Sydney T - OASAM HRC; Hooper, Shawn - OWCP; Lacey, Kimberly G. - OASAM OHR; Jordan, Maria - OASAM; Paredes, Fernando - OIG; Taylor, Timothy J - SOL; Watson, Laura P - ETA; Cerruti, Julie - ETA; Leen, Craig - OFCCP;

Davidson, Patricia J - WHD; Robins, Douglas - ASAM; Gean, Lissette - OFCCP; Slater, Bryan - ASAM; Howe, Gerard - OIG; Reff, Alisa - OIG; Bennett, Anna Laura - SOL; Williams, Tina T. ETA; Campbell, Carl V - OASAM OSPE
Cc: Kenyon, Geoffrey - OASAM DBC; Ritchie, Duyen T - OASAM OSPE; Costa, Jessica W - ASAM
Subject: EO 13950 Exit Conference
When: Monday, December 21, 2020 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Draft copy of report will be provided before the meeting. Please invite anyone else who needs to attend. Thanks.

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Learn More | Meeting options

From: Gallareta, Silvia - OIG <b(6)@oig.dol.gov> on behalf of Lewis, Elliot - OIG
To: Slater, Bryan - ASAM; Leen, Craig - OFCCP; Taylor, Timothy J - SOL
CC: Stewart, Milton Al - ASAM; Cloud, Braye G - ASAM; Pallasch, John P - ETA; Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP; Hitchcock, Greg - ETA; Cerruti, Julie - ETA; Gean, Lissette - OFCCP; Katz, Tracy - OIG; Paredes, Fernando - OIG; Lewis, Elliot - OIG; Armada, Ray - OIG; Nicolosi, Laura - OIG; Milbry, Candace - OIG; Aruwayo, Tinuke - OIG; Donovan, Joseph - OIG; Roshetko, Michele - OIG; Nguyen, Phu - OIG; Torres, Jennifer - OIG; Witherspoon, Steven - OIG; Robins, Douglas - ASAM; Bowen, Rebecca - OIG; Campbell, Carl V - OASAM OSPE; Kenyon, Geoffrey - OASAM DBC; Bennett, Anna Laura - SOL; Ritchie, Duyen T - OASAM OSPE; Costa, Jessica W - ASAM; Lee, Lindsy T - SOL; Dankowitz, Beverly - SOL
Sent: 12/22/2020 1:53:21 PM
Subject: Draft Report No. 17-21-002-50-598, "Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950"
Attachments: 17-21-002-50-598 EO 13950 Draft Transm_122220.pdf; 17-21-002-50-598 EO13950 Draft Rpt_122220.pdf

The Office of Inspector General is providing the attached draft report to officials solely for their review and comment on the subjects reported. The report is subject to change and must be safeguarded to prevent its improper disclosure. We do not authorize recipients of this draft to distribute or release its information, except for official review and comment. Upon request, all electronic copies of drafts must be destroyed and any hard copies of drafts must be returned. We appreciate your cooperation in this matter.

We would appreciate your written response to the draft report by December 28, 2020. Please be aware our evaluation of your written comments may be incorporated into the final report. In addition, a copy of your written response will be included in its entirety as an attachment to the final report.

If you or your staff have any questions, please call Tracy M. Katz, Audit Director, at (b) 6.

Silvia B. Gallareta
U.S. Department of Labor
Office of Inspector General
200 Constitution Ave., N.W., Room S-5512
Washington, DC 20210
Phone:
Email: b(6) *oig.dol.gov*

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

December 22, 2020

MEMORANDUM FOR: TIMOTHY J. TAYLOR
Deputy Solicitor
of Labor
EO 13950 Senior Agency Official

CRAIG E. LEEN
Assistant Secretary
for Office of Federal Contract Compliance Programs

BRYAN SLATER
Assistant Secretary
for Administration and Management

JOHN PALLASCH
Assistant Secretary
for Employment and Training

Elliot P. Lewis

FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: *Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950*
Draft Report No. 17-21-002-50-598

The Office of Inspector General is providing the attached draft report to officials solely for their review and comment on the subjects reported. You may share this report with applicable individuals within the Department of Labor and individuals outside the Department of Labor with a legitimate need to know. The report is subject to change and must be safeguarded to prevent its improper disclosure. We do not authorize recipients of this draft to distribute or release its information, except for official review and comment. Upon request, all electronic copies of drafts must be destroyed and any hard copies of drafts must be returned. We appreciate your cooperation in this matter.

We would appreciate your written response to the draft report by December 28, 2020. Please be aware our evaluation of your written comments may be incorporated into the final report. In addition, a copy of your written response will be included in its entirety as an attachment to the final report.

If you or your staff have any questions, please call Tracy M. Katz, Audit Director, at b(6)

Attachment

cc: Bob Gaglione
Deputy Director for Policy
Office of Federal Contract Compliance Programs

Patricia J. Davidson
Deputy Director for National Operations
Office of Federal Contract Compliance Programs

Julie Cerruti
Audit Liaison,
Employment and Training Administration

Greg Hitchcock
Audit Liaison,
Employment and Training Administration

Al Stewart
Audit Liaison,
Office of the Assistant Secretary for Administration and Management

Braye Cloud
Audit Liaison,
Office of the Assistant Secretary for Administration and Management

Lissette Gean
Audit Liaison
Office of Federal Contract Compliance Programs

From: Gean, Lissette - OFCCP </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS /CN=BBB9A13178C24AADB6B7613F2F9041F3-GEAN, LISSE>
To: Gaglione, Robert J - OFCCP; Davidson, Patricia J - OFCCP; Williams, Tina T - OFCCP; Seely, Christopher - OFCCP; LaJeunesse, Robert - OFCCP; Smith, Kelley - OFCCP
CC: Leen, Craig - OFCCP
Sent: 12/29/2020 3:06:39 PM
Subject: FW: Final Report No. 17-21-002-50-598, "Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950"
Attachments: DOL-OIG EO13950 Final Report.pdf

FYI

From: Gallareta, Silvia - OIG [b(6)] @oig.dol.gov> **On Behalf Of** Lewis, Elliot - OIG
Sent: Tuesday, December 29, 2020 3:00 PM
To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Stewart, Milton AI - ASAM <Stewart.Milton@dol.gov>; Cloud, Braye G - ASAM <[b(6)] @dol.gov>; Minchin, Robert E - OSEC <minchin.robert.e@dol.gov>; Pallasch, John P - ETA <Pallasch.John.P@dol.gov>; Slater, Bryan - ASAM <Slater.Bryan@DOL.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Gean, Lissette - OFCCP [b(6)] @dol.gov>; Costa, Jessica W - ASAM <[b(6)] @dol.gov>; Katz, Tracy - OIG <[b(6)] @oig.dol.gov>; Paredes, Fernando - OIG [b(6)] @oig.dol.gov>; Lewis, Elliot - OIG [b(6)] @oig.dol.gov>; Nicolosi, Laura - OI[b(6)] @oig.dol.gov>; Armada, Ray - OIG [b(6)] @oig.dol.gov>; Milbry, Candace - OIG <[b(6)] @oig.dol.gov>; Bowen, Rebecca - OIG [b(6)] @oig.dol.gov>; Witherspoon, Steven - O[b(6)] n@oig.dol.gov>; Santos, Luiz - OIG <[(b) 6]>; Purchase, Delisa - OIG <[b(6)] dol.gov>; Sheetz-Ziegel, Willem - OIG - CTR <[b(6)] @oig.dol.gov>; Donovan, Joseph - OIG <[b(6)] @oig.dol.gov>; Powell, James - OIG <[b(6)] @oig.dol.gov>; Turner, Larry - OIG [b(6)] @oig.dol.gov>; Torres, Jennifer - OIG [b(6)] @oig.dol.gov>; Nguyen, Phu - OIG <[b(6)] @oig.dol.gov>; Roshetko, Michele - OIG [b(6)] @oig.dol.gov>
Subject: Final Report No. 17-21-002-50-598, "Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950"

In accordance with Section 6(c)(ii) of the Executive Order 13950, Combating Race and Sex Stereotyping, the Department of Labor - Office of Inspector General provided the attached final report to the Office of Management and Budget on the Department of Labor's compliance with Executive Order 13950.

If you have any questions regarding the information we have provided, you may contact Laura B. Nicolosi, Acting Assistant Inspector General for Audit, at [(b) 6]

Silvia B. Gallareta
U.S. Department of Labor
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Phone [b(6)]
Email: [b(6)] *@oig.dol.gov*

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

December 29, 2020

The Honorable Russell T. Vought
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

This report presents the results of our review of the Department of Labor's (DOL) compliance in implementing the requirements of Executive Order (EO) 13950, Combating Race and Sex Stereotyping.[1] EO 13950 prohibits the federal government from promoting race or sex stereotyping in the federal workforce and Uniformed Services, and from using contracting and grant funds for any of these purposes. The EO further states that federal agencies, contractors, and grant recipients should instead foster environments devoid of hostility and should provide training that fosters inclusive workplaces because the federal government is, and must always be, committed to the fair and equal treatment of all individuals before the law.

