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# OFCCP/AFFIRMATIVE ACTION NEWSLETTER

JULY 2006

This newsletter is intended to provide an update of developments at OFCCP since our May 2006 newsletter. This issue contains information provided by Mr. Leonard J. Biermann, National Director, Human Resource and Affirmative Action Activities, as a courtesy to those in the employment community who have utilized NELI's affirmative action training services. Mr. Biermann may be reached at NELI at 301.865.0500 or by email at [neli@neli.org](mailto:neli@neli.org).

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2006

## AFFIRMATIVE ACTION BASICS/BRIEFING

CHICAGO • OCT. 4-6  
AUSTIN • OCT. 11-13  
SAN FRANCISCO • OCT. 18-20  
WASHINGTON, D.C. • OCT. 25-27

*We have incorporated some major changes into our AA Briefing agenda. Please visit our Affirmative Action Briefing webpage for more information.*

*The brochure and detailed agenda will be available July 12.*

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**OFCCP issues final “Interpretive Standards for Systemic Compensation Discrimination under Executive Order 11246” and also finalizes its companion “Voluntary Guidelines for Self-Evaluation of Compensation Practices for Compliance with Executive Order 11246.”**

**Background.** On June 16, 2006, OFCCP issued its final version of the methodology it is using to investigate potential systemic discrimination in contractor compensation practices. OFCCP also issued, on the same date, its final version of the Voluntary Guidelines for contractor self-evaluation of compensation practices. OFCCP's “Standards” and its “Voluntary Guidelines” are not regulations and do not have the binding force and effect of law. Nonetheless, the “Standards” and the invitation to contractors to take voluntary action are current OFCCP policy and thus “bind” the OFCCP. OFCCP first proposed the interpretive Standards on November 16, 2004 (69 FR 67246 and 69 FR 67252). OFCCP adopted almost all of the proposals without substantial change. The following is a description of the two notices, as published in final form.

**Interpretive Standards for Systemic Compensation Discrimination under Executive Order 11246**

The OFCCP has explained that the reason for issuing these Standards is to institutionalize and codify the agency's present methods of investigating systemic compensation discrimination. They do not regard these Standards as representing a dramatic change for the contractor community, as it places no new burdens on contractors. The purpose is to tell the contractors what rules the OFCCP will follow. The Standards apply to all contractor establishments or, if multiple establishments have been consolidated into a single affirmative action plan, then all employees covered by that plan are subject to a single systemic compensation investigation. The Standards also make clear that the agency will not rely for evidentiary purposes on the so-called “salary grade” theory to determine if a contractor has engaged in systemic discrimination in its compensation program (NOTE: The “salary grade” theory argues that since the contractor has determined that job titles placed in the same salary grade have the same value, there should

be no difference between minorities and nonminorities or women and men unless the difference between them can be explained by obvious causes, such as performance or tenure. The differences are measured by a simple mean or median calculation using the earnings of each group in each grade. The basic assumption in the theory is that regardless of job title, positions placed in the same salary grade should have the same earnings potential.) Sixteen paragraphs in the preamble to the final Standards were used by OFCCP to assert that this theory has no basis in Title VII case law. However, the agency may continue to use the “salary grade” approach for initial prioritizing during a desk audit, to determine the contractor’s potential selection for a systemic investigation of compensation using these new Standards.

Some comments were received from the public to the November 16, 2004 proposal suggesting the use of substantial OFCCP staff and budget to investigate compensation would be at the expense of the agency’s ability to assure contractors were meeting their affirmative action obligations. The OFCCP affirmatively rejected this suggestion, arguing that the Executive Order requires both nondiscrimination and affirmative action, and that the focus by OFCCP on systemic discrimination in the workplace would give tangible incentives to

contractors to assure they were implementing their affirmative action obligations to prevent such discrimination.

The Standards contain three essential steps in the OFCCP methodology for conducting a systemic compensation discrimination investigation. First, the OFCCP will attempt to place most of the job titles at a contractor establishment or affirmative action program into Similarly Situated Employee Groups (SSEG’s). Secondly, these SSEGs will be the subject of multiple regression analysis, the basic tool which the agency will use in these investigations. Thirdly, the OFCCP will also utilize anecdotal evidence in supporting any statistically significant finding of potential discrimination in any of these employee groups. Each of these provisions is discussed below. We have attempted to give a summary of the OFCCP’s reaction to selected public comments that were made during the official comment period immediately after these Standards were proposed. Many more comments were received than those reflected here, some of which were highly technical in nature. Readers wishing a full exposure to the public comments and OFCCP responses should read the preamble to the final Interpretive Standards published in the Federal Register, Vol. 71, No. 116, p. 35124ff, Friday, June 16, 2006.

