

DIRECTIVE (DIR) 2013-01 Revision 3

**A Directive (DIR) is intended to provide guidance to OFCCP staff and/or federal contractors on enforcement and compliance policy or procedures. A DIR does not change the laws and/or regulations governing OFCCP's programs and does not establish any legally enforceable rights or obligations. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended to provide clarity to the public regarding existing requirements under the law or agency policies.**

**Effective Date:**

1. **SUBJECT:** Functional Affirmative Action Programs (FAAPs)
2. **PURPOSE:** To establish policies and procedures for requesting and maintaining FAAP Agreements.
3. **REFERENCES:** This DIR references the following:
  - a. Executive Order 11246, as amended (Executive Order 11246);
  - b. Section 503 of the Rehabilitation Act of 1973, as amended (Section 503);
  - c. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA);
  - d. 41 Code of Federal Regulations (CFR) Chapter 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor;
  - e. Directive (DIR) 2013-01 Revision 2, Functional Affirmative Action Programs (June 20, 2019); and
  - f. Federal Contract Compliance Manual (FCCM) (Last updated January 7, 2021).
4. **AFFECTED POLICY:** The procedures described in this DIR supersede any previously issued guidance to the extent they could be read to conflict, including the following:
  - a. DIR 2013-01 Revision 2, Functional Affirmative Action Programs (June 20, 2019); and
  - b. FCCM, §5, Functional Affirmative Action Program Compliance Evaluations (last updated January 7, 2021).
5. **BACKGROUND:** OFCCP is encouraging the use of affirmative action programs (AAPs) based on functional or business units. A functional AAP (FAAP) agreement can be an attractive alternative to an establishment-based AAP for several reasons. OFCCP's FAAP program allows an entity that is a covered federal contractor or subcontractor to organize its AAP to reflect how the entity operates functionally rather than where its facilities and people are physically located.<sup>1</sup> An entity with a FAAP may find that it is easier to organize and analyze data, identify equal opportunity issues, establish clear lines of responsibility for implementing its AAP and monitor progress. Contractors also have the flexibility to combine the use of FAAPs and establishment-based AAPs.

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<sup>1</sup> Hereinafter, the term "contractor" is used to refer to covered federal contractors and subcontractors unless otherwise expressly stated.

This Directive establishes a FAAP request process that is simple, fluid, and collaborative. OFCCP and the contractor work together to reach decisions related to the request and its implementation once approved. This supports the prompt, transparent, and consistent application of OFCCP's policies and procedures. Moreover, OFCCP can provide compliance assistance before, during, and after the FAAP agreement request process.

OFCCP's Executive Order 11246 regulations permit federal supply and service contractors to develop AAPs based on a business function or business unit. Generally, to be suitable for a FAAP, each functional or business unit must:

- i. Have at least 50 employees;
- ii. Have its own managing official; and
- iii. Have the ability to track and maintain its own personnel activity.

This approach is different from the commonly used approach of creating AAPs based on the contractor's establishments or locations.<sup>2</sup> Specifically, the regulation at 41 CFR 60-2.1(d)(4) provides:

If a contractor wishes to establish an affirmative action program other than by establishment, the contractor may reach agreement with OFCCP on the development and use of affirmative action programs based on functional or business units. The Director, or ... designee, must approve such agreements. Agreements allowing the use of functional or business unit affirmative action programs cannot be construed to limit or restrict how the OFCCP structures its compliance evaluations.

Any supply and service contractor subject to OFCCP's AAP requirements may request a FAAP agreement that permits the development and use of AAPs based on functional or business units. Some contractors may find it appropriate to develop AAPs based solely on functional or business units, while others may elect to use a combination of both functional units and establishment-based AAPs.

## **Overview of the FAAP Process**

**Requesting a FAAP agreement.** As described below, a contractor must first request a FAAP agreement no later than 120 calendar days prior to the expiration of the current corporate headquarters' AAP, or within 120 days from the award of the federal contract if it is a new contractor. To make a request, the contractor must submit the information outlined in Attachment A. OFCCP will then review the request to ensure the contractor has followed the procedures outlined in this directive and meets the criteria outlined above. If approved, the contractor will have 120 days to implement the FAAP.

