

FY 2017

CONGRESSIONAL BUDGET JUSTIFICATION

**OFFICE OF FEDERAL CONTRACT COMPLIANCE
PROGRAMS**

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OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

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OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

*For necessary expenses for the Office of Federal Contract Compliance Programs,
[\$105,476,000] \$114,169,000. (Department of Labor Appropriations Act, 2016)*

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AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	621	\$106,476	615	\$105,476	615	\$114,169
<i>Subtotal Appropriation</i>	<i>621</i>	<i>\$106,476</i>	<i>615</i>	<i>\$105,476</i>	<i>615</i>	<i>\$114,169</i>
B. Gross Budget Authority Before Committee	621	\$106,476	615	\$105,476	615	\$114,169
C. Budget Authority Before Committee	621	\$106,476	615	\$105,476	615	\$114,169
D. Total Budgetary Resources	621	\$106,476	615	\$105,476	615	\$114,169
FTE Lapse and Unobligated Balance Expiring	-1	-\$1,041	0	\$0	0	\$0
E. Total, Estimated Obligations	620	\$105,435	615	\$105,476	615	\$114,169

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2016 Enacted	FY 2017 Request	Net Change
Budget Authority			
General Funds	\$105,476	\$114,169	+\$8,693
Total	\$105,476	\$114,169	+\$8,693
Full Time Equivalents			
General Funds	615	615	0
Total	615	615	0

FY 2017 Change

Explanation of Change	FY 2016 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	615	\$58,097	0	\$0	0	\$936	0	\$936
Personnel benefits	0	\$18,192	0	\$0	0	\$401	0	\$401
Employee health benefits	0	\$0	0	\$0	0	\$0	0	\$0
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
Two days less of Pay	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$51	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$637	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$9	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$5,793	0	\$0	0	\$205	0	\$205
Rental payments to others	0	\$28	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$655	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$36	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$0	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$2,243	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$3,020	0	\$0	0	\$389	0	\$389
Other Federal sources (DHS Charges)	0	\$600	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$2,564	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$1,440	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$10,914	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$158	0	\$0	0	\$0	0	\$0
Equipment	0	\$814	0	\$0	0	\$0	0	\$0

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FY 2017 Change

Explanation of Change	FY 2016 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$4	0	\$0	0	\$0	0	\$0
Built-Ins Subtotal	615	+\$105,255	0	\$0	0	+\$1,931	0	+\$1,931
B. Programs:								
OFCCP Case Management System Modernization	0	\$0	0	\$0	0	\$3,300	0	\$3,300
Restoration of Inflationary Built-ins Not Provided	0	\$0	0	\$0	0	\$2,068	0	\$2,068
Regional Centers of Skilled Compliance Evaluation	0	\$0	0	\$0	0	\$1,890	0	\$1,890
Programs Subtotal			0	\$0	0	+\$7,258	0	+\$7,258
Total Increase	615	+\$105,255	0	\$0	0	+\$9,189	0	+\$9,189
Decreases:								
A. Built-Ins:								
To Provide For:								
Two days less of Pay Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	-\$422	0	-\$422
	0	\$221	0	\$0	0	-\$74	0	-\$74
Built-Ins Subtotal	0	+\$221	0	\$0	0	-\$496	0	-\$496
B. Programs:								
Total Decrease	0	+\$221	0	\$0	0	-\$496	0	-\$496
Total Change	615	+\$105,476	0	\$0	0	+\$8,693	0	+\$8,693

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		Diff. FY17 Request / FY16 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Office of Federal Contract Compliance Programs	620	106,476	615	105,476	615	114,169	0	8,693
General Funds	620	106,476	615	105,476	615	114,169	0	8,693
Total	620	106,476	615	105,476	615	114,169	0	8,693
General Funds	620	106,476	615	105,476	615	114,169	0	8,693

NOTE: FY 2015 reflects actual FTE. Authorized FTE for FY 2015 was 621.

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BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request	Diff. FY17 Request / FY16 Enacted
	Full-Time Equivalent				
	Full-time Permanent	621	615	615	0
	Total	621	615	615	0
	Average ES Salary	\$170,000	\$170,000	\$166,687	-\$3,313
	Average GM/GS Grade	12	12	12	0
	Average GM/GS Salary	\$90,068	\$90,932	\$89,209	-\$1,723
11.1	Full-time permanent	58,544	57,375	59,295	1,920
11.3	Other than full-time permanent	148	164	164	0
11.5	Other personnel compensation	490	558	558	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	59,182	58,097	60,017	1,920
12.1	Civilian personnel benefits	18,472	18,413	19,402	989
13.0	Benefits for former personnel	17	51	51	0
21.0	Travel and transportation of persons	635	637	1,637	1,000
22.0	Transportation of things	1	9	9	0
23.1	Rental payments to GSA	6,144	5,793	5,998	205
23.2	Rental payments to others	66	28	28	0
23.3	Communications, utilities, and miscellaneous charges	1,039	655	655	0
24.0	Printing and reproduction	21	36	36	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	1,130	2,243	3,133	890
25.3	Other goods and services from Federal sources 1/	10,916	6,184	6,573	389
25.4	Operation and maintenance of facilities	0	1,440	1,440	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	7,385	10,914	14,214	3,300
26.0	Supplies and materials	356	158	158	0
31.0	Equipment	1,000	814	814	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	112	4	4	0
	Total	106,476	105,476	114,169	8,693
	1/Other goods and services from Federal sources				
	Working Capital Fund	10,256	3,020	3,409	389
	DHS Services	630	600	600	0
	Services by DOL Agencies	15	2,564	2,564	0
	Services by Other Government Departments	15	0	0	0

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SIGNIFICANT ITEMS IN FY 2016 APPROPRIATIONS' REPORTS

S. Report 114-74 page 29:

The Committee is concerned that OFCCP [Office of Federal Contract Compliance Programs] has lost its focus on identifying and addressing real employment discrimination and is imposing excessive compliance burdens on contractors. More specifically, OFCCP appears to prioritize specific quota results rather than equal consideration and opportunity because of its reliance on statistical analysis in evaluating contractor hiring practices. OFCCP should focus on actual discriminatory treatment instead of presumed discrimination based solely on benchmarks that may not be uniformly applicable. Strict and exclusive use of statistical significance tests effectively requires contractors to use a quota hiring system in violation of the Civil Rights Act to avoid adverse impact claims by OFCCP. The Committee is also concerned about reports that OFCCP is increasingly subjecting contractors to overly broad and unnecessary document and data requests as well as unreasonably numerous and lengthy compliance reviews. The OFCCP is directed to cease utilization of this de facto quota system for evaluating hiring practices and to report within 120 days of enactment to the Committees on Appropriations of the House of Representatives and Senate on steps it is taking to enforce non-discrimination standards on a more fair, case-by-case basis focused on evidence of actual discrimination rather than on statistical generalizations and quota benchmarks.