## **1. Similarly Situated Employee Groups (SSEGs).**

Employees are defined as similarly situated with respect to pay decisions where the employees perform similar work, have similar responsibility level, and occupy positions involving similar qualifications and skills. It is the OFCCP intent to cover 80% of all employees at an establishment or within an affirmative action plan by placing them in SSEGs.

OFCCP Reaction to Public Comment. The OFCCP agreed with some commenters that similarity in job duties, responsibility level, and skills/qualifications may not be the only factors considered in developing employee groups. Others which could impact compensation include, but are not limited to, different department assignments, other functional divisions of the corporation with different budgets, or different pay plans, such as team-based pay plans or incentive pay plans, etc. The agency did not agree, however, with those commenters who believe the agency should adopt the “substantially equal” Standards of the Equal Pay Act, noting that many courts and the EEOC have interpreted Title VII to allow comparisons of individuals who are “similarly situated”.

Some commenters were concerned that the OFCCP (as well as contractors if they choose to adopt the Voluntary Self-

Evaluation Guidelines) may be forced to combine employees into SSEGs who are not sufficiently similar just to make the job group large enough to be statistically significant. They noted that OFCCP's desire to cover most of the employees of a facility when conducting its analysis further aggravated this concern. OFCCP agrees that it may be expected that some employees will fit into no suitable SSEG for purpose of conducting a statistical analysis, and in such cases they will not be included in the statistical analysis, regardless of statistical size requirements or of OFCCP's general objective to include a significant majority of employees in the regression analyses.

**2. Multiple Regression Analysis.** OFCCP will use multiple regression analysis as the principal tool to conduct its audits of compensation practices. The regression would include those factors important to pay decisions, such as education, work experience with previous contractors, seniority in the job, time in a particular salary grade, performance ratings, and others. Adverse findings against minorities or women must be statistically significant to two or more Standards deviations to be a potential basis for a finding of unlawful compensation discrimination. If separate regressions by categories of jobs will not permit OFCCP to assess the way the

contractor's compensation practices impact a significant number of employees, OFCCP states it could perform a "pooled" regression, which combines these categories of jobs into a single regression. If used, OFCCP would assure that the regression includes appropriate "interaction terms", and would run statistical tests generally accepted in the statistics profession, such as the "Chow test" to determine which interaction terms should be included in the pooled regression analysis.

OFCCP Reaction to Public Comment. During the comment period some attorneys and statisticians argued that multiple regression is inaccurate because it does not evaluate pay and personnel decisions directly (or indirectly through a "pay progression study"). This argument basically states that Title VII forbids discriminatory decisions, and each pay decision must be analyzed in that context to determine if an illegal act occurred. The OFCCP rejects these views, noting that the Supreme Court has approved multiple regression under Title VII of the Civil Rights Act, and that looking at individual compensation decisions would impose significant burdens both on OFCCP and on contractors during OFCCP's investigation to obtain the information needed for the suggested analysis. Secondly, the OFCCP argues that the commenters' suggestion would combine pay, pro-

motion, and perhaps other personnel decisions in the same analysis, making it difficult to define the nature of the alleged discrimination or to determine an appropriate remedy.

Some commenters raised concerns about the use by OFCCP of "pooled regression models" – the statistical process discussed above of combining job groups too small for statistical analysis into larger groups. The OFCCP asserts that the agency will not compare employees who are not similarly situated, and that pooled regressions must contain category factors that are defined so as to include in the group only similarly-situated employees. OFCCP will run statistical tests generally accepted in the statistics profession (e.g. the "Chow test"), to determine which interaction terms should be included in the pooled regression analysis. Further, the agency does not intend to use the pooled regression model on a widespread basis as a preferred approach.