The EO requires agency Inspectors General to annually assess the Department's compliance with the EO and report the results by December 31 to the Office of Management and Budget (OMB). Thus, we conducted a review to answer the following question:

> Is the Department of Labor meeting the requirements of EO 13950, Combating Race and Sex Stereotyping?

Based on the results of our audit work, we determined that as of December 21, 2020, the Department of Labor is meeting all 10 requirements of EO 13950, Combating Race and Sex Stereotyping. The scope, methodology and criteria for our review is detailed in Attachment – 1.

[1] President Donald Trump issued Executive Order 13950, Combating Race and Sex Stereotyping, on September 22, 2020

BACKGROUND

On September 22, 2020, President Donald J. Trump issued EO 13950, Combating Race and Sex Stereotyping. The EO sets forth the policy of the United States "not to promote race or sex stereotyping or scapegoating" and prohibits federal contractors from instilling such views in their employees in workplace diversity and inclusion trainings. The EO became effective immediately when signed on September 22, 2020, but the requirements for federal contractors and subcontractors apply to contracts entered into 60 days after the EO was signed, that is, November 21, 2020. Section 6(c)(ii) of the EO states that each agency head shall request its agency Inspector General to review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to OMB.

EO 13950 includes two requirements that apply specifically to DOL's Office of Federal Contracting Compliance Programs (OFCCP) and eight requirements that all federal agencies, including DOL, must address (see Attachments 2 and 3, respectively, for each of the requirements).

RESULTS

The results of our review are detailed below and are broken out into two sections. The first section includes our assessment of OFCCP efforts in meeting the two EO 13950 requirements specific to DOL-OFCCP. The second section includes our assessment of the Department's efforts in meeting the eight EO 13950 requirements that apply to all federal agencies.

OFCCP IS MEETING THE TWO EO 13950 REQUIREMENTS SPECIFIC TO DOL

OFCCP is meeting the two EO 13950 requirements specific to DOL. As of December 21, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, assigning complaints to regional offices, and publishing a request for information in the Federal Register.

OFCCP Requirement No. 1, Hotline and Investigations – Meets

EO 13950 Requirement: The EO requires OFCCP to establish a hotline and investigate complaints received under both EO 13950 as well as EO 11246[2] that allege federal contractors are conducting training programs in violation of contractor obligations under those orders.

OIG Assessment: OFCCP is meeting this requirement. On September 28, 2020, OFCCP established a hotline and email address to receive and investigate complaints under existing EO 11246 as well as EO 13950. OFCCP officials stated on December 21, 2020, that OFCCP has begun processing complaints.

OFCCP Requirement No. 2, Request for Information – Meets

EO 13950 Requirement: The EO requires the OFCCP Director to publish in the Federal Register, within 30 days from the date of the EO (October 22, 2020), a Request for Information (RFI) seeking information from federal contractors, federal subcontractors, and employees regarding the training, workshops, or similar programming provided to employees by federal contractors and subcontractors.

OIG Assessment: OFCCP is meeting this requirement. On October 22, 2020, the OFCCP Director published in the Federal Register[3] an RFI seeking information from federal contractors, federal subcontractors, and employees of federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees.

The RFI requested copies of trainings, workshops, or similar programing having to do with diversity and inclusion, as well as information about the duration, frequency, and expense of such activities.The information request was voluntary and responses were due by December 1, 2020. OFCCP officials stated that 1,400 comments had been received in response to the Request for Information: Race and Sex Stereotyping and Scapegoating. Further, OFCCP stated that 1,373 comments were posted to www.regulations.gov for public viewing, although 27 comments had to be redacted or were exact duplicates. According to OFCCP officials, none of the training materials submitted in response to the RFI were submitted on behalf of an employer though some were submitted by employees complaining about training. The agency plans to review the information provided in responses to the RFI, to

---

[2] Executive Order 11246 — Equal Employment Opportunity, September 24, 1965, as amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who hold over $10,000 in Government contracts in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. The EO also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. Additionally, EO 11246 prohibits federal contractors and subcontractors from, under certain circumstances, taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers.

[3] OFCCP Federal Register Request for Information, from: https://www.federalregister.gov/documents/2020/10/22/2020-23339/request-for-information-race-and-sex-stereotyping-and-scapegoating, last accessed on 12/19/2020.

inform its implementation of the new EO, including its guidance to field offices for how to evaluate contractor training for compliance with EO 13950 and EO 11246.

THE DEPARTMENT OF LABOR IS MEETING THE EO 13950 REQUIREMENTS APPLICABLE TO EACH FEDERAL AGENCY

DOL is meeting the eight requirements applicable to each federal agency under EO 13950.

DOL Requirement No. 1, Contract Provisions – Meets

EO 13950 Requirement: The EO requires that Government contracts and related subcontracts include provisions that state the contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or scapegoating; this requirement applies to contracts entered into on or after November 21, 2020.

OIG Assessment: DOL is meeting this requirement. The Department's Senior Procurement Executive issued a memo to all Heads of Contracting Activities and Contracting Officers on November 24, 2020, titled, *Class Deviation from the Federal Acquisition Regulation for Executive Order 13950 Combating Race and Sex Stereotyping*. The memo approves a class deviation from the Federal Acquisition Regulation (FAR) to implement Section 4 of the EO. The memo requires: 1) the attached clause be part of any solicitation issued on or after November 20, 2020, and be included in any resultant contracts that will include the clause at FAR 52.222-26, Equal Opportunity[4]; 2) the amendment of solicitations issued prior to November 20, 2020, to include the clause provided in the attachment and in any resultant contract award expected to occur on or after November 20, 2020, if the contract is contemplated to include the clause at FAR 52.222-26, Equal Opportunity; and 3) the clause be included in the attachment to all contracts for diversity and inclusion training.

As of December 3, 2020, the Department had issued 11 contracts on or after November 21, 2020. We reviewed all the contracts and determined that each included the new EO 13950 contract clauses provided in the November 24, 2020 memorandum from the Department's Senior Procurement Executive.

[4] FAR 52.222-26 requires certain provisions be included in contracts related to nondiscrimination in employment, affirmative action requirements; required postings of notices; nondiscrimination clauses in all solicitations or advertisements for employees; prohibition against taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers; providing appropriate labor unions or workers' representatives notice of the contractor's commitments under this clause; permit access to its premises by the contracting agency or OFCCP in order to conduct on-site compliance evaluations and complaint investigations; and including all of the same terms and conditions in every subcontract not otherwise exempt by rules regulations or orders of the Secretary of Labor.

According to Department Officials, the Office of Acquisition Services and the Job Corps Acquisition Services will coordinate with the Director of Procurement Policy to query the Department's Acquisition Management System and the Federal Procurement Data System – Next Generation to find all contracts for diversity and inclusion training and modify those contract actions to include DOL local clause 2021-01. According to Department Officials, the Office of the Senior Procurement Executive (OSPE) contemplates all contract actions will be modified on or before March 31, 2021. The OSPE Procurement Policy Office will keep track of all solicitations and modifications wherein the clause was included and provide a report to the Senior Procurement Executive at the end of each month.

DOL Requirement No. 2, Grantee Certifications - Meets

EO 13950 Requirement: The EO requires that 1) grant programs be reviewed and identified for which DOL may, as a condition of receiving such a grant, require the recipient to certify that it would not use federal funds to promote race or sex stereotyping or scapegoating and 2) DOL submit a report to the OMB within 60 days of the date of the EO (November 21, 2020) that lists all grant programs so identified.

OIG Assessment: DOL is meeting this requirement. According to DOL officials, the Department collected information Department-wide on grants and identified grants that, as a condition of receiving such a grant, require the recipient to certify that it would not use federal funds to promote race or sex stereotyping or scapegoating. The Department submitted a report to OMB on November 20, 2020, that listed all grant programs so identified.

DOL Requirement No. 3, Agency Operations – Meets

EO 13950 Requirement: The EO requires that the Department incorporate EO 13950 requirements into agency operations.

OIG Assessment: DOL is meeting this requirement. On November 13, 2020, the Secretary of Labor issued Secretary's Order 11-2020–Implementation of EO 13950--to ensure that the Department of Labor, its employees while on duty status, and its contractors do not in any training to agency employees teach, advocate, act upon, or promote any of the divisive concepts listed in section 2(a) of EO 13950, Combating Race and Sex Stereotyping, and to ensure that the Department's diversity and inclusion efforts instruct agency employees not to judge each other by any characteristic protected by federal law. Thus, Secretary's Order 11-2020 has incorporated the federal-wide requirements of EO13950 into the Department's operations.

In addition, Secretary's Order 11-2020 assigned EO 13950 responsibilities to applicable Department staff [5] for ensuring the proper implementation of EO 13950.

DOL Requirement No.4, Assignment of Senior Agency Official – Meets

EO 13950 Requirement: The EO requires at least one senior political appointee be assigned responsibility for ensuring compliance with the requirements of EO 13950.

OIG Assessment: DOL is meeting this requirement. On September 28, 2020, the Deputy Secretary sent an email to all DOL agency heads, designating the Deputy Solicitor as having been assigned the responsibility for ensuring DOL's compliance with the requirements of EO 13950.