H. Report 114-195: Quotas

The Committee is concerned that OFCCP has lost its focus on identifying and addressing real discrimination in employment and has become hyper-focused on fulfilling quotas instead of equal opportunity by relying on statistics alone in evaluating contractors. The Committee believes OFCCP should take steps to use common sense in the use of government resources to focus on finding actual discriminatory treatment instead of presumed discrimination based solely on what OFCCP assumes through statistics. Further, the Committee believes that OFCCP should end its reliance on threatening sanctions, including debarment and the costs associated with an extremely drawn-out administrative litigation process, to induce contractors to waive their legal rights and to enter into conciliation agreements that are not justified by the evidence.

OFCCP Response:

OFCCP regulations neither create nor enforce quotas. To assess compliance with Executive Order 11246 and its nondiscrimination and affirmative action requirements, OFCCP reviews a subset of federal contractors each year, selected through a neutral process, to assess their hiring,

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promotion, compensation, termination, and other employment practices. As part of those reviews, OFCCP not only performs quantitative analyses but also assesses a variety of other evidence. Following Supreme Court precedents, OFCCP considers statistical evidence to determine whether there are statistically significant disparities based on race, sex, or national origin among individuals who are qualified and available for the positions under review. Nearly 40 years ago, the United States Supreme Court held that statistical disparities establish a prima facie case of disparate treatment when they are “statistically significant” – i.e., at least two standard deviations from the results that would have been expected in the absence of discrimination. *Hazelwood School District v. United States*, 433 U.S. 299, 309 (1977); *Castaneda v. Partida*, 430 U.S. 482, 496 n.17 (1977). A disparity of this magnitude “is generally highly probative of discriminatory treatment.” *Waisome v. Port Authority*, 948 F.2d 1370, 1376 (2d Cir. 1991) (“Social scientists consider a finding of two standard deviations significant, meaning there is about one chance in 20 that the explanation for a deviation could be random and the deviation must be accounted for by some factor other than chance.”). Indeed, “the lower courts have routinely accepted two standard deviations – which corresponds roughly to a two-tailed probability level of .05 -- as sufficient.” Lindemann, Grossman & Weirich, *Employment Discrimination Law*, at 3-20 (5th ed. 2012) (footnotes omitted).

In cases with potentially significant statistical disparities, OFCCP investigators will review documents and interview managers and workers. OFCCP would not pursue a matter solely on the basis of a statistical disparity where a contractor establishes a legitimate and valid explanation for that difference or where the contractor has established that the statistical disparity does not exist. OFCCP will issue a notice of violation where there is an ample evidentiary record supporting the findings of discrimination. If OFCCP issues a notice of violation, it will negotiate conciliation agreements with contractors that wish to correct voluntarily violations.

OFCCP does not insist on quotas in entry-level hiring or any other cases. The agency requests and considers any information that contractors are willing to provide to explain a disparity in hiring rates or any other employment practice. OFCCP investigators will review documents and data, and also interview employees and company officials regarding these decisions. When contractors provide credible, legitimate, nondiscriminatory, and legally sufficient explanations for potential violations that OFCCP has identified, the agency will adjust its findings accordingly. This includes explanations that address portions of the violation or information that would properly mitigate some portion of the back pay owed to affected workers.

OFCCP does not subject contractors to unreasonable or unnecessary compliance reviews or document or data requests. Contractors are selected for compliance evaluations based on a neutral selection process that uses multiple information sources and factors to develop a scheduling list. See <http://www.dol.gov/ofccp/regs/compliance/faqs/fcssfaqs.htm>. Contractors selected for review receive a scheduling letter and an itemized listing of documents and data they are to provide to OFCCP. Both the scheduling letter and the itemized listing have been approved

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by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act. During the course of an evaluation, contractors may be asked to provide additional information as needed. Over the last five years, administrative law judges and courts have repeatedly upheld the validity and constitutionality of this process and OFCCP's authority to obtain the information requested in compliance evaluations. As the United States District Court for the District of Columbia held in *United Space Alliance v. Solis*, "[s]ubmission to such lawful investigations [conducted by OFCCP] is the price of working as a federal contractor." 824 F. Supp. 2d 68, 99 (D.D.C. 2011).

OFCCP does not threaten contractors with debarment or other sanctions to induce them to enter into unjustified conciliation agreements. When OFCCP finds apparent discrimination in employment practices by a contractor, it identifies the types of relief it can recover, including monetary remedies, jobs, injunctive relief, and, in extreme cases, debarment. As noted above, OFCCP issues notices of discrimination violations only where there is an ample evidentiary record supporting findings of discrimination. When OFCCP does issue a notice of violation, it attempts to negotiate a conciliation agreement and, as part of that negotiation, requests and considers any information that contractors provide.

OFCCP consistently seeks to resolve cases without litigation, a goal supported by the record. In FY 2015, OFCCP closed 518 cases with findings of violations but referred only 13 cases to the Solicitor's Office for enforcement.

This information will be provided to the Committees on Appropriations of the House of Representatives and Senate in report format as directed in S. Report 114-74.

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AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
PUB. L. 93-112	Rehabilitation Act of 1973, as amended.	29 U.S.C. 793			N/A
PUB. L. 93-508	Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.	38 U.S.C. 4212			N/A
PUB. L. 101-336	Americans with Disabilities Act, as amended.	42 U.S.C. 12101 et seq.			N/A

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APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2007					
Base Appropriation	\$83,657			\$82,441	625
2008					
Base Appropriation	\$84,182			\$81,001	585
2009					
Base Appropriation	\$89,013			\$82,107	585
2010					
Base Appropriation...1/	\$109,521	\$101,521	\$107,021	\$104,976	788
2011					
Base Appropriation	\$113,433			\$105,386	775
2012					
Base Appropriation	\$109,010			\$105,187	755
2013					
Base Appropriation...2/	\$106,415			\$99,685	729
2014					
Base Appropriation...3/	\$108,467			\$104,976	683
2015					
Base Appropriation	\$107,903			\$106,476	621
2016					
Base Appropriation...4/	\$113,687	\$100,500	\$96,000	\$105,476	615
2017					
Base Appropriation	\$114,169				615

1/ Fiscal Year (FY) 2010 amount reflects reallocated funds from the dissolution of the Employment Standards Administration's Program Direction and Support.

2/ Reflects a 0.2 percent across the board rescission pursuant to P.L. 113-6 and the sequestration reduction pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

3/ The appropriation amount should reflect the amounts passed as part of P.L. 113-76, which did not include any rescissions.

4/ Full Time Equivalent (FTE) shown represent a lowered FTE expectation due to the reallocation of resources to non-staff activities beginning in late FY 2014.

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OVERVIEW

Introduction

The OFCCP examines the employment practices of federal contractors to determine whether they comply with the equal employment opportunity and affirmative action obligations under one Executive Order and two statutes. More specifically, these three legal authorities are:¹

- Executive Order 11246, as amended, that prohibits employment discrimination on the basis of race, religion, color, sex, or national origin. This Executive Order, as most recently amended, also prohibits discrimination based on sexual orientation and gender identity, as well as discrimination based on an employee or job applicant discussing, disclosing, or inquiring about their compensation or that of a coworker;²
- Section 503 of the Rehabilitation Act of 1973, as amended, that prohibits employment discrimination against individuals with disabilities (Section 503); and
- Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, that prohibits employment discrimination against protected veterans.