Several commenters raised concern about the independent factors which should be considered in modeling a multiple regression analysis. Since the proposal spoke of such factors as education, work experience, salary grade, seniority, performance rating, etc., the question was raised whether OFCCP investigators may believe all of those factors needed to be in any regression model. At the opposite pole, oth-

ers feared that investigators might believe that no factor could be considered which was not listed in the proposal. OFCCP takes the position that the variables that needed to be considered would depend on the facts of a particular case, and the intent in the proposal was only to list the typical factors as an example. The agency notes that some of the factors not listed, but which could be applicable in a particular case, include leaves of absence, employment with a predecessor company, whether the educational degree is related to the contractor's position, etc.

Many commenters also noted that contractors do not collect data in their HRIS systems on all of the factors that may influence compensation decisions, and that some of the factors used in making compensation decisions cannot be quantified. OFCCP states that they do "not expect contractors to maintain all of the data necessary to conduct a multiple regression analysis in its HRIS system. Nor does OFCCP require that contractors collect such data and build a database to turn over to OFCCP during a compliance review. Instead, OFCCP will gather the pertinent information through interviews and through review of personnel files and other pertinent documents. Once OFCCP gathers the necessary information, OFCCP staff will build a database. OFCCP does not presume that every factor that may influence

compensation is necessarily quantifiable. OFCCP may attempt to account for such factors in the regression model through categorical variables or proxies, if possible. OFCCP also may assess whether unquantifiable or inherently qualitative factors explain multiple regression results through non-statistical methods."

**3. Anecdotal Evidence.** OFCCP takes the position that anecdotal evidence is important in establishing systemic compensation discrimination and that rarely will a Notice of Violation be issued by the agency alleging systemic compensation discrimination absent anecdotal evidence.

OFCCP Reaction to Public Comment. Several commenters argued that OFCCP should never allege systemic compensation discrimination without anecdotal evidence of discrimination, nor should the agency ever allege systemic compensation discrimination based only on anecdotal evidence. OFCCP disagrees with these comments. The agency argues that there may be cases in which the statistical analysis is so compelling that an allegation of systemic discrimination is warranted even in the absence of anecdotal evidence of compensation discrimination. Similarly, the amount, weight, and reliability of anecdotal evidence found in a case may support an inference of systemic dis-

crimination, even in the absence of statistical evidence.

**Voluntary Guidelines for Self-Evaluation of Compensation Practices for Compliance with Executive Order 11246**

The purpose of the Voluntary Guidelines for Self-Evaluation of Compensation Practices (hereinafter referred to as "Guidelines") is defined as offering contractors a Standards of self-evaluation consistent with the OFCCP's Interpretive Standards. If properly adopted, OFCCP will find the self-evaluation acceptable under 41 CFR 60-2.17 (b) (3), a regulation adopted on November 13, 2000 which requires contractors, as part of their Affirmative Action Programs, to analyze and evaluate their compensation practices. The OFCCP strongly states that the guidelines are voluntary, and that contractors may continue to choose whatever form of self-evaluation they deem appropriate in order to comply with OFCCP regulations requiring contractors to perform a self-evaluation of their compensation practices. However, for contractors who voluntarily conform their self-evaluation to the Standards, OFCCP will coordinate its compensation investigation, giving deference to the contractor's methodology and reviewing only the documentation and results.

Remedy to Contractor Findings of Illegal Discrimination Is Required. In addition to developing a self-evaluation system consistent with the Interpretive Standards, contractors who accept this option must also take appropriate remedial action to correct statistically significant compensation disparities between employees in an SSEG where such disparities are not explained by legitimate, non-discriminatory factors. The Guidelines state that the remedial action that is appropriate will depend on the facts of the case but should include back pay and other make-whole relief. **NOTE: While the Guidelines use the word “should” it is understood that in practice, OFCCP will expect contractors to award back pay and provide any other make-whole relief as may be required.**

Relationship with Item 11 of the Scheduling Letter. Several commenters asked how OFCCP would coordinate the audits for contractors who chose to adopt the Guidelines and voluntarily conducted an appropriate self-evaluation with the Scheduling Letter and particularly Item 11 of the Itemized Listing, which asks for the submission of compensation data in much more generic format. OFCCP has added a provision in the final Guidelines to clarify this issue. Contractors opting for the self-evaluation espoused in the Guidelines will not be required to submit com-

penetration data in response to Item 11. Instead, the contractor should respond to the Item 11 request by noting that the contractor “seeks compliance coordination under the OFCCP voluntary compensation self-evaluation guidelines.” OFCCP staff will then call the contractor to discuss the contractor’s self-evaluation program and, based on that initial discussion, OFCCP will determine what documents and information it will review in the particular case.