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<sup>2</sup> The establishment-based AAP provisions are found at [41 CFR 60-1.40](#) and [41 CFR 60-2.1](#) through [60-2.17](#); [60-300.40](#) through [60-300.45](#); and [60-741.40](#) through [60-741.47](#).

**Modifications.** After implementing the FAAP, a contractor must provide OFCCP with 60 days' notice of any modifications that create or eliminate one or more functional or business units.

**Notification of Primary Corporate Contact and Management Official Changes.** As provided in 9(c) below, at least once a year during the FAAP agreement, contractors must notify OFCCP about whether there are any changes in the primary corporate contact listed in the FAAP agreement and any changes in a functional or business unit's management official(s). The notification must identify whether a change occurred, and if so, identify which functional or business unit was impacted by the change. The notification must also include the name, address, and email address of the new primary corporate contact and management official(s). If there are no such changes, contractors must notify OFCCP of that as well on an annual basis. The first notice must be submitted to OFCCP within 365 days of the FAAP approval date, and subsequent notices must be submitted on an annual basis thereafter.

**Renewing a FAAP Agreement.** If a contractor wants to renew its FAAP prior to expiration, it must certify in writing every five years, at least 120 calendar days prior to the expiration of the existing FAAP agreement, as to whether there have been any changes to functional or business units, structure or organization, or other circumstances affecting the existing FAAP agreement. It must also describe if there have been any changes to the primary corporate contact listed in the FAAP Agreement or management official(s) since it last notified OFCCP.

If circumstances have changed (*e.g.*, elimination of functional or business units) the contractor must provide written rationale for the changes. The contractor must also provide updated information on other elements during the renewal process as described in Part 9(d) below. OFCCP will reissue renewed FAAP agreements for another five-year term or provide 90 days' written notice if it denies renewal.

**Termination.** If OFCCP or a contractor wants to terminate a FAAP agreement, it must provide 90 calendar days' notice, and follow the procedures outlined in Part 9(e) below. All employees must be covered by an establishment-based AAP no later than 120 days from the notification of termination.

In the absence of an approved FAAP agreement, the regulations require contractors to develop, implement, and maintain separate AAPs for each physical location or establishment with 50 or more employees.

## 6. **ROLES AND RESPONSIBILITIES:**

Below are contractors' responsibilities when requesting, modifying, implementing, renewing, and terminating a FAAP agreement:

- a. The **Contractor** is responsible for:

- i. Submitting a complete and timely<sup>3</sup> request for a FAAP agreement, pursuant to the procedures described in 9(a).
- ii. Implementing the FAAP agreement after receiving a copy of the agreement signed by the Director of OFCCP.<sup>4</sup>
- iii. Notifying OFCCP that it has implemented the FAAP agreement.<sup>5</sup>
- iv. Notifying OFCCP of modifications, as provided in 9(b).
- v. Notifying OFCCP on an annual basis of changes to the primary corporate contact listed in the FAAP Agreement or management officials, as provided in 9(c).
- vi. Requesting renewal of the FAAP agreement every five years, as provided in 9(d).
- vii. Following the termination procedures described in 9(e) when making any termination requests.
- viii. Managing and monitoring all personnel actions, including recordkeeping and affirmative action responsibilities for all functional or business units regardless of size.
- ix. Complying with the affirmative action requirements of Executive Order 11246, as well as Section 503 and VEVRAA if the contractor meets the written AAP thresholds for these laws.<sup>6</sup>
- x. Identifying and providing information about the forms and formats (*e.g.*, Excel, Word, Access, the use of third-party vendors for payroll and human resources data reporting, *etc.*) in which the contractor maintains information requested by OFCCP. The contractor will provide information in MS Excel or CSV format, as requested by OFCCP.

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**3** OFCCP must receive the request for a FAAP agreement no later than 120 calendar days prior to the expiration of the current corporate headquarters' AAP, or within 120 days from the award of the federal contract if this is a new contractor.

**4** A contractor has up to 120 calendar days following the effective date of its new FAAP agreement or renewal to implement its FAAP and notify OFCCP of the implementation.