The Fiscal Year (FY) 2017 request for OFCCP is \$114,169,000 and 615 FTE. This request will enable OFCCP to focus on the following priorities of the Secretary for the Department of Labor (DOL):

- **Continued focus on data to improve the effectiveness of worker protection agencies and maintained investment in the shared information technology platform**, including updating the agency's enforcement database to fully participate in a digital government integrated platform that will enhance data quality and increase the agency's ability to focus limited enforcement resources on more likely violators; and

¹ Executive Order 11246, Sept. 24, 1965, 30 FR 12319, 12935, 3 CFR, 1964-1965, Comp., p. 339, as amended; Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793, (Section 503); and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

² Executive Order 13672, signed on July 21, 2014, amended Executive Order 11246 to include nondiscrimination based on sexual orientation and gender identity. *See* Executive Order 13672, Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity, 79 FR 42971 (July 23, 2014). DOL published a final rule implementing Executive Order 13672 on December 9, 2014. *See* Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors, 79 FR 72985 (Dec. 9, 2014).

Executive Order 13665, signed on April 8, 2014, amended Executive Order 11246 to include a prohibition on discrimination against employees and job applicants for inquiring about, disclosing or discussing pay under certain circumstances. *See* Executive Order 13665, Non-Retaliation for Disclosure of Compensation Information, 79 FR 20749 (April 11, 2014). DOL issued a final rule implementing this Executive Order on September 11, 2015. *See* Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions; Final Rule, 80 FR 54934 (Sept. 11, 2015).

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- **Executing DOL's regulatory agenda** by finalizing proposed rules and implementing final regulations, developing staff and stakeholder guidance, conducting staff and stakeholder training, and providing access to technical assistance and resources to help minimize burden and support contractor compliance.

To increase the impact of its enforcement program, in FY 2015 and FY 2016, OFCCP focused its resources on three areas:

- Developing large, complex, and higher quality systemic compensation and hiring discrimination cases;
- Focusing on larger federal and federally-assisted construction projects that have the potential to hire greater numbers of workers; and
- Maintaining high quality standards.

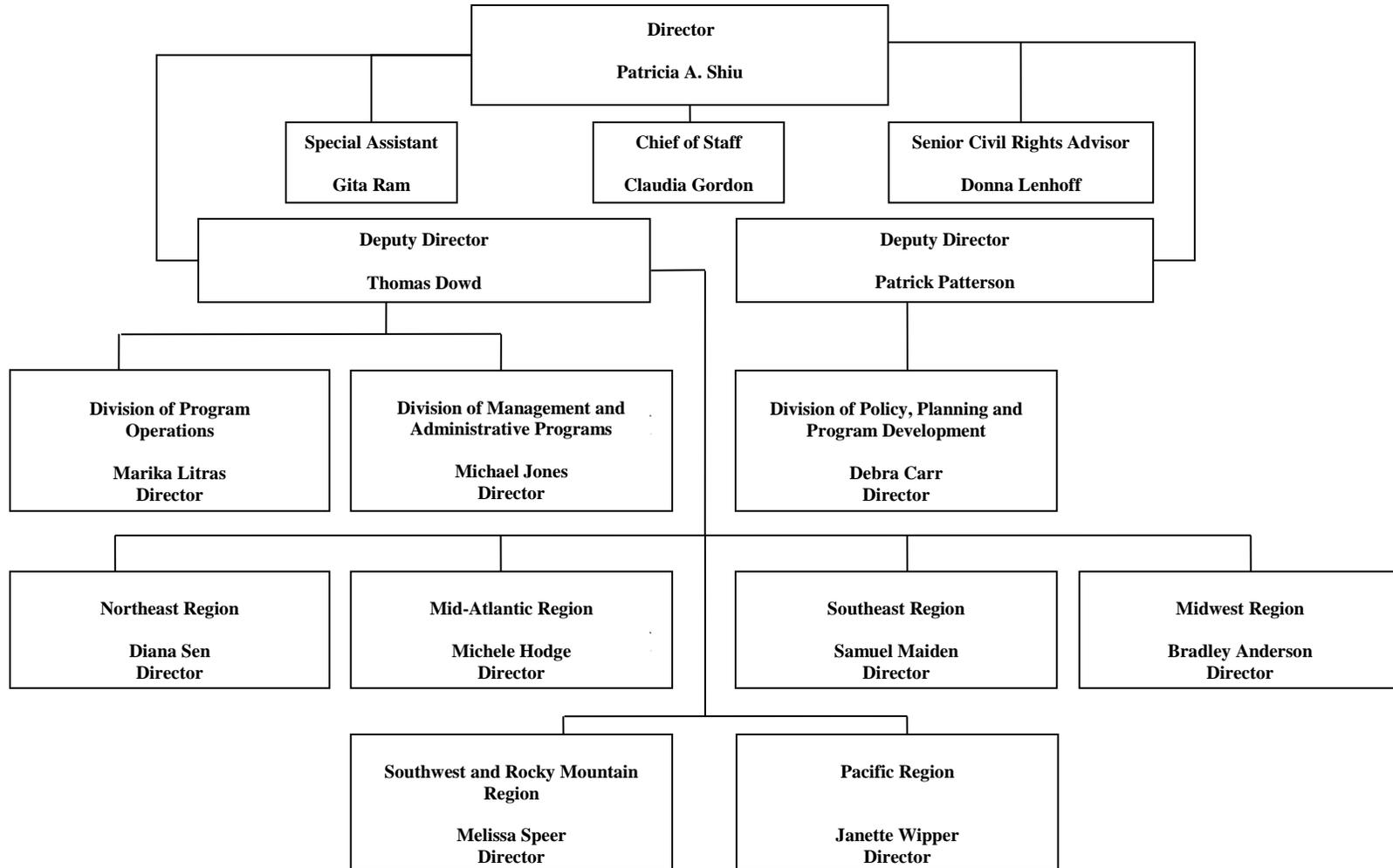
At the requested funding level, in FY 2017, 35 percent of OFCCP's construction compliance evaluations will likely be associated with large, high impact construction projects; this number reflects an increase from the 30 percent set in FY 2016. Moreover, OFCCP anticipates that 40 percent of its discrimination conciliation agreements will address pay discrimination violations. This reflects an increase from the 35 percent set in FY 2016. Finally, for FY 2017, OFCCP set a target of ensuring that 95 percent of cases will have no major deficiencies; i.e., substantive oversights that have an impact on the ability to identify discrimination.

In FY 2015, 32 percent of completed construction compliance evaluations were associated with large, high impact construction projects, which was 107 percent of target; 22 percent of discrimination conciliation agreements involved pay discrimination violations, which was 55 percent of target; and 98 percent of cases were free of major deficiencies, versus a target of 90 percent. These enforcement performance targets for FY 2017 build upon the framework established in prior years and the agency's FY 2016 accomplishments. OFCCP's FY 2017 policy and regulatory agenda, training and staff development strategies, and its various stakeholder outreach and education strategies all support the agency's enforcement program.

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Federal Contractor and Equal Employment Opportunity Standards Enforcement Organization Chart

The OFCCP is comprised of a national office headquartered in Washington, D.C. with three divisions and six regional offices with district and area offices distributed nationwide. The regional offices are located in Atlanta, Georgia (Southeast); Chicago, Illinois (Midwest); Dallas, Texas (Southwest and Rocky Mountain); New York City, New York (Northeast); Philadelphia, Pennsylvania; (Mid-Atlantic); and San Francisco, California (Pacific).



