CONFIRMATIVE ACTION
BRIEFING

Completed new and revised in response to frequent participants' requests and input:
Examining the rights of contractors and identifying tools available to exercise their rights in audits and human
resource systems to minimize potential legal and financial risk.

Chicago, IL • October 3-4, 2013 • Four Seasons Hotel
San Francisco, CA • October 10-11, 2013 • Westin St. Francis
Washington, D.C. • October 17-18, 2013 • Ritz-Carlton Pentagon City
Austin, TX • October 24-25, 2013 • Four Seasons

Briefing approved for 12 - 14.5 CLE / HRCI / CEU credits in all states.

Pre-Briefing Full Day
AFFIRMATIVE ACTION WORKSHOP
Including How to Write and Update AAPs
Chicago - Oct. 2 • San Francisco - Oct. 9 • Washington, D.C. - Oct. 16 • Austin - Oct. 23
REGISTRATION INFORMATION

Early registration is advised. Registrations will be confirmed by e-mail or another method if requested. On-site registrations are subject to space availability.

Briefing Registration Fee: $895.00
Early Discounted Fee: $845.00 if payment is received prior to September 10 (Chicago), September 17 (San Francisco), September 24 (Washington, D.C.), and October 1 (Austin).

Affirmative Action Workshop Fee: $475.00

Registration Fee includes non-refundable administrative fee (see Cancellation Policy below). Payment in full is required prior to the programs.

Group Rates, Discounts and Substitutions are available and permissible. Email neli@neli.org for more information.

Cancellation Policy: Cancellations must be confirmed in writing and addressed to the Registrar. Registrants cancelled more than ten business days prior to the program may elect to receive a full fee credit, or a refund, less a $150.00 administrative fee. Those cancelled ten or fewer business days prior to the program will receive a fee credit, less a $250.00 administrative fee. Transfers between cities must be pre-approved. Fee credits may be applied during the next 12 month period to any of the Institute’s programs or publications.

NOTE: Name & street address required for UPS delivery of publications.

Mr./Ms. ____________________________
Title ____________________________
Organization ____________________________
Street Address ____________________________
City, State, Zip ____________________________
Business Telephone ( ) ____________________________
Business Fax ( ) ____________________________
Signature ____________________________ Date ____________
E-Mail ____________________________
(Note: Confirmations and program announcements sent via e-mail.)

Method of Payment (Prepayment is required):
☐ Check Enclosed  ☐ Visa  ☐ MasterCard  ☐ AMEX  ☐ Discover
Card Number ____________________________ Expiration Date ____________

Name as it appears on card ____________________________

FOR CLE CREDIT, provide state(s) and bar numbers.

REGISTRATION PROCEDURE

MAILING ADDRESS:
NELI, P.O. Box 1189, Golden, Colorado 80402
PHONE: (303) 861-5600, 8:00 a.m. – 4:30 p.m. Mountain Time
FAX: (303) 861-5665
INTERNET: www.neli.org
EMAIL: registrar@neli.org

HOTEL ACCOMMODATIONS

To receive NELI’s preferred group rate, registrants must make their own room reservations directly with the hotel (not through a travel agent). Room blocks are limited and discounted group rates cannot be guaranteed after the listed cut-off dates, and may be fully booked even before then. Reserve early and state that you are attending NELI’s Affirmative Action Briefing to qualify. If you experience difficulty securing a reservation, please call NELI for assistance. After the cut-off date, the hotels will only accept reservations at the discounted rate on a space available basis.

Chicago - Four Seasons Hotel
120 East Delaware Place, Chicago, IL 60611 • (312) 280-8800
Deluxe King - $319.00 (exclusive of current 16.4% tax)
Reservation cut-off date: September 10, 2013

San Francisco - Westin St. Francis, 335 Powell Street, San Francisco, CA 94102 • (415) 397-7000 • Traditional - $299.00;
Deluxe - $319.00 (exclusive of current 15.6% tax)
Reservation cut-off date: September 17, 2013

Washington, D.C. - Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202 • (703) 415-5000 - Group Code NBA Single/Double - $239.00 (exclusive of current 10.25% tax)
Reservation cut-off date: September 24, 2013

Austin - Four Seasons Hotel
98 San Jacinto Boulevard, Austin, TX 78701 • (512) 478-4500
City View Sgl/Dbl - $269.00 (exclusive of current 15% tax)
Reservation cut-off date: October 1, 2013

Please e-mail neli@neli.org for available discounts!

