

CLIENT ALERT

OFCCP Issues Request For Information on EO Prohibiting Race and Sex Stereotyping and Scapegoating

Oct.23.2020

The Office of Federal Contract Compliance Programs (OFCCP), on October 21, 2020, issued a [Request for Information](#) (RFI) seeking comments, information and materials relating to workplace trainings that involve race or sex stereotyping. Submissions are due by December 1, 2020.

The RFI was issued in conjunction with President Trump's September 22, 2020 release of Executive Order 13950, titled Combating Race and Sex Stereotyping, which banned the use by federal contractors or subcontractors of training materials that "inculcate[] in its employees any form of race or sex stereotyping," which is defined as "ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex." The OFCCP previously issued guidance on that Executive Order. The RFI encourages stakeholders to submit comments, information, and materials, including – in particular – training materials, that would allow the OFCCP to provide "compliance assistance" to the contracting community. The RFI notes that materials may be submitted anonymously, but that any information submitted in response to this RFI may be subject to public disclosure. The RFI assures contractors that the OFCCP will not take enforcement action against contractors that voluntarily submit materials for review, "provided that such contractor or subcontractor promptly comes into compliance with the Executive Orders as directed by OFCCP."

In a related development, Craig Leen, the Director of the OFCCP, explained earlier this week – in public comments – that "white privilege training and white fragility training" are "problematic." Director Leen explained that the Agency views such training as problematic because they "draw[] general conclusions based on race and apply[] them to specific employees based on race."

Contractors should consult with counsel if they are considering submitting exemplar training materials or other information for consideration and review by the OFCCP.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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