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BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request	Diff. FY17 Request / FY16 Enacted
Activity Appropriation	106,476	105,476	114,169	8,693
FTE	620	615	615	0

NOTE: FY 2015 reflects actual FTE. Authorized FTE for FY 2015 was 621.

Introduction

In FY 2017, OFCCP will build upon the significant improvements in enforcement it achieved over the last several years. OFCCP anticipates continuing systemic pay discrimination enforcement improvements based on implementation of its FY 2013 compensation guidance and related training during FY 2013-2015. The agency will continue its enforcement on equal employment opportunity in construction and will continue to implement efforts relating to its updated regulations including staff training and compliance assistance.

Enforcement Efforts

In FY 2017, OFCCP's top priorities in its enforcement work will continue to include identifying and addressing: 1) systemic pay discrimination to contribute to narrowing persistent race and gender-based pay gaps; 2) gender, racial and ethnicity-based discrimination in the construction trades; and 3) maintaining the high quality of its compliance evaluations.

- **Equal Pay Enforcement and Addressing Systemic Pay Discrimination**

In FY 2017, OFCCP anticipates the continuation of its multi-year effort to update its approach to assessing whether contractors engage in systemic compensation discrimination in violation of Executive Order 11246, a historically under-investigated personnel practice. In FY 2013, OFCCP rescinded outdated and ineffective guidance and announced revised procedures and protocols. OFCCP then engaged in extensive training of compliance officers, equipping them with the tools to better investigate systemic pay discrimination. OFCCP then built a robust program of technical assistance to field staff developing these cases. OFCCP saw results of the increasing scope and quality of systemic discrimination investigations. In FY 2014, OFCCP recovered nearly \$1.5 million in back pay and salary adjustments for pay discrimination cases – a substantial increase over the prior year. Seventy percent of the pay discrimination settlements in FY 2014 and FY 2015 were for systemic violations, compared with only 13 percent in FY 2013. In FY 2017, OFCCP anticipates continued improvement in the number and quality of systemic pay discrimination investigations.

Despite the existence of laws protecting workers from gender-based compensation discrimination for more than five decades, a pay gap between men and women persists today. Among the possible contributing factors to the enduring pay gap is the prevalence of workplace prohibitions on discussing compensation. A comparison of average annual earnings data from

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2013 reveals that women earned 78 cents for every dollar that men earned.³ Data on average weekly wages from the Bureau of Labor Statistics (BLS) for the same year shows a similar gap, with women earning 82 cents for every dollar that men earn, and the same 18 cent gap persisted in 2014.⁴ The wage gap is wider for some women of color when compared to non-Hispanic white men. On average in 2014, BLS median weekly earnings data shows that African-American women earned 68 cents, Latina women earned 61 cents, and Asian women earned 94 cents for every dollar earned by a non-Hispanic white man.⁵ Census data shows similar disparities, with African-American women earning 64 cents, Hispanic women earning 55 cents, and Asian women earning 90 cents per dollar earned by a non-Hispanic white man.⁶ Research has found that factors such as occupational differences may contribute to the wage gap, but also that at least part of these gaps in pay is likely due to discrimination. Moreover, while some women may work fewer hours or take time out of the workforce because of family responsibilities, research suggests that discrimination, and not just choices, can lead to women with children earning less.⁷

The impact of the wage gap remains a significant problem, especially for the working poor. While the gap may not be larger for poor women when compared to more affluent women, the economic impact of the disparity is greater for poor women who are already in financial jeopardy. U.S. Census data show that more than 15.2 million family households in the United States are headed by women. Nearly 31 percent of these families, or nearly 4.7 million family households, have incomes that fall below the poverty level. Eliminating the wage gap could go a long way toward closing the overall income gap and reducing the poverty rate for working women.

OFCCP compliance evaluations play a unique role in closing the pay gap for employees of federal contractors and subcontractors. Because many workers do not know how their pay

³ U.S. Census, Income and Poverty in the United States: 2013 (Sept. 2014), available at <https://www.census.gov/library/publications/2014/demo/p60-249.html> (last accessed Feb.10, 2015). Calculation of the pay gap using average weekly wages has the advantage of accounting for differences in hours worked, which is not captured in calculations using annual wage data. However, calculations using weekly wage data do not account for forms of compensation other than those paid as weekly wages, unlike annual earnings calculations. While neither method is perfect, analyses that account for factors like occupation and qualifications further support the existence of a significant gender-based pay disparity.

⁴ BLS, U.S. Department of Labor, Highlights of Women's Earnings (Dec. 2014) (averaging annual data collected from the Current Population Survey, Median Weekly Earnings of Full-Time Wage and Salary Workers), available at <http://www.bls.gov/opub/reports/cps/highlights-of-womens-earnings-in-2013.pdf> (last accessed Feb.10, 2015); BLS, U.S. Department of Labor, Current Population Survey, Median usual weekly earnings of full-time wage and salary workers by selected characteristics, annual averages, available at <http://www.bls.gov/news.release/wkyeng.t07.htm> (last accessed Feb.10, 2015).

⁵ BLS, U.S. Department of Labor, Current Population Survey, Median usual weekly earnings of full-time wage and salary workers by selected characteristics, annual averages, available at <http://www.bls.gov/news.release/wkyeng.t07.htm> (last accessed Feb.10, 2015).

⁶ U.S. Census, Current Population Survey, 2013 Person Income, "Table PINC-10: Wage and Salary Workers-- People 15 Years Old and Over, by Total Wage and Salary Income in 2013, Work Experience in 2013, Race, Hispanic Origin, and Sex," (comparing median wage for people working 50 or more weeks), available at http://www.census.gov/hhes/www/cpstables/032014/perinc/pinc10R_000.htm (last accessed Sept. 2, 2015).

⁷ Shelley J. Correll, Stephen Benard, & In Paik, "Getting a Job: Is There a Motherhood Penalty?," 112 *American Journal of Sociology* 1297 (2007).

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compares to others, they may not know when they are being underpaid due to discrimination. OFCCP's ability to obtain and review contractor data without a complaint means the agency can address the problems that individual workers may not be able to solve on their own.

As part of President Obama's National Equal Pay Task Force, OFCCP has been building a robust enforcement strategy for investigating and resolving pay discrimination by federal contractors. Between January 2010 and September 2015, OFCCP closed more than 100 compliance evaluations with financial settlements remedying pay discrimination on the basis of gender and/or race. Through those efforts, OFCCP recovered more than \$5 million in back pay and salary adjustments for more than 2,500 workers. Since 2013, about a third of OFCCP's successful settlements have addressed compensation discrimination, and as discussed above, an increasing number address systemic pay discrimination claims.