**5** This notification should be submitted electronically during the 120-day implementation period.

**6** A contractor that maintains an EO 11246 FAAP may structure its Section 503 and VEVRAA AAPs in one of two ways. First, the contractor may create and maintain establishment-based Section 503 and VEVRAA AAPs. Additionally, OFCCP will permit contractors to create and maintain Section 503 and VEVRAA FAAPs for the same functional or business units that are covered by its EO 11246 FAAPs. The contractor must inform OFCCP which method it will use to comply with its Section 503 and VEVRAA obligations during the FAAP negotiation or renewal process. Under either approach, the contractor must make its AAPs and FAAPs available for review at each of its establishments.

- xi. Submitting all requested information, including applicant flow, hire, promotion, termination, and compensation data, electronically to OFCCP. Instructions for submitting information are included on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. If electronic submission is not possible or feasible, the contractor and OFCCP should agree to an acceptable alternative.

Below are OFCCP's responsibilities when approving, reviewing, and terminating a FAAP agreement:

- b. **OFCCP** is responsible for:
  - i. Notifying the contractor upon receipt of the request for a FAAP agreement.
  - ii. Reviewing and recommending action on a contractor's request to develop, modify, and renew a FAAP agreement.
  - iii. Making a decision on FAAP requests.
  - iv. Notifying the contractor of OFCCP's decision on the FAAP request. Generally, this decision will be made within 60 calendar days of the request if all the required information is provided. OFCCP may require additional time if more information is needed.
  - v. Determining whether a contractor is currently reporting its compliance under the requirements of a conciliation agreement when determining whether to approve a FAAP agreement.
  - vi. Providing compliance assistance and conducting compliance evaluations.

## 7. **DEFINITIONS:**

To ensure clarity and consistency in the implementation of the FAAP program, definitions for commonly used terms in OFCCP programs are provided below.

- a. *Compliance Evaluation* – The investigation and review process used by OFCCP to determine if a federal contractor is complying with the nondiscriminatory and affirmative action employment obligations outlined in 41 CFR Chapter 60. A compliance evaluation consists of any one or any combination of the following investigative procedures: compliance review, off-site review of records, compliance check, or focused review.<sup>7</sup>
- b. *Compliance Review* – A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, written affirmative action programs the

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<sup>7</sup> See 41 CFR 60-1.20(a), 60-300.60(a), and 60-741.60(a).

contractor is required to maintain, and the results of the contractor's affirmative action efforts. A compliance review may proceed in three stages: desk audit, onsite review and offsite analysis.<sup>8</sup>

- c. *Establishment* - A facility or unit that produces goods or services, such as a factory, office, store, or mine. In most instances, the unit is a physically separate facility at a single location. In appropriate circumstances, OFCCP may consider as an establishment several facilities located at two or more sites when the facilities are in the same labor market or recruiting area. OFCCP will determine whether it is appropriate to group facilities into a single establishment on a case-by-case basis.<sup>9</sup>
  - d. *FAAP Renewal Certification* – A written certification from the contractor to OFCCP confirming that the contractor will continue to operate under a functional or business unit structure. During the renewal process described in 9(d) below, OFCCP will review the certification and other information described in 9(d) and determine whether to issue a new FAAP agreement for a new five-year term.
  - e. *Functional or Business Unit* - A component within an organization. A functional or business unit should also have identifiable personnel practices or transactional activities specific to the functional or business unit (*e.g.*, applicant flow, hires, promotions, compensation determinations, terminations, *etc.*) that are distinguishable from other parts of the contractor. Functions or business units should be identified and defined based on the organization's existing business operations, personnel practices and management structures.
  - f. *Modification* – A modification to a FAAP agreement is necessary when a contractor makes a change that creates or eliminates one or more functional or business units. This change could be the result of a reorganization, merger, acquisition, or divesture.
8. **POLICY:** A contractor's Executive Order 11246 FAAP must include the required AAP elements described in 41 CFR part 60-2. If a contractor is also required to have an AAP under Section 503, VEVRAA, or both, a contractor may develop FAAPs that meet the requirements in Subpart C of 41 CFR part 60-300 and Subpart C of 41part CFR 60-741, as applicable.<sup>10</sup>

A contractor must follow the policies and procedures established in this Directive to obtain an agreement to establish a FAAP. Certain basic principles apply to the FAAP process:

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<sup>8</sup> See 41 CFR 60-1.20(a)(1), 60-300.60(a)(1) and 60-741.60(a)(1).

<sup>9</sup> See FCCM, Key Words and Phrases.