Record Retention. Contractors choosing to adopt the OFCCP Standards and to benefit from OFCCP’s assumption of compliance with regulatory requirements must: 1) maintain documents necessary to explain and justify its decisions with respect to SSEGs and the exclusion of certain employees from such groups; 2) document factors included in the statistical analysis and the form of the statistical analyses; 3) maintain for two years the data used in the analysis and results of the analyses; 4) similarly maintain data used to support any non-statistical methods the contractor used to evaluate pay decisions of those employees not included in statistical analysis; 5) document any follow-up investigation into statistically significant disparities and the conclusions reached; and, 6) document any pay adjustments made to remedy such disparities. All such documents and

referenced data must be made available to OFCCP during a compliance review. OFCCP retains the right to review additional data and to conduct interviews as may be necessary.

Alternative Compliance Certification. OFCCP recognizes that “some contractors may take the position, based on advice of counsel, that their compensation self-evaluation is subject to certain protections from disclosure, such as the attorney client privilege or attorney work product doctrines, and that these protections would be waived if the contractors disclosed the self-evaluation.” The agency states it will permit a contractor to certify its compliance with 41 CFR 60-2.17 (b) (3) in lieu of producing the methodology or results of its compensation self-evaluation. Such a certification would need to be in writing, signed by a duly authorized officer of the contractor under penalty of perjury, and state that the contractor has performed a compensation self-evaluation with respect to the affirmative action program or workplace at issue, at the direction of counsel, and that counsel has advised the contractor that the compensation analysis is subject to the attorney-client privilege and/or attorney work product doctrine. In such cases, OFCCP will assume the contractor has met its obligation under 41 CFR 60-2.17 (b) (3), but OFCCP will evaluate the contractor’s compensation practices

without regard to the contractor's own analysis.

Adverse Inference. The preamble to the Guidelines advises that OFCCP's formal policy is that if a contractor declines to adopt the methods outlined in the guidelines, such a decision will not be used as a basis for any negative or adverse inference about the contractor's compliance status. However, if a contractor fails to adopt any self-evaluation method, such failure will be the basis for a finding of noncompliance with 41 CFR 60-2.17 (b) (3).

OFCCP Reaction to Public Comment. Since the Guidelines require that contractors conform their self-evaluation of compensation in a manner consistent with the OFCCP Interpretive Standards, most of the public comments regarding the development of SSEGs, the use of multiple regression analysis, and incorporation of independent variables in the regression model follow the pattern of those addressing the Interpretive Standards.

One special concession was made, however. Both the proposal and final version require annual self-evaluations. The final version, however, requires the self-evaluation using the Interpretive Standards should cover at least 70% of all employees reported in the affirmative action program or workplace. If

the contractor has 500 or more employees in the affirmative action plan the statistical analysis must be multiple regression analysis. The proposal required a multiple regression analysis if the contractor had over 250 employees and required 80% inclusion of all employees in the affirmative action plan in the regression itself. The OFCCP agreed with several public comments that the proposed thresholds were a substantial burden.

Lastly, some commenters asked for a grace period before the Standards become effective. The OFCCP rejects this proposal, noting that the Standards levy no particular contractor obligation to gather data, build databases, or perform multiple regression analysis, and that the OFCCP will do all of those activities as a part of its compliance audit.

### **NELI'S OWN ANALYSIS OF THE TWO COMPENSATION DOCUMENTS**

The issuance in final form of OFCCP's Interpretive Standards for Compensation Discrimination and the Voluntary Guidelines for Self-Evaluation of Compensation Practices for Compliance With Executive Order 11246 is consistent with a now long-standing trend, which has dramatically changed the agency's primary role of enforcing affirmative action to investigating systemic discrimination.

This newsletter, and NELI's annual Affirmative Action Briefings, have been addressing that evolution for some years. The OFCCP has now codified this change. Further, the agency has gone to great lengths to assure that its approach to the investigation for systemic discrimination is consistent with views held by the majority of legal and statistical scholars. While some may have differing approaches, there is little chance that the courts will not continue to uphold multiple regression, properly modeled and executed, and a primary source of evidence of systemic compensation discrimination.