To build on these prior efforts, in FY 2017, OFCCP will continue to focus on systemic compensation cases where agency reviews can have the greatest impact. Systemic cases⁸ provide remedies to larger numbers of workers, and their visibility generates a greater deterrent effect to incentivize voluntary compliance. Since investigating systemic cases places increased demands on compliance officers, OFCCP will continue building capacity by continuously training staff including relying on specialized staff with expertise in conducting the complex data analyses necessary for evaluating pay practices. OFCCP will not only continue increasing the quality and quantity of its work on systemic pay discrimination, but is providing sufficient expert support for improved data collection and analysis. OFCCP expects to focus 30-40 percent of discrimination cases on addressing pay discrimination in FY 2017. By 2017, OFCCP expects that virtually all compensation violations and successful settlements will involve systemic issues. On January 29, 2016, EEOC proposed to amend the EEO-1 form to require certain private employers, including federal contractors with 100 or more employees, to provide summary pay data by gender, race, and ethnicity. If approved and implemented, EEOC would share this data with OFCCP.

- **Addressing Discrimination in the Construction Industry**

For years, the construction sector has been an important source of skilled, middle-class jobs for millions of American workers. Yet, construction was one of the hardest-hit industries during the recent economic downturn. According to the BLS⁹, employment in the construction sector is projected to grow 1.2 percent annually from 2014 through 2024. As the construction industry recovers, it is crucial that minorities, women, people with disabilities, and veterans have a fair opportunity to obtain those jobs and earn wages that increase their participation in the economy and help to spur the nation's economic growth. Representation of women in the trades is only 2.6 percent, compared to their overall representation in blue-collar production, transportation,

⁸ OFCCP's definition of systemic discrimination satisfies one of two criteria: (a) the case addresses a measurable pattern of discrimination (either based on findings from a regression analysis or based on any other aggregate statistical measure such as mean differences) or (b) the case addresses an identified practice applicable to multiple employees that results in pay discrimination (such as a practice of steering employees who are members of a protected class toward lower paying jobs at hire). There is no specific numeric threshold used to define a systemic case.

⁹ BLS, Economic & Employment Projections for 2014-2024.

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and material moving occupations of 21.7 percent.¹⁰ The construction industry is a little better with hiring African Americans and Asians.¹¹ Hispanics face other challenges, such as segregation into lower-paying construction occupations (for example, in 2014, Hispanics were 42.1 percent of construction laborers but only 18.1 percent of electricians).¹²

OFCCP enforces legal requirements mandating that federal and federally-assisted construction contractors and subcontractors provide equal employment opportunity and increase employment for women, minorities, and others who have traditionally been excluded. Therefore, identifying and remedying discrimination and affirmative action violations in the construction industry is an important part of OFCCP's enforcement priority. Overall, in FY 2015, OFCCP completed 258 construction evaluations resulting in \$444,000 in back pay to 243 victims of discrimination.

In FY 2017, OFCCP will continue focusing on increasing the number of potential job applicants and employees in large, highly visible federally-funded or federally-assisted construction projects that are expected to last for at least one year. OFCCP's FY 2017 efforts build on its FY 2015 accomplishments and FY 2016 goals. These accomplishments include providing additional training to OFCCP staff on conducting effective construction evaluations, coordinating with the General Services Administration pursuant to a Memorandum of Understanding for sharing information on certain construction projects, and further institutionalizing these large projects into the operations of the agency. The agency also continues to identify key community-based organizations that can help connect the prime contractor and subcontractors on large construction projects to sources of qualified workers.

- **Ensuring Quality Compliance Evaluations**

A third enforcement priority is maintaining high quality standards. Under the Active Case Enforcement Initiative, OFCCP continues to conduct investigations that meet exacting standards for quality, accuracy, and thoroughness. Toward this end, OFCCP schedules routine and special topic accountability reviews and mandates quarterly quality audits on 10 percent of closed cases. These regular audits improve the overall quality of compliance evaluations, allowing the agency to focus training on the areas where it finds deficiencies. The FY 2017 focus on quality assurance builds on milestones accomplished in FY 2015 and expected in FY 2016 to improve consistency in quality assessments and measures, including specialized training for regional quality assurance staff and updates to quality assurance tools and staff guidance.

Several internal improvements and agency initiatives will contribute to the successful execution of OFCCP's enforcement priorities in FY 2017. One such improvement is OFCCP's planned FY 2016 upgrades to OFCCP's case management system by establishing a secure file transfer

¹⁰ BLS, "Household Data Annual Averages, 11. Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity," <http://www.bls.gov/cps/cpsaat11.pdf> (2014).

¹¹ Representation of African Americans in the trades was only 6.9 percent compared to 11.4 percent for African Americans overall in the workforce. Representation of Asians in the construction trades was 1.3 percent, compared to their overall representation in blue-collar production, transportation, and material moving occupations of 4.7 percent. See BLS, "Household Data Annual Averages, 11. Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity," <http://www.bls.gov/cps/cpsaat11.pdf> (2014).

¹² *Id.*

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protocol site that facilitates contractors' submissions of affirmative action programs and other supporting data such as applicant and hiring logs and employee compensation information.

Finally, OFCCP will establish two Skilled Regional Centers. These centers, which would be located in the Pacific (San Francisco) and Northeast (New York) regions, would have highly skilled and specialized compliance officers capable of handling various large, complex compliance evaluations in specific industries, such as financial services or information technology. Compliance evaluations conducted by highly skilled compliance officers greatly increase case evaluation quality and timeliness as well as the more efficient use of limited resources. OFCCP must continually improve its enforcement capability to identify discrimination in those economic sectors that are increasingly complex.

Implementing its Regulatory Agenda and Providing Policy Guidance

In FY 2017, OFCCP expects to implement regulations that it finalized in FY 2016. The agency also anticipates issuing guidance interpreting or clarifying the application of several of the provisions in these regulations, developing technical assistance materials for contractors tasked with complying with new regulatory obligations, and developing and delivering related training to its staff and external stakeholders on the regulations. Also during FY 2017, OFCCP will refine the nature of the assistance it provides to workers and contractors concerning their understanding of the September 2015 pay transparency regulations, the December 2014 Lesbian, Gay, Bisexual, and Transgendered (LGBT) regulations, and the September 2013 revisions to the agency's Section 503 and VEVRAA regulations.

Women today are a vital element of our workforce and our economy. By some reports, a majority of women today are financially responsible for themselves and their families. It is more important than ever that women have equal access to jobs and equal treatment while in the workforce. With OFCCP's anticipated FY 2016 final rule on sex discrimination updating existing guidance in 41 CFR part 60-20, OFCCP will devote a significant amount of time to the effective implementation of these new regulations in FY 2017. To ensure that contractors understand their obligations, and that workers understand their protections, during FY 2017 OFCCP will conduct public Webinars, provide technical assistance and answer other questions through its customer service Help Desk, develop factsheets and brochures, and connect contractors with other appropriate resources, when necessary. As with all new regulatory requirements, OFCCP will train its staff on the effective application of the requirements during compliance reviews and will periodically monitor compliance evaluations to ensure accurate and consistent application of the regulations across all of OFCCP's field offices.

OFCCP's pay transparency regulations, which became effective in FY 2016, will require additional outreach and education, and implementation through FY 2017. The regulations implement Executive Order 13665, *Non-Retaliation for Disclosure of Compensation Information*, signed by President Barack Obama on April 8, 2014. This order amended Executive Order 11246 by making it possible for employees and job applicants to know whether they are being fairly compensated in comparison to their peers by prohibiting pay secrecy policies. Under these regulations, with few exceptions, federal contractors and subcontractors are prohibited from taking adverse employment actions against employees and job applicants

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who ask about, discuss, or disclose their pay, the pay of a co-worker, or the pay offered to a job applicant.