• Lower rates may be available on hotel websites •
• NELI recommends the Affirmative Action Workshop for those who want exposure to affirmative action principles or the Office of Federal Contract Compliance Programs (OFCCP). We also highly recommend the Workshop as a refresher following reassignment or for those who have less than 10 years of experience preparing AAPs and/or defending OFCCP audits. Prior participants regularly comment that they are glad they attended the Workshop in addition to the Briefing.
• The “Advanced Level” Briefing addresses many of the complex issues contractors must deal with on a day-to-day basis to ensure they are in compliance with OFCCP policies, procedures, and regulatory requirements.

**WEDNESDAY - AFFIRMATIVE ACTION WORKSHOP**

**7:45** Workshop Check-In & Continental Breakfast

**8:30** Analysis of the Executive Order Program Requiring Affirmative Action Plans
• A short history: FDR to Obama
• What is the basis for the Executive Order’s authority?
• Who is covered? Size and type of contract
• How is a contractor defined? What about facilities with no government involvement? Subsidiaries? Offshore operations? Small facilities? What is an establishment? Can some be combined into a single AA program?
• What is an AA program? At what locations are they required? How does it relate to remedying discrimination? What is a goal? Is the consideration of race or gender a requirement when meeting a goal?
• The 3 theories of discrimination law OFCCP prosecutes
• Remedies/sanctions OFCCP applies

All Locations - John Fox

**11:00** Essential Components of an AA Program
• Narrative
• Organizational Profile
  Chicago, Washington, D.C. - Joan Moore
  Austin, San Francisco - John Fox

**12:00** Luncheon (Hosted by NELI)

**3:00** Refreshment Break

**3:15** Essential Components of an AA Program (cont’d)
• Job Groups
• Availability Analyses

All Locations - John Fox

**4:00** Summary of the OFCCP Audit Process
• How OFCCP selects contractors for its audit list
• The 3-part audit process
• Violation of documents OFCCP uses
• How to prepare for an audit

All Locations - John Fox

**5:00** Adjourn

---

**THURSDAY - AFFIRMATIVE ACTION BRIEFING**

**7:45** Briefing Check-In & Continental Breakfast

**8:30** Recent Major Developments at OFCCP
• Status update on OFCCP’s seven (7) proposed significant regulatory and administrative initiatives
• The Big Picture at OFCCP
• Contractor Use of the Latest ACS Census Data in AAPs for Minorities and Women
• Latest Developments in the Selection of Contractors for Audits
• Changed Advice Regarding Forming Job Groups
• What Happens Now in the Second Obama Term?
• “Running Up the Score:” OFCCP Focusing on More Technical Violations
• OFCCP Staffing Changes
• The “Rack-Up” of OFCCP’s Shrinking Jurisdiction over the Health Care Industry after the UPMC and Florida Hospital case decisions
• Surprising Results of NELI Poll of Affirmative Action Briefing Attendees regarding OFCCP
• The Most Important Change to AAP Preparation You Must Now Make

All Locations - John Fox

**10:15** Refreshment Break

**10:30** Practical and Effective Ways for Contractors to Prepare For and Defend Against OFCCP Compensation Audits

OFCCP has been trumpeting a forceful new compensation strategy under Directive 307 for months. Despite publicity touting this change, however, OFCCP’s compensation strategy is not new. The key feature of the strategy has remained the same for decades. With the strategy’s effectiveness and legality now being questioned, this session will examine whether the OFCCP has embraced the fundamental change wrought by the Supreme Court’s decision in the *Lily Ledbetter* case, and it will also offer a range of suggestions on how to handle OFCCP’s potentially invalid claims of discrimination.

All Locations - David Copus

**12:00** Luncheon (Hosted by NELI)
THURSDAY - CONTINUED

1:00 Practical Advice for Contractors to Prepare for OFCCP’s Regulations as to the Disabled and Protected Veterans
Put aside what OFCCP’s proposed regulations say and cost. This discussion will provide a hands-on “To-Do” list cataloguing dozens of major workforce behaviors, habits, and human resources systems that contractors will have to change or create to comply with OFCCP’s proposed regulations should they go to final form, as presently published. The checklist of “To-Do” items will create a going-forward game plan outline for you.
All Locations - Brian Bulger