DOL Requirement No. 5, OIG Review – Meets

EO 13950 Requirement: The EO requires the Department to request the OIG review and assess compliance with EO 13950 prior to December 31, 2020, and not less than annually thereafter.

OIG Assessment: DOL has met this requirement. The Department's implementation plan included having the agency head send the OIG a request as required by section 6(c)(ii). However, the OIG communicated with the Department on October 30, 2020, to determine its intent to request such a review. Upon acknowledgement of the Department's intent, the OIG initiated a review on November 5, 2020. Department officials therefore viewed the requirement as overcome by events and did not believe it necessary to issue a formal request for review by the OIG to assess compliance with the EO.

DOL Requirement No. 6, Prohibited Training – Meets

EO 13950 Requirement: The EO requires that the Department take steps to ensure its agencies, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming to agency employees, do not teach, advocate, act upon, or promote any of the divisive concepts listed in the EO in any training to agency employees.

DOL OIG Assessment: DOL is meeting this requirement. The Department issued a memo for all Administrative Officers and sub-agency heads to place on hold all diversity and inclusion training at this time. DOL is developing new standardized diversity training in an effort to consolidate all diversity and inclusion training from the many diversity and inclusion programs currently deployed into one single

[5] The DOL staff assigned EO 13950 responsibilities by Secretary's Order 11-2020 are the: 1) Deputy Secretary, 2) Senior EO 13950 Compliance Official, 3) Assistant Secretary for Administration and Management, 4) Director of the Office of Federal Contract Compliance Programs, 5), Assistant Secretary for Policy, 6) Agency Heads 7) Department Employees, and 8) Solicitor of Labor.

program. DOL officials stated that the Department is also working on updating the Department of Labor Manual Series and the Department of Labor Acquisition Manual to reflect EO 13950.

DOL Requirement No. 7, Office of Personnel Management (OPM) Review of Training – Meets

EO 13950 Requirement: The EO requires the Department to ensure all training programs for agency employees relating to diversity or inclusion, be reviewed by OPM for EO compliance before being offered.

OIG Assessment: DOL is meeting this requirement. The Department's Deputy Solicitor, who serves as DOL's EO 13950 Compliance Official, sent a memorandum to all agency heads on November 13, 2020, on the subject of "Implementation of Executive Order 13950 and Secretary's Order 11-2020". The memo temporarily suspended all DOL component diversity or inclusion training upon issuance of EO 13950. According to DOL officials, the Department has since collected a copy of each DOL component agency's individual diversity and/or inclusion training programs and is developing one, Department-wide diversity and/or inclusion training program for all DOL employees and contractors. Once the new training program is developed, it will be provided to OPM for review and approval.

In addition, the memo requires that agency heads review and approve in advance any expenditure for federal employee diversity and inclusion training but only after certifying that the curriculum meets the standard of fair and equal treatment of each individual. In addition, the Department's Deputy Solicitor, in the capacity as the EO 13950 Compliance Official, must also approve and certify Agency Diversity and Inclusion training. Finally, the memo requires agency heads to take all appropriate actions to align their public-facing information with the requirements for training federal employees outlined in EO 13950. If an agency provides external, publicly directed training or similar programs that include or refer to the topics identified in EO 13950 and OMB guidance, the agency must contact the Deputy Solicitor before conducting any such programs.

DOL Requirement No. 8, Reporting Training Expenditures – Meets

EO 13950 Requirement: The EO requires the Department to ensure that all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors, be reported to OMB within 90 days of EO issuance, or December 21, 2020.

OIG Assessment: DOL is meeting this requirement. On December 16, 2020, the Department provided OMB its FY20 spending on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors.

OIG'S RECOMMENDATIONS

We are not making any recommendations related to the results of our assessment presented in this report. Management's response to the draft report is included in its entirety in Attachments 4 and 5.

SUMMARY OF OFCCP'S RESPONSE

The Director of the Office of Federal Contractor Compliance Programs appreciated the Office of Inspector General's efforts and insights and stated the Office of Federal Contract Compliance Programs (OFCCP) concurs with the Office of Inspector General's findings that the agency is meeting the two Executive Order (EO) 13950 requirements specified in Section 4. As of December 22, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, and publishing a request for information in the Federal Register. Additionally, the agency had started processing the complaints received and reviewing them under EO 11246 and EO 13950, where applicable.

In addition, the Director of OFCCP stated that due to a December 22, 2020, court decision, OFCCP is ceasing implementation and enforcement of Section 4, Requirements for Government Contracts, of EO 13950 in compliance with the court decision issued. The OIG acknowledges that this court decision took place. However, it occurred outside of our December 21, 2020, scope of work. Accordingly, we did not review the court's decisions or OFCCP's subsequent actions.

SUMMARY OF DOL'S RESPONSE.

The Assistant Secretary of Administration and Management appreciated the Office of Inspector General's efforts and insights and stated that the Department's new Diversity and Inclusion training was submitted to OPM for review and approval on December 16, 2020, and OPM approved the training on December 18, 2020.

If you have any questions regarding the information we have provided, please contact me at 202-693-5100. Alternatively, your staff may contact Laura B. Nicolosi, Acting Assistant Inspector General for Audit, at 202-693-6993.

Sincerely,

Larry D. Turner

Larry D. Turner
Acting Inspector General

Attachments

Cc: Timothy J. Taylor
Deputy Solicitor
of Labor
EO 13950 Senior Agency Official

Craig E. Leen
Assistant Secretary
for Office of Federal Contract Compliance Programs

Bryan Slater
Assistant Secretary
for Administration and Management

John Pallasch
Assistant Secretary
for Employment and Training

Louis Feagans,
Office of Management and Budget

ATTACHMENT 1: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

We reviewed the Department's actions from September 22, 2020, through December 21, 2020, towards meeting the EO requirements. We assessed the status of DOL's implementation efforts by conducting interviews with DOL management officials and analyzing the evidence they provided.

METHODOLOGY

We conducted this review in accordance with U.S. Department of Labor, Office of Inspector General internal policies and procedures. Those policies and procedures require that we plan and perform our work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objective.

To accomplish our objective, we reviewed EO 13950 and other relevant guidance, interviewed DOL officials from OFCCP, ETA, and OASAM, and analyzed documentation provided by DOL related to the implementation of EO 13950.

CRITERIA

- Executive Order 13950, *Combating Race and Sex Stereotyping*, September 22, 2020
- Executive Order 11246, *Equal Employment Opportunity*, September 24, 1965
- OMB M-20-34, *Training in Federal Government*, September 4, 2020
- OMB Memorandum M-20-37, *Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All*, September 28, 2020
- Office of Personnel Management (OPM) Guidance on *Mandatory Review of Employee Training under EO 13950 September 22, 2020*, October 2, 2020

ATTACHMENT 2: OFCCP EO 13950 REQUIREMENTS

The EO requires that DOL - Office of Federal Contract Compliance Programs:

1. Establish a hotline and investigate complaints received under both EO 13950 as well as EO 11246 alleging that a Federal contractor is utilizing such training programs in violation of the contractor's obligations under those orders.

2. Publish, within 30 days of the date of EO 13950, a request in the Federal Register for information seeking information from federal contractors, federal subcontractors, and employees of federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees. The request for information should request copies of any training, workshop, or similar programing having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities.

ATTACHMENT 3: EO 13950 REQUIREMENTS FOR FEDERAL AGENCIES

The EO requires that all Federal agency heads ensure the following:

1. Government contracts and related subcontracts include provisions that state contractors shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating.

2. Grant programs are reviewed and identified for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote race or sex stereotyping or scapegoating. Within 60 days of the date of this order, the heads of agencies shall submit a report to the Director of the Office of Management and Budget (OMB) that lists all grant programs so identified.

3. An order incorporating the EO requirements is issued into agency operations, including making compliance with this order a provision in all agency contracts for diversity training.

4. At least one senior political appointee is assigned responsibility for ensuring compliance with the requirements of this order.

5. Each agency head shall request the agency Inspector General to thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to the Office of Management and Budget.

6. Agency, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming to agency employees do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in the EO.

7. All training programs for agency employees relating to diversity or inclusion shall, before being used, be reviewed by OPM for compliance with the requirements of the EO.

8. All spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors, is reported to OMB within 90 days of the EO.

ATTACHMENT 4: OFCCP'S RESPONSE TO THE REPORT

U.S. Department of Labor

Office of Federal Contract Compliance Programs
200 Constitution Avenue, N.W.
Washington, D.C. 20210

December 28, 2020

Mr. Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
200 Constitution Avenue, NW
Washington DC 20210

Dear Mr. Lewis:

Thank you for the opportunity to review and comment on draft report no. 17-21-002-50-598, *Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950*. We appreciate the Office of Inspector General's efforts and insights.

The Office of Federal Contract Compliance Programs (OFCCP) concurs with the Office of Inspector General's findings that the agency is meeting the two Executive Order (EO) 13950 requirements specified in Section 4. As of December 22, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, and publishing a request for information in the Federal Register. Additionally, the agency had started processing the complaints received and reviewing them under EO 11246 and EO 13950, where applicable.