The LGBT regulations became effective in April 2015. The regulations implement Executive Order 13672, *Further Amendments to Executive Order 11478 Equal Employment Opportunity in the Federal Sector*, signed by President Barack Obama in July 2014. This Executive Order and its implementing regulations add sexual orientation and gender identity to the basis on which employment discrimination is prohibited.

Moreover, OFCCP will continue working with federal contractors to support their compliance with Section 503 and VEVRAA. Section 503 prohibits covered federal contractors and subcontractors from engaging in employment discrimination based on an individual's disability status. It also requires these employers to take affirmative action to recruit, hire, promote, and retain qualified individuals with disabilities. The VEVRAA regulations created greater accountability on the part of federal contractors and subcontractors for their employment practices related to hiring, recruiting, promoting, and retaining veterans. They require covered contractors to establish an annual hiring benchmark for protected veterans. In FY 2017, OFCCP will review and revise, as needed, the annual VEVRAA national benchmark and update its database for the contractors establishing their own benchmark using Census and other data OFCCP makes available.

Finally, in FY 2017, OFCCP will issue additional guidance as needed to support voluntary compliance by contractors; publish an updated complaint intake form that incorporates regulatory changes to the protected categories in Executive Order 11246; and revise and finalize interagency agreements and memoranda of understanding to leverage resources and coordinate civil rights enforcement efforts across departments and agencies.

Outreach and Education for External Stakeholders and Compliance Officers Training

FY 2017 will see OFCCP facilitating the success of contractors as they implement new and previously issued regulations, educating workers and job applicants about their rights, reaching out to populations that are at greater risk of workplace discrimination, and training OFCCP's compliance officer staff. To assist contractors in complying with their regulatory responsibilities, in FY 2017 OFCCP's field offices will continue to conduct compliance assistance activities, and these activities will incorporate some improved tools and materials directed at self-assessment of contractor pay practices. OFCCP will continue to issue technical assistance guides, fact sheets and brochures that describe its enforcement priorities, the laws it enforces, and what companies can do to achieve compliance.

Contractors, as well as workers and organizations representing them, will see a continuation of OFCCP's efforts to ensure that everyone has the information that they need to understand the requirements of two Executive Orders:

- Executive Order 13665 prohibits contractors from taking adverse action against employees and applicants for certain inquiries and disclosures related to their pay and the pay of their coworkers.

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- Executive Order 13672 extends nondiscrimination protections to LGBT applicants and employees of federal contractors.

Technical assistance and enforcement of the Section 503 and VEVRAA regulations will continue during FY 2017 and are expected to contribute to improved recruitment, hiring, and retention of protected veterans and individuals with disabilities in the workplaces of federal contractors.

Execution of components of OFCCP's Limited English Proficiency (LEP) plan in FY 2017 will continue to ensure that individuals with limited English proficiency have access to vital information about their employment rights and that this information is provided in a language and in a form and format that is most useful to them. This includes ensuring that key agency documents like the complaint form are available in several languages based on an agency language needs survey, that outreach materials are written simply and are easy to understand, and that the content on the Web site is accessible to individuals with visual disabilities.

The OFCCP National Training Academy (Training Academy) will support contractor compliance and public education by providing educational Webinars or courses. The Training Academy will also conduct extensive training for OFCCP's compliance officers and staff, and provide sessions for OFCCP's non-contractor stakeholders such as community-based organizations, and others. These Webinars will primarily focus on regulatory requirements and changes, but also include relevant changes to policies and procedures. In FY 2015, the Training Academy trained 99 percent of the agency's compliance officers, and offered more than 20 Webinars and courses. FY 2016 performance targets mirrored that of FY 2015. The FY 2017 target calls for an increase in the number of courses and Webinars OFCCP provides. OFCCP's focus is not just on increasing quantity but also on maintaining the quality of its training. In this regard, in FY 2015, the average increase in compliance officer knowledge in FY 2015 increased to 19.6 percent and the average course quality or satisfaction rating was 4.0 on a scale of 1 to 5 (5 representing "highly satisfied").

During FY 2017, the Training Academy will develop and deliver training courses on the agency's regulatory agenda, the sex discrimination final rule and its implementation, as well as supplemental courses on specific issues related to the ongoing implementation of the pay transparency and LGBT regulations. The Training Academy also plans to offer courses on data collections, such as Information Collection Requests authorized by OMB, and interagency collaborations and memoranda of understanding.

To begin developing comprehensive training and development plans for its compliance officers, the Training Academy will engage other DOL agencies that have their own formal staff development programs to gather information that would assist OFCCP with creating a multi-tiered mandatory development curricula, reporting and tracking individual course completion, and certifying levels of proficiency or skills development.

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Customer Service that Supports Enforcement and the Regulatory Agenda

OFCCP's FY 2015 initiative to refine its outreach program by leveraging its stakeholder relationships to support case enforcement continues in FY 2017. For example, OFCCP's Indian and Native American Employment Rights Program (INAERP) focuses on strengthening workplace protections and expanding employment opportunities for Indian and Native Americans who are employed or seek employment with companies doing business with the federal government. INAERP's outreach to the Council for Tribal Employment Rights was strengthened with the signing of a Memorandum of Understanding on December 11, 2014. In 2016, INAERP's goal is to increase the number of linkages between tribes and both construction and non-construction federal contractors which will increase the number of Indian and Native American workers, and lower the chronically high unemployment rates throughout Indian Country. Additionally, in FY 2015 and FY 2016, the agency sought to increase the number of affected class members located and remedied in its enforcement cases by publicizing settlements to potential class members through a new Web-based tool it implemented. This work will continue in FY 2017.

In FY 2017, as a part of the LEP Plan, OFCCP will also continue translating worker-focused outreach and education into various languages to reach more workers, but in particular those populations most at risk in the workforce. The languages are identified through a survey of agency managers and staff that engage with the public. By educating and informing workers and jobseekers, especially those most at risk of being victims of discrimination, OFCCP is empowering them to detect and report alleged violations of the laws OFCCP enforces, and to pursue a remedy for discrimination whether through OFCCP or some other appropriate agency, or through private litigation when appropriate. In FY 2015, OFCCP deployed its second LEP Survey to reassess the agency's LEP service needs. The 2015 survey focused on the availability of services, the frequency of contact, and the sufficiency of translated materials for Spanish speaking LEP customers based on the 2013 survey. During FY 2016, OFCCP anticipates creating a plan of action to address challenges identified in the survey results that could be expected through FY 2017. In addition, in FY 2017, the agency plans to initiate the development of the next language access survey.

Because workers and job applicants increasingly rely on the Internet for employment-related information, OFCCP's outreach program in FY 2017 will continue to provide the public with material using its Web site. This material will meet the accessibility requirements under section 508 of the Rehabilitation Act and will be written simply to comply with the Plain Language Act. In addition, OFCCP will utilize innovative tools and technologies to engage workers and communities through an enhanced agency Web site, social media and other communication strategies.

