

OFCCP COMPLIANCE

See our full analysis here. The below reflects our prior OFCCP experience and continuing relevant VEVRAA and Rehab Act experience in the area.

Husch Blackwell offers strategic guidance and, when needed, vigorous defense to government contractors that are subject to Office of Federal Contract Compliance Programs (OFCCP) requirements. Our team assists clients in all phases of OFCCP compliance, conciliation, and enforcement, whether it be in Affirmative Action Plan (AAP) development, audit defense, or administrative litigation. We are experienced with all issues affecting contractors' compliance under the laws administered by the OFCCP, including Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act, and Section 503 of the Rehabilitation Act, and we are well versed in OFCCP's significant technical and guidance documents.

Federal contractors and subcontractors in the services, supply, and construction industries must comply with laws that impose proactive obligations to ensure compliance with equal employment opportunity and affirmative action requirements. The OFCCP aggressively enforces these laws with increased focus on federal contractors' compensation decisions, as well as a recent expansion of its focus to include contracts containing both construction and non-construction work. The OFCCP's latest scheduling letters require even more onerous requests for information and additional



When we were hit with a complex web of wage and hour class actions, Husch Blackwell was the natural choice. The team's expertise in the substantive legal issues, combined with the investment they made to develop a deep knowledge of our business, has made them a uniquely effective litigation partner.

— Carey L. Bartell,
Vice President, Chief
Counsel – Legal &
Government Affairs,
Conagra Brands Inc.

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compliance burdens.

In addition to drafting EEO policies, we develop, structure, and maintain affirmative action plans, helping clients achieve compliance with OFCCP regulations and EEO laws and prevent the risk of difficult audits that can jeopardize future and existing federal contracts, as well as impose significant financial liability. We also assist federal contractors in implementing their plans to recruit, hire, train, and promote women, minorities, people with disabilities, and veterans, and we assist with state law affirmative action requirements as well.

Our team reviews, verifies, and analyzes client data and develops statistical disparate and adverse impact analyses needed to satisfy compliance obligations. We work collaboratively with clients to ensure that preliminary findings of disparate impact identified in the statistical analyses are properly investigated and resolved.

We defend government contractors in OFCCP audits and administrative litigation and ensure that documentation, reports, and processes are OFCCP compliant. We also prepare responses to OFCCP information requests, strategically and in view of limits imposed by regulations on requests for information by the government.

We also develop and review compensation analyses under attorney client privilege separately from those required in AAP analyses for the purpose of both fulfilling OFCCP compliance obligations and enabling contractors to confidentially remediate pay disparities. We ensure that pay analyses are properly structured to reflect comparisons of jobs in compliance with legal requirements under Title VII.

Our team's experience includes:

Represented and defended a number of clients in OFCCP audits and supervised and produced affirmative action plans for a wide array of clients – including major media and technology companies, energy utilities, universities, large hospitals and medical/research centers, national banks, international food and agriculture companies, large defense contractors, nationwide transportation and logistics companies, oil companies, security companies, water technology companies, and private prison companies.

Successfully defended an engineering and technical services company from OFCCP investigation into alleged gender-based pay disparities among engineers.

Defended construction companies from OFCCP audits into alleged “services” work resulting in mutually acceptable conciliation agreements.

Supervised and produced affirmative action plans for clients with as many as 50+ AAP locations and as few as one location.

Developed and performed compensation analyses for clients using regression software to control for variables and assess pay equity among demographic groups to ensure compliance with the OFCCP’s Compensation Directive 2018-05, Title VII, the Equal Pay Act, the Lilly Ledbetter Fair Pay Act, and myriad state equal pay laws.

Analyzed adverse impact among demographic groups using hiring, promotion, and termination data.

Examined, cleaned, and analyzed workforce data, including

datasets from companies with 50+ locations nationwide, 150,000+ employees, and hundreds of thousands of applicants annually.

Successfully prepared separate facility exemption waiver for submission to the OFCCP.

Provided training on OFCCP compliance and applicant tracking requirements to human resource and talent acquisition teams to ensure that teams understand the unique outreach, recordkeeping, and recruiting requirements.

Representative Experience

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