On December 22, 2020, a federal district court judge in the Northern District of California issued a preliminary injunction enjoining OFCCP from implementing, enforcing, or effectuating Section 4 of Executive Order 13950 "in any manner against any recipient of federal funding by way of contract [or] subcontract…" This preliminary injunction took effect immediately upon issuance of the order. Accordingly, please note that OFCCP is ceasing implementation and enforcement of Section 4 of EO 13950 in compliance with the Preliminary Injunction issued.

Sincerely,

Craig E. Leen
Director

ATTACHMENT 5: DOL'S RESPONSE TO THE REPORT

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210

Mr. Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Mr. Lewis:

Thank you for the opportunity to review and comment on draft report 17-21-002-50-598, *Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950.* We appreciate the Office of Inspector General's efforts and insights.

The Department's new Diversity and Inclusion training was submitted to OPM for review and approval on December 16, 2020, and OPM approved on December 18, 2020.

Should you have any questions regarding the Department's response, please have your staff contact Geoff Kenyon, Deputy Assistant Secretary for Budget and Performance, or Al Stewart, Deputy Assistant Secretary for Operations, at (202) 693-4040

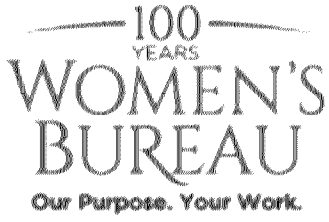
Sincerely,

Bryan Slater
Assistant Secretary for
Administration and Management

From: Leen, Craig - OFCCP </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS /CN=5FFD4A5B3CC74F49A5D2BF4C747416D4-LEEN, CRAIG>
To: Kilberg, Andrew G - OSEC; Swearingen, Brett A - OSEC; Squitieri, Chad C - OSEC
CC: Taylor, Timothy J - SOL
Sent: 12/29/2020 3:16:50 PM
Subject: FW: Final Report No. 17-21-002-50-598, "Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950"
Attachments: DOL-OIG EO13950 Final Report.pdf

FYI.

Craig E. Leen
OFCCP Director



From: Gallareta, Silvia - OIG b(6) @oig.dol.gov> **On Behalf Of** Lewis, Elliot - OIG
Sent: Tuesday, December 29, 2020 3:00 PM
To: Taylor, Timothy J - SOL <Taylor.Timothy.J@dol.gov>
Cc: Stewart, Milton AI - ASAM <Stewart.Milton@dol.gov>; Cloud, Braye G - ASAM <b(6) ol.gov>; Minchin, Robert E - OSEC <minchin.robert.e@dol.gov>; Pallasch, John P - ETA <Pallasch.John.P@dol.gov>; Slater, Bryan - ASAM <Slater.Bryan@DOL.gov>; Leen, Craig - OFCCP <Leen.Craig@DOL.gov>; Gean, Lissette - OF b(6) @dol.gov>; Costa, Jessica W - ASAM < b(6) @dol.gov>; Katz, Tracy - OIG < ov>; Paredes, Fernando - OIG b(6) @oig.dol.gov>; Lewis, Elliot - OIG < b(6) @oig.dol.gov>; Nicolosi, Laura - OIG < b(6) @oig.dol.gov>; Armada, Ray - OIG < b(6) g.dol.gov>; Milbry, Candace - OIG < b(6) @oig.dol.gov>; Bowen, Rebecca - OIG < @oig.dol.gov>; Witherspoon, Steven - OIG < b(6) @oig.dol.gov>; Santos, Luiz - OIG < b(6) @oig.dol.gov>; Purchase, Delisa - OIG < b(6) @oig.dol.gov>; Sheetz-Ziegel, Willem - OIG - CTR < b(6) @oig.dol.gov>; Donovan, Joseph - OIG < (b) 6 big.dol.gov>; Powell, James @oig.dol.gov>; Turner, Larry - OIG @oig.dol.gov>; Torres, Jennifer - OIG b(6) dol.gov>; Nguyen, Phu - OIG < b(6) @oig.dol.gov>; Roshetko, Michele - OIG b(6) @oig.dol.gov>
Subject: Final Report No. 17-21-002-50-598, "Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950"

In accordance with Section 6(c)(ii) of the Executive Order 13950, Combating Race and Sex Stereotyping, the Department of Labor - Office of Inspector General provided the attached final report to the Office of Management and Budget on the Department of Labor's compliance with Executive Order 13950.

If you have any questions regarding the information we have provided, you may contact Laura B. Nicolosi, Acting Assistant Inspector General for Audit, at b(6)

Silvia B. Gallareta
U.S. Department of Labor
Office of Inspector General

200 Constitution Ave., N.W., Room S-5512
Washington, DC 20210
Phone b(6)
Email b(6) @oig.dol.gov

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

December 29, 2020

The Honorable Russell T. Vought
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

This report presents the results of our review of the Department of Labor's (DOL) compliance in implementing the requirements of Executive Order (EO) 13950, Combating Race and Sex Stereotyping.[1] EO 13950 prohibits the federal government from promoting race or sex stereotyping in the federal workforce and Uniformed Services, and from using contracting and grant funds for any of these purposes. The EO further states that federal agencies, contractors, and grant recipients should instead foster environments devoid of hostility and should provide training that fosters inclusive workplaces because the federal government is, and must always be, committed to the fair and equal treatment of all individuals before the law.

The EO requires agency Inspectors General to annually assess the Department's compliance with the EO and report the results by December 31 to the Office of Management and Budget (OMB). Thus, we conducted a review to answer the following question:

> Is the Department of Labor meeting the requirements of EO 13950, Combating Race and Sex Stereotyping?

Based on the results of our audit work, we determined that as of December 21, 2020, the Department of Labor is meeting all 10 requirements of EO 13950, Combating Race and Sex Stereotyping. The scope, methodology and criteria for our review is detailed in Attachment – 1.

[1] President Donald Trump issued Executive Order 13950, Combating Race and Sex Stereotyping, on September 22, 2020

BACKGROUND

On September 22, 2020, President Donald J. Trump issued EO 13950, Combating Race and Sex Stereotyping. The EO sets forth the policy of the United States "not to promote race or sex stereotyping or scapegoating" and prohibits federal contractors from instilling such views in their employees in workplace diversity and inclusion trainings. The EO became effective immediately when signed on September 22, 2020, but the requirements for federal contractors and subcontractors apply to contracts entered into 60 days after the EO was signed, that is, November 21, 2020. Section 6(c)(ii) of the EO states that each agency head shall request its agency Inspector General to review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to OMB.

EO 13950 includes two requirements that apply specifically to DOL's Office of Federal Contracting Compliance Programs (OFCCP) and eight requirements that all federal agencies, including DOL, must address (see Attachments 2 and 3, respectively, for each of the requirements).

RESULTS

The results of our review are detailed below and are broken out into two sections. The first section includes our assessment of OFCCP efforts in meeting the two EO 13950 requirements specific to DOL-OFCCP. The second section includes our assessment of the Department's efforts in meeting the eight EO 13950 requirements that apply to all federal agencies.

OFCCP IS MEETING THE TWO EO 13950 REQUIREMENTS SPECIFIC TO DOL

OFCCP is meeting the two EO 13950 requirements specific to DOL. As of December 21, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, assigning complaints to regional offices, and publishing a request for information in the Federal Register.

OFCCP Requirement No. 1, Hotline and Investigations – Meets

EO 13950 Requirement: The EO requires OFCCP to establish a hotline and investigate complaints received under both EO 13950 as well as EO 11246[2] that allege federal contractors are conducting training programs in violation of contractor obligations under those orders.

OIG Assessment: OFCCP is meeting this requirement. On September 28, 2020, OFCCP established a hotline and email address to receive and investigate complaints under existing EO 11246 as well as EO 13950. OFCCP officials stated on December 21, 2020, that OFCCP has begun processing complaints.

OFCCP Requirement No. 2, Request for Information – Meets

EO 13950 Requirement: The EO requires the OFCCP Director to publish in the Federal Register, within 30 days from the date of the EO (October 22, 2020), a Request for Information (RFI) seeking information from federal contractors, federal subcontractors, and employees regarding the training, workshops, or similar programming provided to employees by federal contractors and subcontractors.

OIG Assessment: OFCCP is meeting this requirement. On October 22, 2020, the OFCCP Director published in the Federal Register[3] an RFI seeking information from federal contractors, federal subcontractors, and employees of federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees.

The RFI requested copies of trainings, workshops, or similar programing having to do with diversity and inclusion, as well as information about the duration, frequency, and expense of such activities.The information request was voluntary and responses were due by December 1, 2020. OFCCP officials stated that 1,400 comments had been received in response to the Request for Information: Race and Sex Stereotyping and Scapegoating. Further, OFCCP stated that 1,373 comments were posted to www.regulations.gov for public viewing, although 27 comments had to be redacted or were exact duplicates. According to OFCCP officials, none of the training materials submitted in response to the RFI were submitted on behalf of an employer though some were submitted by employees complaining about training. The agency plans to review the information provided in responses to the RFI, to

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[2] Executive Order 11246 — Equal Employment Opportunity, September 24, 1965, as amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who hold over $10,000 in Government contracts in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. The EO also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. Additionally, EO 11246 prohibits federal contractors and subcontractors from, under certain circumstances, taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers.