However, systemic compensation analysis is complex and time consuming. The OFCCP's own Interpretive Standards and Guidelines consistently speak of these complications and readily admit that most contractors are not expected to undertake such a staff and cost intensive self-evaluation, much less do so for the majority of all of their employees at each location on an annual basis. On numerous occasions in the preamble to both documents, the OFCCP reminds the reader that the Guidelines are voluntary, and that contractors can do whatever kind of self-evaluation they wish to undertake that is consistent with the general obligation, as prescribed in the regulations, i.e., to analyze and evaluate their compensation practices to deter-

mine if there are gender- race- or ethnicity based disparities. But how many of these types of investigations can the OFCCP competently perform?

Last year the agency began implementing a new contractor targeting process called the Federal Contractor Selection System (FCSS). While other factors are considered, such as past audit history, the FCSS still depends primarily on the EEO-1 Reports as used in the prior Equal Employment Data System developed on 1983. The reason for the revised selection system was to identify contractor establishments where OFCCP would be more likely to find systemic discrimination. In FY 2005, OFCCP selected 3,560 contractor establishments for potential review. OFCCP notices many of these contractors for review during the fiscal year. NOTE: relatively few reach the on-site stage. The FCSS targeting has not been shown to be predictive of likely discrimination. In FY 2006, a larger number of contractors will receive Notification Letters. But like 2005, it is anticipated that the vast majority of these contractors will not experience an on-site review. The review will be closed at the desk audit stage or after certain additional data is made available. The number of desk audit closings will likely continue to increase during FY 2006, as the agency seeks to find those few contractors who may be reasonable candidates to merit

spending substantial staff and budget to undertake a compensation investigation. In the preamble to the Interpretive Standards, the agency notes that in the past three years "OFCCP pursued enforcement litigation in two cases [unnamed] using multiple regression analyses that did not rely on the grade theory. These were the first two compensation cases OFCCP has filed in twenty-five years, and both cases resulted in significant settlements, including a near record \$5.5 million settlement". It is understood that no case has been filed since the Interpretive Standards were published for comment, although there are some in the development stage, which may become litigation worthy.

All of this is not to say that OFCCP has taken the wrong course. It is only to say that the vote is still out. Affirmative Action, in itself, has had a substantial impact on opportunities for minorities and women. Many believe its impact in breaking barriers and opening new opportunities has been greater than that of Title VII. The Glass Ceiling Initiative, for instance, caused an awakening among large contractors to a long ignored issue. But the glass-ceiling program is no longer an OFCCP priority. The measure of the systemic discrimination initiative will depend on whether the scales measuring its results can balance the necessary reduction in the attention

OFCCP can give to the efforts of contractors to take affirmative action in recruitment, training and human resources empowerment that will inevitably result.

### Contractor Impact and Suggestions

Contractors are now faced with three basic choices regarding the Voluntary Guidelines. These options are described below.

1. Contractors may voluntarily agree to conduct a self-evaluation consistent with the Guidelines without invoking the protection of the attorney-client privilege. If this option is chosen, the contractor will so advise OFCCP that it desires the compliance coordination incentive when responding to a Scheduling Letter and will not be required to provide data as requested in paragraph 11 of the Itemized Listing. OFCCP will then advise the contractor of what information it wants to review regarding the contractor's self-evaluation of its compensation practices.

2. Contractors may wish to voluntarily agree to conduct a self-evaluation consistent with the Guidelines, but wish to protect the process and results under attorney-client privilege. If so, the contractor will sign an Alternative Compliance Certification. Because the contractor is not eligible to participate in the compliance coordination incentive, if a Scheduling Letter is

received the contractor will be required to furnish data responsive to paragraph 11 of the Itemized Listing. OFCCP will then conduct its own investigation, but will not find that the contractor failed to meet the requirements of 41 CFR 60-2.17 (b) (3).

3. Contractors may choose to not voluntarily agree to conduct a self-evaluation under the Guidelines, preferring to conduct a self-evaluation of compensation of its own design. The contractor may or may not decide to place this specific self-evaluation under attorney seal. If it elects to do so, it may sign an Alternative Compliance Certificate, provided such an evaluation was in fact initiated by counsel with the intention of such protection. In that case, OFCCP will not find that the contractor failed to meet the requirements of 41 CFR 60-2.17 (b) (3). As in paragraph 2, above, the contractor will need to respond to the data requests contained in the Itemized Listing whether or not the contractor has signed an Alternative Compliance Certificate.

