

OFCCP Updates List of Contractors Subject to Release of EEO-1 Data

Government Contractor Compliance & Regulatory Update on February 21, 2023

As we previously reported [here](#) and [here](#), OFCCP plans to release EEO-1 data for non-objecting contractors and subcontractors in response to a Freedom of Information Act (“FOIA”) [request](#) seeking contractors’ and subcontractors’ EEO-1 reports from 2016-2020.

After publishing a list of contractors and subcontractors’ whose EEO-1 data would be produced, OFCCP offered contractors an opportunity to notify the agency if they were erroneously included on the list or otherwise should be removed by February 7, 2023 (which was then extended to February 17, 2023). On February 16, 2023, OFCCP [published](#) an [updated list](#) of contractors and subcontractors whose data is subject to release.

The updated list both (1) “removes all contractors that objected prior to publication of the initial List”; and (2) “removes all entities that responded to [OFCCP] between February 2 and February 10, 2023, asserting either that they were not a federal contractor or otherwise objecting to their inclusion on the List and the disclosure of their data.” OFCCP will exclude contractors and subcontractors who submitted objections during this period from its initial FOIA disclosure, but OFCCP “has not yet made any determinations regarding the substance or merit of these entities’ responses or objections.”

Contractors and subcontractors on the updated list that object to the release of their EEO-1 data may notify OFCCP by March 3, 2023. After the response period concludes on March 3, 2023, “OFCCP will publish a second updated list by March 10, 2023, which will remove contractors that submitted objections after February 10, 2023 and by March 3, 2023, while OFCCP evaluates these objections.” After the second updated list is published, contractors and subcontractors will then have “one final opportunity to contact OFCCP no later than March 17, 2023” if they believe they have been improperly listed as not objecting to the disclosure of their EEO-1 data.

Contractor and subcontractor objections to the disclosure of EEO-1 data, along with all supporting information, must be submitted to OFCCP-FOIA-EEO1-Questions@dol.gov by March 3, 2023 at 11:59 pm EST. Submissions must include: “(1) all addresses associated with your entity for the reporting years in which your entity is listed; (2) your entity’s EEO-1 unit number; (3) any other entities associated with your organization (including, e.g., merged companies and subsidiaries) that you intend to cover in your objection, with any additional entity information needed to confirm the objection[.]” Contractors and subcontractors that submit objections are not limited in the reasons they may provide for objecting to disclosure; however if their reasons are not because they (i) previously submitted an objection to the disclosure of their EEO-1 data, (ii) were not a federal contractor during the relevant period, or (iii) are an entity associated with a contractor that did file a prior objection, contractors and subcontractors “must include an explanation as to why the contractor did not object in response to previous notices that OFCCP has issued, and why there is good cause for OFCCP to accept the objection at this point.”

OFCCP has a [Submitter Notice Response Portal](#) containing additional information and advises contractors that they may contact its FOIA Help Desk at 1-800-397-6251 with questions not covered by the Portal.

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