[3] OFCCP Federal Register Request for Information, from: https://www.federalregister.gov/documents/2020/10/22/2020-23339/request-for-information-race-and-sex-stereotyping-and-scapegoating, last accessed on 12/19/2020.

inform its implementation of the new EO, including its guidance to field offices for how to evaluate contractor training for compliance with EO 13950 and EO 11246.

THE DEPARTMENT OF LABOR IS MEETING THE EO 13950 REQUIREMENTS APPLICABLE TO EACH FEDERAL AGENCY

DOL is meeting the eight requirements applicable to each federal agency under EO 13950.

DOL Requirement No. 1, Contract Provisions – Meets

EO 13950 Requirement: The EO requires that Government contracts and related subcontracts include provisions that state the contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or scapegoating; this requirement applies to contracts entered into on or after November 21, 2020.

OIG Assessment: DOL is meeting this requirement. The Department's Senior Procurement Executive issued a memo to all Heads of Contracting Activities and Contracting Officers on November 24, 2020, titled, *Class Deviation from the Federal Acquisition Regulation for Executive Order 13950 Combating Race and Sex Stereotyping*. The memo approves a class deviation from the Federal Acquisition Regulation (FAR) to implement Section 4 of the EO. The memo requires: 1) the attached clause be part of any solicitation issued on or after November 20, 2020, and be included in any resultant contracts that will include the clause at FAR 52.222-26, Equal Opportunity[4]; 2) the amendment of solicitations issued prior to November 20, 2020, to include the clause provided in the attachment and in any resultant contract award expected to occur on or after November 20, 2020, if the contract is contemplated to include the clause at FAR 52.222-26, Equal Opportunity; and 3) the clause be included in the attachment to all contracts for diversity and inclusion training.

As of December 3, 2020, the Department had issued 11 contracts on or after November 21, 2020. We reviewed all the contracts and determined that each included the new EO 13950 contract clauses provided in the November 24, 2020 memorandum from the Department's Senior Procurement Executive.

[4] FAR 52.222-26 requires certain provisions be included in contracts related to nondiscrimination in employment, affirmative action requirements; required postings of notices; nondiscrimination clauses in all solicitations or advertisements for employees; prohibition against taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers; providing appropriate labor unions or workers' representatives notice of the contractor's commitments under this clause; permit access to its premises by the contracting agency or OFCCP in order to conduct on-site compliance evaluations and complaint investigations; and including all of the same terms and conditions in every subcontract not otherwise exempt by rules regulations or orders of the Secretary of Labor.

According to Department Officials, the Office of Acquisition Services and the Job Corps Acquisition Services will coordinate with the Director of Procurement Policy to query the Department's Acquisition Management System and the Federal Procurement Data System – Next Generation to find all contracts for diversity and inclusion training and modify those contract actions to include DOL local clause 2021-01. According to Department Officials, the Office of the Senior Procurement Executive (OSPE) contemplates all contract actions will be modified on or before March 31, 2021. The OSPE Procurement Policy Office will keep track of all solicitations and modifications wherein the clause was included and provide a report to the Senior Procurement Executive at the end of each month.

DOL Requirement No. 2, Grantee Certifications - Meets

EO 13950 Requirement: The EO requires that 1) grant programs be reviewed and identified for which DOL may, as a condition of receiving such a grant, require the recipient to certify that it would not use federal funds to promote race or sex stereotyping or scapegoating and 2) DOL submit a report to the OMB within 60 days of the date of the EO (November 21, 2020) that lists all grant programs so identified.

OIG Assessment: DOL is meeting this requirement. According to DOL officials, the Department collected information Department-wide on grants and identified grants that, as a condition of receiving such a grant, require the recipient to certify that it would not use federal funds to promote race or sex stereotyping or scapegoating. The Department submitted a report to OMB on November 20, 2020, that listed all grant programs so identified.

DOL Requirement No. 3, Agency Operations – Meets

EO 13950 Requirement: The EO requires that the Department incorporate EO 13950 requirements into agency operations.

OIG Assessment: DOL is meeting this requirement. On November 13, 2020, the Secretary of Labor issued Secretary's Order 11-2020–Implementation of EO 13950--to ensure that the Department of Labor, its employees while on duty status, and its contractors do not in any training to agency employees teach, advocate, act upon, or promote any of the divisive concepts listed in section 2(a) of EO 13950, Combating Race and Sex Stereotyping, and to ensure that the Department's diversity and inclusion efforts instruct agency employees not to judge each other by any characteristic protected by federal law. Thus, Secretary's Order 11-2020 has incorporated the federal-wide requirements of EO13950 into the Department's operations.

In addition, Secretary's Order 11-2020 assigned EO 13950 responsibilities to applicable Department staff [5] for ensuring the proper implementation of EO 13950.

DOL Requirement No.4, Assignment of Senior Agency Official – Meets

EO 13950 Requirement: The EO requires at least one senior political appointee be assigned responsibility for ensuring compliance with the requirements of EO 13950.

OIG Assessment: DOL is meeting this requirement. On September 28, 2020, the Deputy Secretary sent an email to all DOL agency heads, designating the Deputy Solicitor as having been assigned the responsibility for ensuring DOL's compliance with the requirements of EO 13950.

DOL Requirement No. 5, OIG Review – Meets

EO 13950 Requirement: The EO requires the Department to request the OIG review and assess compliance with EO 13950 prior to December 31, 2020, and not less than annually thereafter.

OIG Assessment: DOL has met this requirement. The Department's implementation plan included having the agency head send the OIG a request as required by section 6(c)(ii). However, the OIG communicated with the Department on October 30, 2020, to determine its intent to request such a review. Upon acknowledgement of the Department's intent, the OIG initiated a review on November 5, 2020. Department officials therefore viewed the requirement as overcome by events and did not believe it necessary to issue a formal request for review by the OIG to assess compliance with the EO.

DOL Requirement No. 6, Prohibited Training – Meets

EO 13950 Requirement: The EO requires that the Department take steps to ensure its agencies, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming to agency employees, do not teach, advocate, act upon, or promote any of the divisive concepts listed in the EO in any training to agency employees.

DOL OIG Assessment: DOL is meeting this requirement. The Department issued a memo for all Administrative Officers and sub-agency heads to place on hold all diversity and inclusion training at this time. DOL is developing new standardized diversity training in an effort to consolidate all diversity and inclusion training from the many diversity and inclusion programs currently deployed into one single

[5] The DOL staff assigned EO 13950 responsibilities by Secretary's Order 11-2020 are the: 1) Deputy Secretary, 2) Senior EO 13950 Compliance Official, 3) Assistant Secretary for Administration and Management, 4) Director of the Office of Federal Contract Compliance Programs, 5), Assistant Secretary for Policy, 6) Agency Heads 7) Department Employees, and 8) Solicitor of Labor.

program. DOL officials stated that the Department is also working on updating the Department of Labor Manual Series and the Department of Labor Acquisition Manual to reflect EO 13950.

DOL Requirement No. 7, Office of Personnel Management (OPM) Review of Training – Meets

EO 13950 Requirement: The EO requires the Department to ensure all training programs for agency employees relating to diversity or inclusion, be reviewed by OPM for EO compliance before being offered.

OIG Assessment: DOL is meeting this requirement. The Department's Deputy Solicitor, who serves as DOL's EO 13950 Compliance Official, sent a memorandum to all agency heads on November 13, 2020, on the subject of "Implementation of Executive Order 13950 and Secretary's Order 11-2020". The memo temporarily suspended all DOL component diversity or inclusion training upon issuance of EO 13950. According to DOL officials, the Department has since collected a copy of each DOL component agency's individual diversity and/or inclusion training programs and is developing one, Department-wide diversity and/or inclusion training program for all DOL employees and contractors. Once the new training program is developed, it will be provided to OPM for review and approval.

In addition, the memo requires that agency heads review and approve in advance any expenditure for federal employee diversity and inclusion training but only after certifying that the curriculum meets the standard of fair and equal treatment of each individual. In addition, the Department's Deputy Solicitor, in the capacity as the EO 13950 Compliance Official, must also approve and certify Agency Diversity and Inclusion training. Finally, the memo requires agency heads to take all appropriate actions to align their public-facing information with the requirements for training federal employees outlined in EO 13950. If an agency provides external, publicly directed training or similar programs that include or refer to the topics identified in EO 13950 and OMB guidance, the agency must contact the Deputy Solicitor before conducting any such programs.

DOL Requirement No. 8, Reporting Training Expenditures – Meets

EO 13950 Requirement: The EO requires the Department to ensure that all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors, be reported to OMB within 90 days of EO issuance, or December 21, 2020.

OIG Assessment: DOL is meeting this requirement. On December 16, 2020, the Department provided OMB its FY20 spending on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors.

OIG'S RECOMMENDATIONS

We are not making any recommendations related to the results of our assessment presented in this report. Management's response to the draft report is included in its entirety in Attachments 4 and 5.

