

THE
NATIONAL LAW REVIEW

OFCCP Files Its First Complaint Against A Federal Contractor During the Trump Administration

Tuesday, November 14, 2017

On October 10, 2017, the U.S. Office of Federal Contractor Compliance Programs (“OFCCP”) filed its first [Complaint](#) against a federal contractor since President Trump took office. The Complaint alleges that contractor Advance 2000 Inc. (the “Contractor”) violated a June 2015 conciliation agreement with OFCCP by failing to submit required progress reports and failing to respond to OFCCP’s notice of violation.

The Complaint is significant in that it is the first action brought by the OFCCP against a federal contractor since President Trump took office. That being said, the Complaint does little to illuminate the administrative enforcement priorities of the Trump OFCCP. The Complaint addresses the failure of a contractor to comply with its conciliation agreement obligations – a matter that would likely be pursued no matter who occupied the White House. Thus, it still remains to be seen what the OFCCP’s enforcement priorities will be under the Trump Administration. Those will likely not be evident until after the new Solicitor of Labor is confirmed. President Trump has nominated Kate O’Scannlain, a partner at Kirkland & Ellis LLP, for the post, but her nomination is still pending Senate confirmation.

Even so, the Complaint does highlight another common issue in the government contracting sector – namely, the tendency of high compliance costs to discourage small businesses from government contracting. Advance 2000 appears to be a small business, with relatively modest government contracts of approximately \$158,000. In an interview with Bloomberg, the CEO of Advance 2000 noted that the Contractor did not intend to seek future government contracts due to the narrow margins and the excessive costs and burdens of compliance.

The government has historically encouraged small businesses, which often include minority- and women-owned businesses, to participate in government contracting. However, the personnel and financial burdens of complying often favor larger institutional government contractors, which already have a substantial compliance program in place. Thus, small contractors are often at a disadvantage when entering the government contracting sector.

The issue is even more acute when considered in light of the low thresholds attaching to various compliance obligations. The most burdensome compliance obligations attach when a contractor with 50 or more employees has a contract of \$50,000 or more – with additional obligations attaching when a contractor has a contract of \$150,000 or more. Contracts of \$50,000 and \$150,000 are not significant sums of money, especially given that such contracts often yield narrow profit margins. As such, contractors are forced to incur substantial additional expenses to meet compliance obligations, where the profit margin for those contracts is already slim.

© 2019 Proskauer Rose LLP.

Source URL: <https://www.natlawreview.com/article/ofccp-files-its-first-complaint-against-federal-contractor-during-trump>



Article By [Proskauer Rose LLP](#)
[Guy Brenner](#)
[Government Contractor Compliance & Regulatory Update Blog](#)
[Government Contracts, Maritime & Military Law](#)
[All Federal](#)