

# THE NATIONAL LAW REVIEW

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## And So It Begins Again: OFCCP Has Posted New List of Contractors That May Be Audited

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On March 25, 2019, the Office of Federal Contract Compliance Programs (OFCCP) published a list of contractors and subcontractors identified for a potential compliance evaluation in Fiscal Year (FY) 2019 (which will end on September 30, 2019) on its [Freedom of Information Act \(FOIA\) Library](#). The [FY 2019 Corporate Scheduling Announcement Letter \(CSAL\) List](#) is the first to be posted exclusively online, rather than sent through the United States mail.

This CSAL list identifies contractors selected for [corporate management compliance evaluation \(CMCE\) reviews](#), compliance checks, Functional Affirmative Action Programs (FAAP) reviews, and Section 503 focused reviews. No higher education contractors or healthcare establishments that fall under OFCCP's TRICARE moratorium (Directive 2014-01) are included on this scheduling list.

OFCCP states in the [methodology document](#) accompanying the list that it has reviewed the last five years of conciliation agreements involving a financial remedy "and determined that the Agriculture, Manufacturing, and Wholesale Trade industries had the highest rates of discrimination findings" and thus selected more than 1,100 establishments from these three industries for compliance reviews.

### CSAL Details

CSAL notification is not required by law, and contractors may be scheduled for compliance reviews even if they are not identified on the CSAL listing. Moreover, if a contractor location is identified on the CSAL listing, this does not preclude OFCCP from conducting a compliance review at another location. OFCCP does not purge unscheduled reviews from prior scheduling lists before issuing a new list.

OFCCP will not audit any establishment at which a prior OFCCP review closed within the last two years (a change from prior published methodology), and the agency promises to audit no more than 15 establishments per contractor in this scheduling cycle.

Contractors on the CSAL list can expect to start receiving audit scheduling letters from OFCCP as soon as May 9, 2019, and will have 30 days after receipt of the scheduling letter to submit affirmative action programs (AAPs) and supporting documentation to OFCCP. The scheduling letters may be addressed to the company's human resources department or the office of the chief executive.

### What Can Contractors on the FY2019 List Do?

Contractors on the CSAL list can ensure that their AAPs are up to date and that they are fully compliant with the variety of affirmative action regulations and laws.

Jurisdictional issues are likely to arise when the scheduling letters are sent to employers on this list and certain issues can be brought to OFCCP's attention prior to submitting any information in response to a scheduling letter;



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for example, if an establishment is on the list but the company is not a federal contractor or subcontractor, if the establishment has been closed, and if the establishment has been the subject of a compliance review in the last two years.

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