2:45 Refreshment Break

3:00 How Labor Economists Correctly Analyze Contractor Pay Data in Anticipation of, or in Defense of, OFCCP Compensation Audits
These nationally recognized labor economists will discuss practical aspects of properly analyzing compensation data, including what data contractors should be gathering and analyzing in anticipation of and in response to OFCCP audits.
Chicago and Washington, D.C. - Paul White
Austin and San Francisco - Rob Speakman

4:15 Contractors’ Legal Responsibilities for and Needed HR Systems to Handle Third Party Recruiters, Temp Agencies and Headhunters
We will discuss the “hidden” law which governs this important area of OFCCP compliance, namely whether and how to include “temps” and other recruits in Disparity Analyses OFCCP requires for hires and also in the statistical analyses for AAPs.
All Locations - John Fox

5:00 Happy Hour Reception (Hosted by NELI)

6:00 Adjourn

FRIDAY

7:30 Continental Breakfast

8:00 The Proper Way for Contractors to Prepare Disparity Analyses in AAPs
OFCCP has required “Disparity Analyses” in AAPs since 2000 setting the stage for ongoing OFCCP confrontations with contractors and AAP vendors in audits as to their proper construction and to the recovery of tens of millions of dollars in back pay remedies. We will discuss what a proper “Disparity Analysis” is, mistakes contractors regularly make in the architecture of “Disparity Analyses,” how these analyses are different from “adverse impact analysis,” and provide numerous examples.
All Locations - John Fox

10:00 Refreshment Break

10:15 Knowing Your Rights and the Limits of OFCCP Authority During Audits
To develop an effective audit response strategy, contractors must first understand their legal rights and the limitations on OFCCP’s authority to: target contractors for audit; demand information off-site; demand production of information and interviewees on-site; and demand back pay for alleged discrimination. This session will also address whether a contractor’s government contracts are really at risk if the contractor refuses to accede to OFCCP’s demands.
All Locations - David Copus

12:00 Practical Ways to Handle OFCCP’s Increasingly Difficult Audits
With an escalating number of simultaneous audits per company, there is fear of retaliation by OFCCP if contractors take a stand for their “rights.” In NELI’s recent poll of Briefing participants, some reported experiencing so-called “bullying” tactics. This closing session will offer practical and tried-and-true suggestions to deal with the challenges of OFCCP’s increasingly difficult and prolonged audits, including how to respond to OFCCP’s increasing use of serial SDRs in audits.
All Locations - John Fox

1:15 Adjourn

OFCCP Director Patricia Shiu has been invited to address the opening session in all locations, covering recent developments at the Agency.

CONTINUING LEGAL EDUCATION / HRCI CREDIT

The one-day Workshop is approved for between 7-8.5 CLE/HRCI/CEU hours and the Briefing is approved for between 12-14.5 CLE/HRCI/CEU hours, depending upon the jurisdiction. NELI’s programs are approved for CLE credit in all jurisdictions with mandatory CLE requirements. To apply for CLE credit, please complete the box on the registration form. NELI is a California MCLE approved provider, is recognized by professional associations as an approved CEU/CPE provider, and is an approved provider of HRCI for recertification credit. As always, NELI will file in as many jurisdictions/states as you are licensed for no additional fee, although registrants may be required to file for credit on their own behalf in some jurisdictions.

NEW THIS YEAR - NETWORKING OPPORTUNITY

Join your faculty, colleagues and friends for a beverage and hors d’oeuvres before heading out to dinner....
Meet and Greet Reception on Thursday immediately following the Briefing!
**PROGRAM CO-CHAIRS**

JOHN C. FOX, Esq.
*Fox, Wang & Morgan, P.C., San Jose, California*

DAVID A. COPUS, Esq.
*Milford, Pennsylvania*

**FACULTY**

BRIAN W. BULGER, Esq.
*Meckler Bulger Tilson Marick & Pearson LLP*  
*Chicago, Illinois*

ROBERT B. SPEAKMAN, Jr., Ph.D.
*Welch Consulting*  
*Bryan, Texas*

PATRICIA A. SHIU, Esq.
*Director, Office of Federal Contract Compliance Programs*  
*Washington, D.C.*  
*(Invited)*

PAUL F. WHITE, Ph.D.
*ERS Group*  
*Washington, D.C.*

JOAN E. MOORE, J.D., SPHR
*The Arbor Consulting Group, Inc.*  
*Northville, Michigan*

**AFFIRMATIVE ACTION PUBLICATIONS**

**AFFIRMATIVE ACTION WORKBOOK**

Briefing participants will receive this Workbook. Available in print and searchable CD format.

