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OFCCP Issues First Directive of FY 2019: Formally Rescinds Previous Enforcement Procedures

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Last Friday, [OFCCP kicked off the 2019 fiscal year with its first of three new Directives: "Directive 2019-01 - Compliance Review Procedures,"](#) which rescinds the Obama Administration's Active Case Enforcement (ACE) approach to audits - Directive 2011-01. The ACE Directive was itself a replacement of the Bush Administration's Active Case Management Directive (ACM).

What does all this mean? In summary, the ACM Directive emphasized abbreviated, more frequent OFCCP audits, focused on identifying indicators of systemic discrimination. If OFCCP did not find potential indicators during the desk audit, it tended to address technical violations informally and close the audit. In contrast, ACE signaled a fundamental shift in OFCCP's approach: fewer but deeper-dive audits that tended to take considerably longer, even if OFCCP ultimately identified no issues.

[Those currently at the helm of OFCCP](#) are aiming to combine the best aspects of both ACE and ACM. As the new Directive states:

Under the ACE procedures, OFCCP has identified and remedied a high rate of affirmative action violations... OFCCP also has remedied systemic discrimination in a variety of industries and across a variety of employment practices. However, the number of OFCCP compliance reviews gradually declined and overall processing time increased under ACE.

By increasing the number of compliance evaluations, shortening desk audits and conciliating issues more efficiently, OFCCP is maximizing its resources by proceeding with the most effective aspects of ACM and ACE. Therefore, there is no longer the need for the ACE directive as a freestanding guidance document.

How has OFCCP combined the best of ACM and ACE? OFCCP lists the following measures:

- Embedded valuable components of ACE and ACM into the 2014 revisions to the Federal Contract Compliance Manual (FCCM);
- Posting OFCCP's [methodology for audit selection](#) and an update on its website and in Directive 2018-09;
- Shortening the time to complete a full desk and taking a more collaborative approach to resolving issues more informally and quickly - Directive 2018-09;
- Beginning to develop a system through which contractors can annually certify AAP compliance, which would allow OFCCP to focus on contractors who have not certified compliance, as set forth in [Directive 2018-07](#); and,
- Improving OFCCP transparency and compliance assistance efforts, as reflected in Directive 2018-08.

Stay tuned for future posts on OFCCP's additional new directives.

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