OFCCP has significantly improved the quality of its interactions with the public by providing timely and accurate information about its program. This improvement is expected to continue in FY 2017 with the agency's ongoing use of the Customer Relations Management (CRM) tool, and improvements in the training and knowledge base of staff responsible for responding to public inquiries. FY 2017 should also see the continued use of Help Desk scripts to ensure the quality and consistency of the agency's response to significant and the most often asked Help

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Desk questions, the increased use of simultaneous interpreter services to communicate with individuals contacting OFCCP who are not native English speakers, and the expanded translation of outreach and education materials. Specifically, the CRM tool is a Web-based content management software program that is designed to:

- Provide customers options for self-service and automated Web support accessed from OFCCP's Homepage;
- Create a knowledge database of the most frequently asked questions or areas of inquiry;
- Improve processing and tracking of online customer inquiries;
- Generate reports on inquiry volume, and response time; and
- Provide employees and contractors with a common database from which to access accurate information.

The tool also allows OFCCP staff to devote more time to other mission-related activities while, at the same time, ensuring that stakeholders with complex or nuanced questions receive personal attention when it is required.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2012	\$105,187	755
2013	\$99,685	729
2014	\$104,976	683
2015	\$106,476	621
2016	\$105,476	615

FY 2017

The FY 2017 Request for OFCCP is \$114,169,000 and 615 FTE. This funding will allow the agency to efficiently carry out its strategic enforcement agenda focused on high quality, complex, and timely processed systemic investigations resulting in greater remedies for workers as well as greater federal contractor compliance. A systemic case can be one that shows a measureable pattern of discrimination based in part on statistical evidence or a case that shows a practice applicable to multiple applicants or employees that result in discrimination.

The FY 2017 Request includes \$1.9 million for creation of two Skilled Regional Centers, a key proposal to transform OFCCP operations. These centers would be located in the regional offices in the Pacific (San Francisco) and Northeast (New York) regions. These resources will support the agency's training of existing compliance officers and recruitment of new highly skilled personnel to handle more complex cases. The agency's move toward regional specialization in more complex cases will reduce the need for 48 brick-and-mortar field offices, which currently account for approximately \$4.0 million in annual rent expenditures.

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OFCCP's approach to using Skilled Regional Centers offers a new and more efficient way to support high-quality enforcement and provide targeted compliance assistance to contractors. This approach refines and complements OFCCP's existing training framework. While the OFCCP Training Academy continues to focus on developing general or broad compliance officer skills and abilities, the proposed Skilled Regional Centers would focus on developing a cadre of compliance officers that are expert in conducting compliance evaluations in specific industries, such as financial services or information technology. There are several qualitative benefits to locating these centers in or near the regions where certain high priority industries are located. By doing so, OFCCP's compliance officers become more familiar with the contractors in those areas and the environment in which they operate; and the quality of the compliance assistance provided to those contractors should improve. Another benefit of placing these Skilled Regional Centers in specific locations is that outreach to workers and organizations representing workers can be tailored to better connect contractors with jobs to organizations able to provide access to a pool of qualified workers.

There are other benefits as well. In addition to supporting the development of a highly trained and specialized staff, the Skilled Regional Centers would allow OFCCP to reduce the number of brick-and-mortar field offices it must maintain. This, in turn, would allow OFCCP to optimize its existing resources and reduce its costs. Victims of discrimination would also benefit from OFCCP's deployment of Skilled Regional Centers. By vastly improving the compliance officers' investigative skills, the agency will be able to increase the number of large, complex systemic discrimination investigations that it conducts. The settlements resolving violations identified in these cases would likely provide larger back pay remedies for workers. Finally, the Skilled Regional Centers would support improvements in the quality of OFCCP's investigations as demonstrated by the identification of fewer deficiencies during quality audits of closed cases.

The FY 2017 Request also includes \$3.3 million for the continued modernization of the OFCCP Case Management System. The proposed modernization would support DOL's Digital Government Integrated Platform (DGIP), which is designed to modernize legacy systems within DOL and support enterprise data analytics, mobile data applications, and enhance staff productivity and efficiency. OFCCP is upgrading its system in conjunction with implementation of the DOL DGIP to ensure compatibility and leverage those investments.

The request will allow the agency to more efficiently carry out its enforcement agenda that focuses on high quality, large and complex systemic investigations that have the potential to deliver greater remedies to victims of discrimination, and that serve to encourage contractor voluntary compliance. Specifically, the request will allow the agency to:

- Implement uniform workflows across the agency's regions and field offices to ensure consistent and high quality compliance evaluations and more transparency for federal contractors as they undergo compliance evaluations across the country;
- Obtain a high level of data quality, integrity and timeliness on case actions, status dates and case dispositions to provide accurate and timely case information to Congress, the general public, and other OFCCP stakeholders;

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- Facilitate collaboration across OFCCP field offices, national office expert advisors and the Office of the Solicitor to develop high quality, complex, and often multi-establishment systemic discrimination investigations;
- Efficiently carry out the agency's quality assurance program in real time, on both open and closed case files, to monitor case quality and timeliness, inform immediate training needs at all staff levels, and ultimately improve remedies for workers; and
- Systematically track OFCCP activities and outcomes related to conciliation agreement monitoring (not possible in the current system) to allow OFCCP to monitor, evaluate and improve its effectiveness in finding victims and delivering to them the remedies that it negotiates in conciliation agreements.

The FY 2017 Request will also allow the agency to continue handling individual complaint investigations that align with the Administration's priorities of improving the employment opportunities and protections for America's veterans and individuals with disabilities, and workplace protections for LGBT employees and job seekers. It would also educate and inform all workers, but especially vulnerable populations of workers.

In addition, the request will allow the agency to:

- Refine its outreach program by leveraging its stakeholder relationships to support case enforcement, including increasing the number of affected class members located and remedied in its enforcement cases by publicizing settlements to potential class members through a new Web-based tool;
- Continue to execute its LEP Plan and the Plain Language Act by translating worker-focused outreach and education into high-demand languages as identified through an agency survey, making available interpreters and translators to support customer service and strengthen enforcement cases that involve non-English speakers, and using reader friendly language and terminology in publications and other material; and
- Use technology (e.g., the Customer Relations Management tool) to provide contractors and other stakeholders an improved customer service experience by offering options for self-service and automated Web support that is accessible through OFCCP's homepage, and increasing the quality and timeliness of the agency's responses to public inquiries.

FY 2016

The FY 2016 Enacted funding for OFCCP was \$105,476,000 and 615 FTE, which includes funding for the continued development of an improved case management system.

The proposed modernization would support DOL's DGIP, which is designed to modernize legacy systems within DOL and support enterprise data analytics, mobile data applications, and enhance staff productivity and efficiency. OFCCP is upgrading its system in conjunction with implementation of the DOL DGIP to ensure compatibility and leverage those investments.