Most contractors will not undertake an annual multiple regression analysis at each of its establishments or AAPs with 500 or more employees (as well as some type of statistical test using SSEGs and factors that affect compensation at locations with fewer than 500 employees), and make the results of individual

facility analyses (and the remedies, if appropriate) available to the OFCCP during an audit. Such information may be available in discovery, and offer serious potential liability to the contractor. Further, regression analyses are by their very nature extremely fragile. Statistically significant disparities can be shown in one computer run, and disappear a few weeks later in another exercise because of slight changes in employment group size or demographics, or by the addition of a single independent variable.

Most contractors will likely continue to submit no more or no less than what is required in the Scheduling Letter. Data submitted by salary grade is usually not probative, and of little use to plaintiff attorneys, particularly after salary grade analysis has now been officially so abused by the Department of Labor. Many contractors may want to perform at least limited statistical analyses of their compensation practices to assure they control liability and are compliant with the law, but will do so under attorney seal.

Contractors will want to consider now what efforts they are making and are willing to share with the OFCCP with regard to their own self-evaluation of compensation. OFCCP has made it clear that it intends to enforce the regulatory requirement to conduct some kind of

self-evaluations, and will inquire concerning the documentation a contractor has as evidence of having done so. Many contractors are submitting qualitative narrative statements addressing the kinds of activities that are in place to avoid discrimination, such as monitoring their market surveys, reviewing employee evaluations and salary increases and bonuses to defend against bias, doing random cohort analyses in which the salaries of similarly situated individuals are compared, etc. Contractors will want to document all of these activities and be prepared to share them with the OFCCP should they be audited. There is nothing in OFCCP regulations that requires statistically based self-evaluations. Further, while not accepted by the OFCCP for purposes of coordinated compliance monitoring under these new guidelines, contractors may wish to undertake a tiered approach to its self-evaluations and to conduct more vigorous statistical inquiry only for those departments or job groups which fail less data intensive review.

What will be the most important to the contractor, however, are the data it must first submit to the OFCCP when responding the Scheduling Letter, especially the compensation data requested in paragraph 11 of the Itemized Listing. Wherever else OFCCP may look to determine if it wishes to pursue an establishment for an in-

depth compensation investigation, it will look to the contractor's first data submission. Thus, contractors should know what they are sending, and what it might imply to the agency.

Most contractors will supply data by salary grades since most contractors use salary grades in their compensation system rather than salary ranges, rates or levels. Contractors should advise the OFCCP how their salary system operates and submit data reasonably reflective of that system. Manipulating data or creating false structuring will likely be unsuccessful if not fraudulent.

OFCCP has stated it will use "mean salaries" for comparison purposes within grades. Thus, if the contractor submits grade data showing number of employees by race and gender and annual pay, the OFCCP will simply calculate the average salary for each group and determine if the number of times women or minority average earnings are less than their comparator is significant. If it is, the company will likely be asked for more data. If it is not, closure after the desk audit is likely. Contractors should undertake this same exercise before they send the data to the OFCCP. If there are no serious differences in average pay, the game may already have been won. If there are, contractors should examine the average pay in those ques-

tionable pay grades and determine if there is a nondiscriminatory pattern that could explain the differences – perhaps women or minorities are in departments where the pay schedule is lower, or in jobs at the lower levels of the pay grade. It would be particularly helpful if such disparities in placement could be shown to be race or gender neutral, such as recent hiring or expansion in certain departments or divisions. In short, the contractor should do the work and make its case. The contractor's explanations should be sent with its data to the OFCCP along with a listing of the kinds of proactive efforts the contractor is undertaking to assure nondiscrimination in compensation. Giving the full picture and correct explanations to the agency is in the best interest of both parties. If the contractor is not unlawfully discriminating in compensation, and can show that nothing in the data they have reflects otherwise, even preliminarily, then the OFCCP is best served knowing that rather than wasting limited staff and budget on a compliant contractor.

The National Employment Law Institute will continue to monitor the OFCCP's implementation of its Interpretative Standards and report newsworthy developments in this Newsletter. As well, these issues will be fully analyzed during NELI's annual Affirmative Action Briefing series this October. The brochure will be available July 12.

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Please contact Leonard Biermann if you have any further questions. He can be reached on his direct line at 301-865-0500. You should also watch for updates concerning these and other matters on NELI's web site [www.neli.org](http://www.neli.org)