SUMMARY OF OFCCP'S RESPONSE

The Director of the Office of Federal Contractor Compliance Programs appreciated the Office of Inspector General's efforts and insights and stated the Office of Federal Contract Compliance Programs (OFCCP) concurs with the Office of Inspector General's findings that the agency is meeting the two Executive Order (EO) 13950 requirements specified in Section 4. As of December 22, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, and publishing a request for information in the Federal Register. Additionally, the agency had started processing the complaints received and reviewing them under EO 11246 and EO 13950, where applicable.

In addition, the Director of OFCCP stated that due to a December 22, 2020, court decision, OFCCP is ceasing implementation and enforcement of Section 4, Requirements for Government Contracts, of EO 13950 in compliance with the court decision issued. The OIG acknowledges that this court decision took place. However, it occurred outside of our December 21, 2020, scope of work. Accordingly, we did not review the court's decisions or OFCCP's subsequent actions.

SUMMARY OF DOL'S RESPONSE.

The Assistant Secretary of Administration and Management appreciated the Office of Inspector General's efforts and insights and stated that the Department's new Diversity and Inclusion training was submitted to OPM for review and approval on December 16, 2020, and OPM approved the training on December 18, 2020.

If you have any questions regarding the information we have provided, please contact me at 202-693-5100. Alternatively, your staff may contact Laura B. Nicolosi, Acting Assistant Inspector General for Audit, at 202-693-6993.

Sincerely,

Larry D. Turner

Larry D. Turner
Acting Inspector General

Attachments

Cc: Timothy J. Taylor
Deputy Solicitor
of Labor
EO 13950 Senior Agency Official

Craig E. Leen
Assistant Secretary
for Office of Federal Contract Compliance Programs

Bryan Slater
Assistant Secretary
for Administration and Management

John Pallasch
Assistant Secretary
for Employment and Training

Louis Feagans,
Office of Management and Budget

ATTACHMENT 1: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

We reviewed the Department's actions from September 22, 2020, through December 21, 2020, towards meeting the EO requirements. We assessed the status of DOL's implementation efforts by conducting interviews with DOL management officials and analyzing the evidence they provided.

METHODOLOGY

We conducted this review in accordance with U.S. Department of Labor, Office of Inspector General internal policies and procedures. Those policies and procedures require that we plan and perform our work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objective.

To accomplish our objective, we reviewed EO 13950 and other relevant guidance, interviewed DOL officials from OFCCP, ETA, and OASAM, and analyzed documentation provided by DOL related to the implementation of EO 13950.

CRITERIA

- Executive Order 13950, *Combating Race and Sex Stereotyping*, September 22, 2020
- Executive Order 11246, *Equal Employment Opportunity*, September 24, 1965
- OMB M-20-34, *Training in Federal Government*, September 4, 2020
- OMB Memorandum M-20-37, *Ending Employee Trainings that Use Divisive Propaganda to Undermine the Principle of Fair and Equal Treatment for All*, September 28, 2020
- Office of Personnel Management (OPM) Guidance on *Mandatory Review of Employee Training under EO 13950 September 22, 2020*, October 2, 2020

ATTACHMENT 2: OFCCP EO 13950 REQUIREMENTS

The EO requires that DOL - Office of Federal Contract Compliance Programs:

1. Establish a hotline and investigate complaints received under both EO 13950 as well as EO 11246 alleging that a Federal contractor is utilizing such training programs in violation of the contractor's obligations under those orders.

2. Publish, within 30 days of the date of EO 13950, a request in the Federal Register for information seeking information from federal contractors, federal subcontractors, and employees of federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees. The request for information should request copies of any training, workshop, or similar programing having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities.

ATTACHMENT 3: EO 13950 REQUIREMENTS FOR FEDERAL AGENCIES

The EO requires that all Federal agency heads ensure the following:

1. Government contracts and related subcontracts include provisions that state contractors shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating.

2. Grant programs are reviewed and identified for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote race or sex stereotyping or scapegoating. Within 60 days of the date of this order, the heads of agencies shall submit a report to the Director of the Office of Management and Budget (OMB) that lists all grant programs so identified.

3. An order incorporating the EO requirements is issued into agency operations, including making compliance with this order a provision in all agency contracts for diversity training.

4. At least one senior political appointee is assigned responsibility for ensuring compliance with the requirements of this order.

5. Each agency head shall request the agency Inspector General to thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to the Office of Management and Budget.

6. Agency, agency employees while on duty status, and any contractors hired by the agency to provide training, workshops, forums, or similar programming to agency employees do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in the EO.

7. All training programs for agency employees relating to diversity or inclusion shall, before being used, be reviewed by OPM for compliance with the requirements of the EO.

8. All spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors, is reported to OMB within 90 days of the EO.

ATTACHMENT 4: OFCCP'S RESPONSE TO THE REPORT

U.S. Department of Labor

Office of Federal Contract Compliance Programs
200 Constitution Avenue, N.W.
Washington, D.C. 20210

December 28, 2020

Mr. Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
200 Constitution Avenue, NW
Washington DC 20210

Dear Mr. Lewis:

Thank you for the opportunity to review and comment on draft report no. 17-21-002-50-598, *Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950*. We appreciate the Office of Inspector General's efforts and insights.

The Office of Federal Contract Compliance Programs (OFCCP) concurs with the Office of Inspector General's findings that the agency is meeting the two Executive Order (EO) 13950 requirements specified in Section 4. As of December 22, 2020, OFCCP efforts to implement the EO requirements included establishing a hotline, tracking complaints, and publishing a request for information in the Federal Register. Additionally, the agency had started processing the complaints received and reviewing them under EO 11246 and EO 13950, where applicable.

On December 22, 2020, a federal district court judge in the Northern District of California issued a preliminary injunction enjoining OFCCP from implementing, enforcing, or effectuating Section 4 of Executive Order 13950 "in any manner against any recipient of federal funding by way of contract [or] subcontract…" This preliminary injunction took effect immediately upon issuance of the order. Accordingly, please note that OFCCP is ceasing implementation and enforcement of Section 4 of EO 13950 in compliance with the Preliminary Injunction issued.

Sincerely,

Craig E. Leen
Director

ATTACHMENT 5: DOL'S RESPONSE TO THE REPORT

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210

Mr. Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Mr. Lewis:

Thank you for the opportunity to review and comment on draft report 17-21-002-50-598, *Review of the Department of Labor's Compliance in Implementing the Requirements of Executive Order 13950.* We appreciate the Office of Inspector General's efforts and insights.

The Department's new Diversity and Inclusion training was submitted to OPM for review and approval on December 16, 2020, and OPM approved on December 18, 2020.

Should you have any questions regarding the Department's response, please have your staff contact Geoff Kenyon, Deputy Assistant Secretary for Budget and Performance, or Al Stewart, Deputy Assistant Secretary for Operations, at (202) 693-4040

Sincerely,

Bryan Slater
Assistant Secretary for
Administration and Management

Message

From: Rosser, Shamika M - OFCCP CTR [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BF4E9A794565427D8FB7320B1CCDFF67-ROSSER, SHA]
Sent: 1/4/2021 11:59:30 AM
To: Leen, Craig - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ffd4a5b3cc74f49a5d2bf4c747416d4-Leen, Craig]; Gaglione, Robert J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1488b4650b734927906fed5870ab9642-Gaglione, R]; Davidson, Patricia J - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=881aff8bf6fb4a85ae33921a0cb1596b-Davidson, P]; LaJeunesse, Robert - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9f3ffa568704a2db7b79e20a25c080e-LaJeunesse,]; Collins, Aida Y - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32a0355e614f48fcaea5dc512773d16a-Collins, Ai]; Corbin, Jonide - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7562f2e8d23a437782a0ad40cc50cba9-Simon, Joni]; Harewood, Fiona A - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8b1d63f61a974190973f614c39868069-Harewood, F]; Hodge, Michele - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9a2682d410ed45deafdb13d08bcf7b39-Hodge, Mich]; Navarro, Carmen - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5666fc8d7dc041e1b2e5e3fe231df766-Navarro, Ca]; Rodriguez, Luis N - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f015694f022042afa0bcb2900374beed-Rodriguez,]; Sen Diana S - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e39e65e9739f4cfeb3368f451bfcc23a-Sen, Diana]; Suhr, Jane - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d86962c51c1d44aaa66fa16566997d4c-Suhr, Jane]; Kraak, Margaret - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5d6c06403a2548b7a2fe40c35cc5e1f2-Kraak, Marg]; Speer, Melissa - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b53edd248cbd4e9a9e572bb94b966ece-Speer, Meli]; Smith, Kelley - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cea2c4e5e114c0daafc5aabb237c96a-Smith, Kell]; Spalding, Candice - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Spalding, Candice - OFCCP]; Kaiser, Javaid - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1e5f5c483d9741aa8d6ed6b0dadd6027-Kaiser, Jav]; Fort, Harvey D - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f10edeb3ed442e3a4f1b0ef426f9703-Fort, Harve]; Carter, Quintin - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a41f98b62d0c464289980d75f1dce342-Carter, Qui]; Williams, Tina T - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de1ca1bb58004746a50104bd40a50623-Williams, T]; Leung, Kenneth - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e83ead72f1124a19a6565d1067874925-Leung, Kenn]; Seely, Christopher - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b2b2010aaf743ceb373a758390001a1-Seely, Chri]; Parker, Walter - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a64fa9f8e7c7440ea9f69e2d2643fff2-Parker, Wal]; Felder, Donna - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d7b2669f9340415e9e0d1e3f714e3ce2-Felder, Don]; Gean, Lissette - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bbb9a13178c24aadb6b7613f2f9041f3-Gean, Lisse]; Tretheway, Andrea - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4bcdc1bd011a4f19a909b742d2b454dc-Tretheway,]; Mimnaugh Matthew F - OFCCP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc2fb9589f364481a8c0395c315df87f-Matthew F.]; Stergio, Marcus - OFCCP