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FY 2015

The FY 2015 Enacted funding for OFCCP was \$106,476,000 and 621 FTE. In FY 2015, OFCCP continued to focus on effective enforcement, regulatory reform and implementation and planned outreach for workers and their employers by implementing effective enforcement strategies to ensure that all workers (including veterans and individuals with disabilities) are recruited, hired, promoted, retained, and compensated fairly and equitably by Federal contractors and subcontractors. During FY 2015, the agency accomplished much including shifting its enforcement focus to larger, complex systemic evaluations focusing on larger federal and federally-assisted construction projects that have the potential to hire greater numbers of workers, maintaining high quality standards, and executing its regulatory agenda.

- In FY 2015 OFCCP recovered \$5.9 million in back pay for 16,040 victims of discrimination and negotiated 530 job opportunities. There were 1,181,917 workers in the facilities that OFCCP reviewed;
- In the area of pay discrimination enforcement, OFCCP recovered more than \$600,000 in FY 2015 in back pay and salary adjustments. One hundred percent of the FY 2015 pay discrimination settlements were for systemic violations;
- Of completed construction compliance evaluations, 32 percent were of contractors that were part of high-impact construction projects, which was 107 percent of target; 22 percent of discrimination conciliation agreements involved pay discrimination violations, which was 55 percent of target; and 98 percent of cases were free of major deficiencies, versus a target of 90 percent;
- OFCCP coordinated with the General Services Administration pursuant to a Memorandum of Understanding for sharing information on certain construction projects, further institutionalizing high-impact construction projects into the operations of the agency; and
- OFCCP trained 99 percent of the agency's compliance officers, and offered more than 20 Webinars and courses. OFCCP's focus is not just on increasing quantity but also on maintaining the quality of its training. In this regard, in FY 2015 the average increase in compliance officer knowledge in FY 2015 increased to 19.6 percent and the average course quality or satisfaction rating was 4.0 on a scale of 1 to 5 (5 representing "highly satisfied").

Numerous other activities were completed in support of these priorities and the results OFCCP achieved.

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DETAILED WORKLOAD AND PERFORMANCE					
		FY 2015 Enacted		FY 2016 Enacted	FY 2017 Request
		Target	Result	Target	Target
Office of Federal Contract Compliance Programs					
Strategic Goal 3 - Promote fair and high quality work-life environments					
Strategic Objective 3.1 - Break down barriers to fair and diverse workplaces and narrow wage and income inequality					
OFCCP-03	Percent of Construction Evaluations Completed from High-Impact Projects	30%	32%	30%	35%
OFCCP-08	Percent of Discrimination CAs with Pay Discrimination Findings	40%	22%	35%	40%
OFCCP-11	Percent of Cases Without Major Deficiencies	90%	98%	95%	95%

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined [p] - Projection

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Workload Summary

In FY 2015, OFCCP fell short of its FY 2015 target (at 63 percent) for the number of completed compliance evaluations, including 2,452 supply and service evaluations (including the Functional Affirmative Action Program), and 266 construction evaluations. During FY 2015, OFCCP intentionally relaxed case closure production targets to focus efforts on its robust open inventory of systemic discrimination cases while maintaining high quality standards. With this strategy, in FY 2015, OFCCP achieved record highs in the percent of cases without major deficiencies and the percent of cases without technical deficiencies due to the agency's emphasis on improving case quality during this transition. In FY 2016, OFCCP is entirely eliminating case closure targets (including functional affirmative action program compliance evaluations) and will replace these closure targets with measures that demonstrate implementation of OFCCP enforcement priorities of complex systemic compensation and high impact construction while maintaining high quality. In FY 2017, OFCCP will again continue this new strategy in order to maximize case quality and prioritize larger systemic discrimination cases with the potential for helping more workers and thereby realizing even larger total back pay recovery amounts.

In FY 2015, 32 percent of completed construction compliance evaluations were from the high-impact projects, which was 107 percent of the target that had been increased to 30 percent from 20 percent in FY 2014. The target will remain at 30 percent for FY 2016 and increase to 35 percent in FY 2017.

With its increased emphasis on enforcement of compensation discrimination, OFCCP continues to expect at least a third or more of its discrimination settlements will include pay discrimination findings, setting targets at 35 percent for FY 2016, and at 40 percent in FY 2017. OFCCP will achieve these targets by prioritizing cases where the agency believes there is a high likelihood of pay discrimination findings.

Compliance assistance is a critical component of OFCCP's enforcement efforts. Since OFCCP conducts annual compliance evaluations of a small percentage of the entirety of federal contractors, voluntary compliance achieved through compliance assistance is an important component of overall regulatory compliance. However, consistent with its strategy of de-emphasizing case closure targets to increase enforcement impact, OFCCP also eliminated compliance assistance event targets in FY 2016, but continues internally to track and monitor performance in this area.

Similarly, effective enforcement through quality and timely compliance evaluations must be accompanied by worker and community outreach to link audited contractors with appropriate recruitment resources and to educate workers about their rights. Ultimately, OFCCP's external engagement provides a pathway for the protection of worker rights regardless of whether their workplace is scheduled for an OFCCP audit. In FY 2015, OFCCP shifted focus toward case-specific outreach strategies that increase the agency's ability to locate class members eligible to receive remedies resulting from compliance evaluations. In FY 2016, OFCCP furthered this effort by implementing a Web-based tool that publicizes settlements for potential class members. OFCCP expects to continue and expand these strategies in FY 2017. Therefore, the agency will deemphasize events altogether to focus and leverage relationships that align with these

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enforcement objectives. This strategy fits with OFCCP's overall direction of strategic improvement in its enforcement efforts.

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BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request	Diff. FY17 Request / FY16 Enacted
11.1	Full-time permanent	58,544	57,375	59,295	1,920
11.3	Other than full-time permanent	148	164	164	0
11.5	Other personnel compensation	490	558	558	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	59,182	58,097	60,017	1,920
12.1	Civilian personnel benefits	18,472	18,413	19,402	989
13.0	Benefits for former personnel	17	51	51	0
21.0	Travel and transportation of persons	635	637	1,637	1,000
22.0	Transportation of things	1	9	9	0
23.1	Rental payments to GSA	6,144	5,793	5,998	205
23.2	Rental payments to others	66	28	28	0
23.3	Communications, utilities, and miscellaneous charges	1,039	655	655	0
24.0	Printing and reproduction	21	36	36	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	1,130	2,243	3,133	890
25.3	Other goods and services from Federal sources 1/	10,916	6,184	6,573	389
25.4	Operation and maintenance of facilities	0	1,440	1,440	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	7,385	10,914	14,214	3,300
26.0	Supplies and materials	356	158	158	0
31.0	Equipment	1,000	814	814	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	112	4	4	0
	Total	106,476	105,476	114,169	8,693
	1/Other goods and services from Federal sources				
	Working Capital Fund	10,256	3,020	3,409	389
	DHS Services	630	600	600	0
	Services by DOL Agencies	15	2,564	2,564	0
	Services by Other Government Departments	15	0	0	0

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CHANGES IN FY 2017

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$936
Personnel benefits	401
Employee health benefits	0
Moving allowance	0
Two days less of Pay	-422
Federal Employees' Compensation Act (FECA)	-74
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	205
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	389
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

Built-Ins Subtotal **\$1,435**

Net Program **\$7,258**

Direct FTE **0**

	Estimate	FTE
Base	\$106,911	615
Program Increase	\$7,258	0
Program Decrease	\$0	0