<sup>10</sup> The contractor can comply with its Section 503 and VEVRAA written AAP obligations by either creating and maintaining Section 503 and VEVRAA FAAPs for the same functional or business units that are covered by its EO 11246 FAAPs or creating and maintaining establishment-based Section 503 and VEVRAA AAPs for each of its establishments. The contractor must inform OFCCP which method it will use to comply with its Section 503 and VEVRAA obligations during the FAAP negotiation or renewal process. Under either approach, the contractor must make its AAPs and FAAPs available for review at each of its establishments.

- a. The approval of FAAP agreement requests by OFCCP is not automatic. The Director of OFCCP, or designee, will make a decision regarding the request. Generally, this decision will be made within 60 calendar days of the request if all the required information is provided. OFCCP may require additional time if more information is needed. The denial of a request does not prohibit a contractor from seeking a FAAP agreement for a subsequent AAP year.
  - b. A FAAP agreement must cover all employees in the contractor's workforce that are in the identified functional or business units. However, this does not mean that the entire workforce must be covered by FAAPs. In some cases, it may be appropriate for a contractor to use both FAAPs and establishment-based AAPs.
  - c. Only functional or business units identified in the approved FAAP agreement are covered by that agreement.
  - d. A contractor must continue to develop, implement, and maintain AAPs for each establishment until the FAAP agreement is implemented.
  - e. A FAAP agreement expires five years after its effective date, unless renewed pursuant to the procedures outlined in 9(d), in which case the agreement may be extended for another five years.
  - f. A FAAP agreement does not relieve a contractor of its obligation to comply with the regulations at 41 CFR Chapter 60. OFCCP does not negotiate its procedures for determining compliance with its regulations.
  - g. A FAAP agreement cannot contain provisions that limit OFCCP's access or the manner and means by which it initiates and conducts compliance evaluations. These matters are non-negotiable.
  - h. FAAP units that have undergone a compliance evaluation will be exempt from another evaluation for 36 months from the date OFCCP closed the previous evaluation. This exemption does not prohibit OFCCP from conducting complaint investigations and compliance evaluations based on specific third-party evidence.
9. **PROCEDURES:** Contractors that wish to request, modify, renew, or terminate a FAAP agreement must follow the procedures outlined in this Directive.
- a. Procedures to Request a FAAP Agreement:
    - i. To request a FAAP agreement, the contractor must submit a written request addressed to the Director of OFCCP. The request must include proof of contract coverage and the name and contact information for the corporate representative responsible for overseeing the contractor's request for the FAAP agreement. The contractor must submit the request electronically where possible via the method described on

OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. If a contractor is unable to submit the request electronically, it may contact OFCCP\_FAAP-UNIT@dol.gov or (202) 693-1125 to discuss an alternative submission method.

- ii. The contractor's request must describe in detail how the proposed functions correlate to the contractor's specific organizational structure. In addition, the request must include an organizational chart, specific information about the functional or business units, functional unit locations and addresses, the number of employees, a transition plan describing the process and timeframes in which the organization will move from establishment-based AAPs to FAAPs. Attachment A, *Documentation to Submit with a FAAP Request*, lists specific items for submitting with the request. OFCCP will generally make a decision on the FAAP request within 60 calendar days of the request if all of the required information is provided. OFCCP may require additional time if more information is needed.<sup>11</sup>
- iii. OFCCP must receive the request for a FAAP agreement no later than 120 calendar days prior to the expiration of the contractor's current corporate headquarters AAP. If the contractor making the request is a first-time contractor, OFCCP must receive the request within 120 calendar days from the award of the Federal contract. OFCCP will deny a request that is not timely submitted.
- iv. OFCCP will send written notification to the contractor when the requested FAAP agreement is approved. The actual agreement will be attached to this notice. The contractor must sign the FAAP agreement and return it to OFCCP for signature by the agency's Director. The agency will provide a copy of the agreement, with all the required signatures, to the contractor. The FAAP agreement is effective on the date it is signed by OFCCP's Director. The contractor has 120 calendar days from the effective date to implement its FAAP. The contractor must notify OFCCP when its FAAP is implemented.
- v. OFCCP will continue to schedule and conduct establishment-based compliance evaluations during the review and approval stage of a FAAP agreement request, and the 120-calendar day FAAP implementation period. Should a scheduling letter be received during the review and approval stages (*i.e.*, after submission of the FAAP request but before the effective date of the agreement) the evaluation will be completed as an establishment-based evaluation. A contractor receiving a scheduling letter during the 120-calendar day FAAP implementation period may have its scheduled establishment-based compliance evaluation administratively closed.
- vi. The denial of a contractor's request does not prohibit the contractor from seeking a FAAP agreement for a subsequent AAP year.