[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=37788d9ffe5a46c58fe4cae3ce987968-Stergio, Ma]; Kent, Laura L - OFCCP CTR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5d9b83cb515c419f8881d4c6e4604bca-Kent, Laura]

Subject: Morning Press Releases/News Clips - January 4, 2021

Monday Morning Press Releases: January 4, 2021 - None to Report

Date of Press Release	Company Name	Hyperlink to Release

Monday Morning News Clips: January 4, 2021

Article #	Paper	Title
1	The National Law Review	Trump Extends his Visa "Pause" Through March 2021
2	JD Supra	Federal Court Enjoins Enforcement of Key Diversity Training Limits in Executive Order 13950 | Wiley Rein LLP - JDSupra
3	Lexology	OFCCP Issues Final Rule on Religious Exemptions for Government Contractors
4	Bloomberg Law Daily Labor Report	Millions of Americans Are Calling in Sick, Stunting the Recovery
5	Bloomberg Law Daily Labor Report	EEOC Schedules Votes on Conciliation, 'Official' Time Rules

Article 1 (back to top) – hyperlink to above

Article Title: Trump Extends his Visa "Pause" Through March 2021

News Source: The National Law Review

Reporter's Name: Samuel J. Mudrick and Gregory A. Wald

Date: January 4, 2021

President Trump Extends his Visa "Pause" Through March 2021 (US)

Monday, January 4, 2021

Presidential Proclamations 10014 and 10052 have been extended through March 31, 2021. The two proclamations, which suspend U.S. entry and visa issuance for many immigrant and nonimmigrant visa applicants outside the U.S., were set to end after December 31, 2020. Possible extensions were the subject of internal deliberations at the White House leading up to the New Year, with immigration restrictionists finally winning out over pro-business advocates who sought to let them expire.

As a reminder, Proclamation 10014 stopped most family and business immigrant visa applicants (permanent visas that lead to Lawful Permanent Residency/Green Cards) and Proclamation 10052 halted new nonimmigrants seeking entry in H-1B, L-1, J-1, and H-2B visa categories. The Proclamations were deemed necessary to protect U.S. workers from foreign national workers alleged to be taking U.S. jobs during the COVID-19 economic crisis.

We wrote about immigrant visa Proclamation 10014 here, nonimmigrant Proclamation 10052 here, and the exceptions to the two Proclamations here. Exceptions to the Proclamations allow for visa issuance across several important industries, for those returning to the same employer, and those coming for activities in the U.S. "National Interest", among other categories, but they require significant documentation and preparation to qualify.

A court order, which remains in effect, partially suspended the proclamations in October 2020, but it was limited only to Plaintiffs (the National Association of Manufacturers, the Chamber of Commerce of the United States of America, the National Retail Federation, Technet, and Intrax, Inc.) and their members. It should be noted, the Presidential Proclamations relating to the Novel

Coronavirus travel restrictions for certain individuals traveling from China, Iran, the European Schengen Area, the United Kingdom and Ireland, and Brazil remain in effect until revoked by Presidential action.

President-Elect Biden will likely withdraw the Proclamations early in his tenure, but timing may depend on COVID conditions and the strength of U.S. economy when he takes office in three weeks. Even with a quick withdrawal of the Proclamations, the backlogs and delays resulting from their extended duration will likely slow the issuance of new visas for months to come.

On a slightly more positive note, the US State Department recently announced the continued phased resumption of routine visa services. The announcement clarifies that consular posts processing immigrant visa applications will prioritize Immediate Relative family members of U.S. citizens including intercountry adoptions, fiancées of U.S. citizens, and certain Special Immigrant Visa applications. Posts processing nonimmigrant visa applications will continue to prioritize travelers with urgent travel needs, foreign diplomats, and certain mission critical categories of travelers such as those coming to assist with the U.S. response to the pandemic, followed by students (F-1, M-1, and certain J-1) and temporary employment visas (consistent with Presidential Proclamation 10052). The volume and type of visa cases each post processes will depend on local circumstances, adequate resources and safety concerns.

Article 2 (back to top)

Article Title: Federal Court Enjoins Enforcement of Key Diversity Training Limits in Executive Order 13950

News Source: JD Supra

Reporter's Name: Eric Leonard, Kara Sacilotto, Craig Smith, and Martha Vázquez

Date: December 31, 2020

Federal Court Enjoins Enforcement of Key Diversity Training Limits in Executive Order 13950

By: Eric Leonard, Kara Sacilotto, Craig Smith, Martha Vázquez

WHAT: The U.S. District Court for the Northern District of California has issued a preliminary injunction barring the Government from enforcing portions of Executive Order (EO) 13950, Executive Order on Combatting Race and Sex Stereotyping. The injunction covers EO 13950 sections that imposed limits on diversity and inclusion training by federal contractors (Section 4) and federal grantees (Section 5). The court found these restrictions infringed on the plaintiffs' rights under the Free Speech Clause of the First Amendment and were too vague to provide notice of the prohibited conduct, violating the Due Process Clause of the Fifth Amendment. The injunction applies nationwide.

WHEN: The district court issued the preliminary injunction on December 22, 2020.

WHAT DOES IT MEAN FOR INDUSTRY: Federal contractors and grantees are not subject to EO 13950's restrictions on diversity training for now. The Office of Federal Contract Compliance Programs (OFCCP) has posted a message that the agency "is complying" with the preliminary injunction as applied to contractors and "will publish more information soon."

Although preliminary, the injunction seems likely to last past the upcoming transition to the Biden Administration, which increases the likelihood that EO 13950 will be withdrawn before ever being enforced. (It is also possible that the district court will issue a permanent injunction before any withdrawal.) To be sure, OFCCP created a Frequently Asked Questions page that asserted EO 13950's restrictions on diversity and inclusion training are also encompassed by EO 11246's longstanding requirements for equal employment opportunity and affirmative action by covered contractors. But under the circumstances, it seems unlikely OFCCP will follow this alternative path to enforcing the training restrictions in the near future, given how the district court has ruled on EO 13950's substance.

Article 3 (back to top)

Article Title: OFCCP Issues Final Rule on Religious Exemptions for Government Contractors

News Source: Lexology

Reporter's Name: Shawe Rosenthal LLP

Date: December 31, 2020

OFCCP Issues Final Rule on Religious Exemptions for Government Contractors

Shawe Rosenthal LLP

USA December 31 2020

The Office of Federal Contract Compliance Programs issued *Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption* final rule, which becomes effective on January 8, 2021. According to the OFCCP, this rule provides clarity on the religious exemption for government contractors and subcontractors in Executive Order 11246, and ensures that religious organizations can participate in federal procurement.

The final rule is intended to clarify the scope and application of the religious exemption in light of recent developments, including Supreme Court rulings and Executive Orders. Among other things, it clarifies that, in addition to churches, the exemption covers employers that: are organized for a religious purpose; hold themselves out to the public as carrying out a religious purpose; engage in exercise of religion consistent with and in furtherance of a religious purpose; and either operate on a not-for-profit basis or present other strong evidence that their purpose is substantially religious. Moreover, religious employers may condition employment on compliance with religious tenets, as long as they do not discriminate on other protected bases. This particular provision has caused concern, as some have interpreted it to permit discrimination against LGBTQ individuals.

The OFCCP identified the following as key provisions of the final rule:

- The final rule amends 41 CFR 60-1.3 and clarifies the Executive Order 11246 religious exemption parameters by adding definitions of key terms: *Exercise of religion; Particular religion; Religion; Religious corporation, association, educational institution, or society; and Sincere*.

- The final rule adds a rule of construction to provide the maximum legal protection of religious exercise permitted by the Constitution and laws, including the Religious Freedom Restoration Act.

- The final rule also adds several illustrative examples within the definition of *Religious Corporation, association, educational institution, or society* to better illustrate which organizations may qualify for the religious exemption.

- The final rule does not change the equal employment opportunity obligations under Executive Order 11246 for the vast majority of federal contractors.

The OFCCP also provided frequently asked questions along with the final rule.

