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OFCCP To Require Annual Certification of Affirmative Action Program Compliance

The Office of Federal Contract Compliance Programs (OFCCP) will begin requiring covered federal contractors and subcontractors to annually certify whether they have developed and maintained affirmative action programs in compliance with Executive Order 11246, Section 503 of the Rehabilitation Act, and/or VEVRAA.

Many private sector businesses have contracts and subcontracts to supply goods and services to the federal government. Those who have such contracts that exceed \$50,000 and who have at least 50 employees are required to maintain written affirmative action programs addressing employment opportunities for minorities, women, and people with disabilities. For those with at least 50 employees and a contract of \$150,000 or more, a separate plan must address employment opportunities for veterans. These regulations are enforced by OFCCP, a division of the Department of Labor.

OFCCP's new certification process will require covered contractors to certify, **under penalty of perjury**, that they are in compliance with these regulations. OFCCP will provide a Contractor Portal through which contractors will certify compliance.

The timeline for certification is:

- **February 1, 2022:** Contractors may begin registering for access to the Contractor Portal. OFCCP stated it will send an email to covered federal contractors whose email information is available in its system.
- **March 31, 2022:** Contractor Portal will open for certifications.
- **June 30, 2022:** Deadline to certify affirmative action program compliance.

OFCCP stated it plans to release additional information about registration and certification in the coming months.

Covered contractors should carefully review their affirmative action programs with counsel in preparation for this certification. Contractors who are in doubt about whether they can comply should consider carefully whether they should register for access to the new portal, and certainly should avoid falsely certifying compliance. If you have any questions about this new certification requirement or affirmative action programs, please contact [George Yund](#), [Jennifer Rulon](#), [Steve Tolbert](#), [Jessica Sexton](#), or any attorney in the [Labor and Employment](#) practice group.

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