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## OFCCP Releases 2023 Pre-Audit Corporate Scheduling Announcement List

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On January 20, 2023, the Office of Federal Contract Compliance Programs (OFCCP) released its [2023 Corporate Scheduling Announcement List](#) (CSAL), which notifies 500 supply and service establishments (locations) of upcoming audits. Federal contractors should immediately review the 2023 CSAL because it serves as the only advance notification to contractors of upcoming audits.

The CSAL specifies the type of audit the contractor will undergo: Full Compliance Review (Establishment Review), Corporate Management Compliance Evaluation (CMCE) or Functional Affirmative Action Program (FAAP) Review.

Although rare, federal contractors not identified on the CSAL still may be selected for an audit in [certain circumstances](#), such as “a complaint, contract award notice, or as a result of a conciliation agreement or consent decree progress report monitoring.” Furthermore, the OFCCP’s issuance of its most recent CSAL does not impact those contractors from prior CSALS who have not received their audit letters yet.

The OFCCP concurrently published its [methodology](#) for selecting the contractors for the list, which the agency begins by downloading federal contracts valued at \$50,000 or more from the U.S. spending database. The OFCCP explained that it applied the following criteria in selecting establishments for the CSAL:

- The OFCCP selected federal contractors and subcontractors that are required to maintain an Affirmative Action Program (AAP) but **did not complete** their mandatory annual certification in the [OFCCP Contractor Portal](#) as of December 1, 2022 (which is a new requirement beginning in 2022).

- Contracts awarded to federal, state, local, municipal, tribal, city, and foreign governments, school districts, universities and colleges, and construction companies were removed.
- Healthcare contracts that fall under [OFCCP's Final Rule: Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors: TRICARE Providers, 85 FR 39834 \(July 2, 2020\)](#), and OFCCP's [Extending the Scheduling Moratorium for Veterans Affairs Health Benefits Program Providers Directive \(DIR 2021-01\)](#) were removed.
- Contract records expiring on or before March 31, 2023, were also removed.
- The OFCCP further refined this list by retaining only contractor and subcontractor establishments with at least 200 employees. For prime contracts and subcontracts, OFCCP matched company names and addresses against the 2020 EEO - 1 filings to identify establishments with 200 employees or more for inclusion in the eligible pool of contractors.
  - For CMCE reviews, OFCCP set the minimum employee count to 1,000 at the corporate headquarters.

As noted above, the CSAL is the only warning selected contractors will receive before the audit begins. Selected contractors will be notified that the audit has commenced by receiving a Scheduling Letter - which can come at any time. Once a contractor receives the Scheduling Letter, the contractor usually has only **30 days** to submit their Affirmative Action Programs (AAPs) and contractor records to the OFCCP. Accordingly, contractors identified on the CSAL immediately should ensure their AAPs are legally compliant and evaluate any additional compliance efforts required by federal regulations.

Further, the OFCCP [has proposed changes to the current Scheduling Letter](#) and those changes, if approved by the Office of Management and Budget (OMB), will require selected contractors who receive the revised Scheduling Letter to prepare additional materials beyond those currently required of an initial audit response.

If you have any questions about the CSAL or other OFCCP compliance issues, please contact one of the Faegre Drinker professionals below.

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