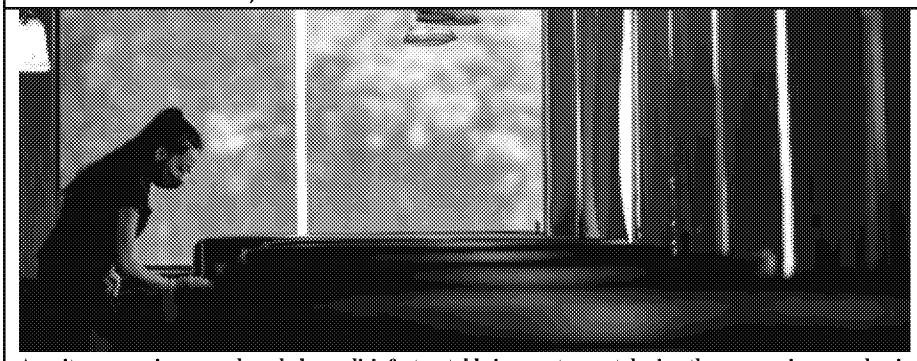
Article 4 (back to top)

Article Title: Millions of Americans Are Calling in Sick, Stunting the Recovery

News Source: Bloomberg Law Daily Labor Report

Reporter's Name: Olivia Rockeman

Date: December 31, 2020



A waitress wearing a mask and gloves disinfects a table in a restaurant during the coronavirus pandemic. Photographer: JOHANNES EISELE/AFP via Getty Images

Millions of Americans Are Calling in Sick, Stunting the Recovery

Dec. 31, 2020, 7:00 AM

- Number of workers absent because of illness is close to record
- Absenteeism poses a growing challenge for manufacturing sector

Amid the surge in the ranks of the unemployed during the pandemic, another crucial problem in the labor market has gone mostly overlooked: Workers are calling out sick in record numbers this year.

Whether it's because they have Covid-19 themselves, are worried about getting it or are taking care of someone who already has it, the number of workers who've missed days on the job has doubled in the pandemic.

What's more, unlike the jobless rate, which has steadily declined from its April peak, the rate of abseenteism -- as it is called by economists -- has remained stubbornly high. Almost 1.8 million workers were absent in November because of illness, nearly matching the record 2 million set back in April, according to Labor Department data.

These lost days of work are sapping an economic recovery that's been progressing in fits and starts for much of the past several months. While some indicators have improved markedly, others such as retail sales and consumer spending and incomes have weakened as the pandemic rages on and local governments impose fresh restrictions on businesses and travel.

Michael Gapen, chief U.S. economist at Barclays Plc, said that the vaccine could start driving down absenteeism by the second quarter. Until then, he said, the missed work is leading to supply chain disruptions.

Absenteeism "could lead to shortages, it could lead to higher prices and more restrained output," Gapen said.

With about 1.5 million new cases per week and deaths at a record pace, employee absenteeism may remain elevated for some time, especially in early 2021 before vaccines are widely distributed and with the rollout in the U.S. moving slower than government officials expected.

Factory Workers

While the Labor Department data tracks people currently in the labor force who are out sick, a separate survey by the Census Bureau captures an even wider view of the challenge. Its latest Household Pulse Survey -- based on responses in late November and early December -- estimates that more than 11 million people weren't working because of the virus. The figures also include those who refrained from working because they were worried about getting or spreading the virus, and those caring for someone with symptoms.

Read More: Covid Surge Sidelines Health Workers When They're Needed Most

The effects of missing workers are especially concentrated in manufacturing. Absenteeism, combined with short-term shutdowns to sanitize facilities and difficulties in returning and hiring workers, limit the sector's growth potential, according to Timothy Fiore, chair of the Institute for Supply Management's Manufacturing Business Survey Committee.

The group's gauge of factory activity grew at a slower pace in November, with the employment component falling back to a level that indicates contraction.

"It's not a lack of work," Fiore said on a recent call with reporters, noting absenteeism especially for low- to medium-skill roles. "It's a lack of people."

In addition to temporarily absent workers, the manufacturing sector has 525,000 job openings, the most in Labor records back to 2000.

Auto plants are feeling the effects. General Motors Co. put white-collar employees on the production floor in August to cope with high absenteeism amid strong demand. Volkswagen AG Chief Financial Officer Frank Witter has said high levels of missing staff left the automaker "at times struggling to get all the cars built for customer orders."

U.S. businesses have reported that surging cases precipitated plant closings and infection fears, adding to labor challenges including absenteeism and attrition, according to the Federal Reserve's latest Beige Book summary of economic conditions. Manufacturers in the Chicago region have used overtime to make up for staff shortages, the Dec. 2 report said.

Sick Leave

For office workers, 90% of professionals said before the pandemic they'd sometimes go to work sick, according to a 2019 study by staffing firm Accountemps. Covid changed the conversation, and more employees are staying home to protect themselves and others.

The Families First Coronavirus Response Act earlier this year made the decision to stay home easier for some Americans by allowing two weeks of paid sick leave for certain employees. The law also allows leave for those unable to work because they must care for a child.

The latest stimulus bill, signed by President Donald Trump on Dec. 27, includes an extension of the act through March 31, but makes paid leave voluntary for employers rather than mandatory as it was in the first iteration. That may continue the trend of workers staying home depending on how many employers choose to grant the leave.

The act, however, excludes essential workers, which means those employed at facilities such as meatpacking plants can't take advantage of the policy. That in turn can lead to workplace outbreaks and further disrupt production.

Read More: Pandemic Is Starting to Hit U.S. Meat Plants Again

With fewer employees at work, slaughter rates at U.S. meat plants fell in the third quarter. Tyson Foods Inc. Chief Executive Officer Dean Banks said on a recent earnings call that absenteeism has "increased the cost and complexity of our operations" and that the company expects that to continue in 2021.

--With assistance from Henry Ren and Julia Fanzeres.

To contact the reporter on this story:
Olivia Rockeman in New York at orockeman1@bloomberg.net

To contact the editors responsible for this story:
Scott Lanman at slanman@bloomberg.net

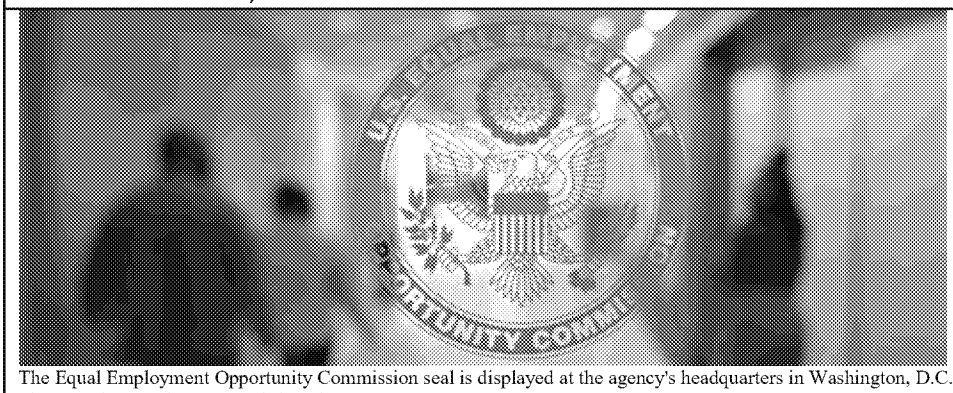
Article 5 (back to top)

Article Title: EEOC Schedules Votes on Conciliation, 'Official' Time Rules

News Source: Bloomberg Law Daily Labor Report

Reporter's Name: Paige Smith

Date: December 31, 2020



The Equal Employment Opportunity Commission seal is displayed at the agency's headquarters in Washington, D.C.
Photographer: Andrew Harrer/Bloomberg

EEOC Schedules Votes on Conciliation, 'Official' Time Rules

Dec. 31, 2020, 1:07 PM

- Opinion letter on health plans also slated for vote
- Trump administration pushing last rules to finish line

The EEOC will vote on the final approval of two significant rules and one opinion letter on Jan. 7.

One of the rules would curtail the "official" time union representatives are permitted to give to federal workers' discrimination complaints, and the other would require the agency to turn more information over to employers during settlement negotiations about how it determined workplace bias allegedly occurred.

The U.S. Equal Employment Opportunity Commission also will vote on an opinion letter, "Concerning Individual Coverage Health Reimbursement Arrangements" under the Age Discrimination in Employment Act, according to an agency notice issued Thursday. The meeting will take place virtually because of the ongoing pandemic, it said.

The EEOC scheduled the vote as the Trump administration rushes to finalize regulations before President-elect Joe Biden is inaugurated Jan. 20. Biden's transition team announced Wednesday that all regulations that haven't yet been made official on Inauguration Day will be paused.

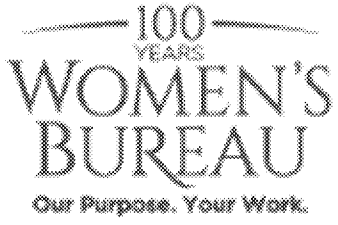
The EEOC originally proposed the "official" time rule in December 2019, several months after President Donald Trump issued executive orders limiting workplace union activity. It attracted more than 7,500 public comments.

An alternative form of bias resolution, known as conciliation, would be changed if the EEOC votes to approve the other rule. The agency proposed the changes to the conciliation process in October, alarming civil rights groups who believe that employers may be given an unfair advantage over workers when negotiating potential settlements of discrimination allegations.

To contact the reporter on this story: Paige Smith in Washington at psmith@bloomberglaw.com

To contact the editors responsible for this story: Martha Mueller Neff at mmuellerneff@bloomberglaw.com; Andrew Harris at aharris@bloomberglaw.com

Happy New Year!

Respectfully,

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