

## CLIENT ALERT

### OFCCP Rolls Out Updated Construction Contractor Technical Assistance Guide

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As part of its stated ongoing efforts to be more contractor friendly, on November 13, 2019, the U.S. Department of Labor (DOL), Office of Federal Contract Compliance Programs (OFCCP or “the Agency”) released the latest of its updates to its Technical Assistance Guidance – an updated Technical Assistance Guide (TAG) for federal construction contractors and subcontractors. The Agency intends for the TAG to serve as a self-assessment tool that will help construction contractors understand and comply with existing legal obligations, implement the standard EEO construction contract clauses, develop and promote affirmative action programs (AAPs), and prepare for a potential OFCCP compliance evaluation.

This year’s TAG follows and updates a previous Technical Assistance Guide released in 2006. Although the two documents share similarities, the 2019 guidance includes several notable changes, including:

- A detailed, almost fifteen-page explanation of the requirements for written AAPs replete with best practices, examples, and additional resources.
- A user-friendly reorganization of the sixteen affirmative action steps with additional examples of best practices that demonstrate compliance.
- A more robust discussion of mandatory recordkeeping requirements, including the different requirements for traditional and internet applicants.

Accompanying the TAG, OFCCP also recently launched a dedicated construction-focused website with additional information and resources.

#### What Should Contractors Do?

Construction contractors should take the release of this updated TAG as an opportunity to perform a voluntary self-assessment to ensure compliance with their federal anti-discrimination and EEO requirements. As part of this internal audit, contractors should consider:

- Reviewing record retention policies and practices to ensure all employee records for on-site personnel are preserved in accordance with the requirements described in the TAG.
- Modifying existing affirmative action programs to incorporate the best practices highlighted by OFCCP, as appropriate.
- Updating written AAPs to reflect any changes and better document compliance.

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

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