Completely updated and revised, the 31st Annual Affirmative Action Workbook addresses the many developments affecting federal contractors and refocused priorities being implemented by OFCCP and their Director, Patricia Shiu. All new initiatives by DOL and OFCCP will be included in this Workbook. We wish to thank John C. Fox, Esq. with Fox, Wang & Morgan, P.C., editor of this Workbook, for his diligent work.

*Contents:*
- Recent Major Developments at OFCCP
- Preparing For and Defending Against OFCCP Compensation Audits
- Preparing for OFCCP’s Regulations as to the Disabled and Protected Veterans
- Legal Responsibilities/Needed HR Systems to Handle Third Party Recruiters, Temps and Headhunters
- Preparing Disparity Analyses in AAPs
- Your Rights and the Limits of OFCCP Authority During Audits
- Handling OFCCP’s Increasingly Difficult Audits
- How Labor Economists Analyze Contractor Pay Data for OFCCP Compensation Audits

*Print Version: $169.00 • Searchable CD: $149.00
Print & CD: $219.00*

**AFFIRMATIVE ACTION RESOURCE MANUAL**

Wednesday Workshop participants will receive this Manual. Available in print and searchable CD format.

This Manual is prepared especially for federal contractors and subcontractors, as well as those employers which are not contractors but wish to develop voluntary Affirmative Action Plans using federal contractor requirements under Executive Order 11246 as a model. Experienced Affirmative Action Program writers, planners and managers will also find this Manual useful to update or upgrade existing Affirmative Action Programs and to identify new approaches to affirmative action planning. The chapter containing a Model Affirmative Action Program has been revised and updated to provide a boiler-plate AAP which conforms with all current requirements from the OFCCP.

*Contents:*
- History of the Executive Order Program
- Affirmative Action Program Workbook (step-by-step approach to writing/revising an AAP)
- Miscellaneous Documents re: Affirmative Action Compliance
- OFCCP Audit Processes, Remedies and Sanctions
- Instructive Power Points for this Manual

*Print Version: $119.00 • Searchable CD: $99.00
Print & CD: $169.00*
**NATIONAL EMPLOYMENT LAW INSTITUTE**

31st Annual Advanced Level

**AFFIRMATIVE ACTION BRIEFING**

Completeness new and revised in response to frequent participants' requests and input:
Examining the rights of contractors and identifying tools available to exercise their rights in audits and human
resource systems to minimize potential legal and financial risk.

**Chicago, IL** • October 3-4, 2013 • *Four Seasons Hotel*
**San Francisco, CA** • October 10-11, 2013 • *Westin St. Francis*
**Washington, D.C.** • October 17-18, 2013 • *Ritz-Carlton Pentagon City*
**Austin, TX** • October 24-25, 2013 • *Four Seasons Hotel*

**Briefing approved for 12 - 14.5 CLE / HRCI / CEU credits in all states.**

Pre-Briefing Full Day

**AFFIRMATIVE ACTION WORKSHOP**
*Including How to Write and Update AAPs*

Chicago - Oct. 2 • San Francisco - Oct. 9 • Washington, D.C. - Oct. 16 • Austin - Oct. 23

**PROGRAM CO-CHAIRS**

JOHN C. FOX, Esq.
*Fox, Wang & Morgan, P.C.*
San Jose, California

DAVID A. COPUS, Esq.
*Milford, Pennsylvania*

**REGISTRATION FEE FOR THE BRIEFING INCLUDES:**

- **New this year:** Meet and Greet Reception on Thursday evening in each location!
- Exceptional networking opportunities with faculty and participants, including a luncheon on Thursday and the Thursday evening reception immediately following the Briefing, plus....
- Expanded continental breakfast service each day.
- Spontaneous information exchanges with contractors and industry colleagues from around the country available only at a "live" presentation.
- The 31st Annual Affirmative Action Workbook, newly revised and edited by John C. Fox, Esq., in both searchable CD and print formats -- *The* definitive Affirmative Action publication! (The Workbook is available for purchase if you cannot attend the Briefing.)
- 12 to 14.5 CLE / HRCI / CEU hours depending upon your jurisdiction. (The Workshop provides an additional 7-8.5 CLE / HRCI / CEU hours.) NELI will file in as many jurisdictions/states as you are licensed for no additional charge.

Please visit our website at [www.neli.org](http://www.neli.org) for complete program information.