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<sup>11</sup> OFCCP will determine whether it is necessary to conduct a FAAP conference to discuss the materials in the FAAP request. If OFCCP determines that a conference is necessary, OFCCP will discuss with the contractor the most appropriate format for conducting the conference such as face-to-face meetings, teleconference or web-based conferencing.



b. Modifying a FAAP Agreement:

- i. A change that creates or eliminates one or more functional or business units requires a modified agreement. A contractor is required to notify OFCCP, in writing, within 60 calendar days of the effective date of the change. The FAAP agreement will be modified to reflect the changes. The modification notice must include a description of and the reason for the change. If functional units were added, the contractor's notice must state when the new FAAPs will be in place. If functional units were removed, the contractor must identify where those employees will be covered in the new FAAP structure. If there was a merger, acquisition, and/or downsizing, the contractor must provide OFCCP the name of the newly merged or acquired company and the contractor's plan to incorporate the former company's employees into its AAP structure. Any resulting functional or business unit name change, managing official changes, employee counts, and addresses due to the creation or elimination of a business or functional unit should be included in the modification notice and provided in MS Excel or CSV format.
- ii. Modifications to the FAAP agreement do not extend the five-year term of a FAAP agreement.
- iii. OFCCP could schedule a contractor for a compliance evaluation should the contractor fail to submit a modification notice. Should there be repeated failures to inform OFCCP of a modification, the agency could terminate the contractor's FAAP agreement.
- iv. All modification notices must be submitted electronically. Instructions for submitting this information is included on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. If a contractor is unable to submit the modification notice electronically, it may contact OFCCP\_FAAP-UNIT@dol.gov or (202) 693-1125 to discuss an alternative submission method.

c. Notification of Primary Corporate Contact and Management Official Changes

- i. At least once a year during the FAAP agreement, contractors must notify OFCCP of any changes in the primary corporate contact listed in the FAAP agreement and any changes in a functional or business unit's management official(s). The notification must identify whether a change occurred, and if so, identify which functional or business unit was impacted by the change. The notification must also include the name, address, and email address of the new primary corporate contact and management official(s). If there are no such changes, contractors must notify OFCCP of that as well on an annual basis. The first notice must be submitted to OFCCP within 365 days of the FAAP approval date, and subsequent notices must be submitted on an annual basis thereafter.
- ii. Changes to the primary corporate contact and management officials do not extend the five-year term of a FAAP agreement.

- iii. All notices of changes to the primary corporate contact or management officials must be submitted electronically. Instructions for submitting this information is included on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. If a contractor is unable to submit the notice electronically, it may contact OFCCP\_FAAP-UNIT@dol.gov or (202) 693-1125 to discuss an alternative submission method.

#### d. Renewing a FAAP Agreement

- i. If a contractor wishes to renew the FAAP prior to its expiration, it must provide the follow the procedures described in 9(d)(ii) – 9(d)(viii).
- ii. The contractor must submit a FAAP Renewal Certification describing whether there were any changes in the primary corporate contact or management official(s) since the last notice provided pursuant to 9(c). It must also certify as to whether there were any changes to functional units or structure that created, eliminated, or changed one or more functional units since its last notice to OFCCP. The certification must also state that the contractor wishes to continue to operate under a FAAP structure.
- iii. If there were changes that resulted in the addition or elimination of functional or business units, the contractor is required to submit a written statement providing the rationale for the changes. The statement must include updated information regarding employee counts, facility names, and facility addresses included in each functional or business unit. OFCCP will review the information and confirm that the changes meet the criteria outlined in in this directive. OFCCP will work closely with the contractor's designated representative to ensure timely and proper processing of the renewal request.
- iv. If the contractor has at least one federal contract or subcontract of \$150,000 or more, the contractor must provide updated information concerning at least one federal contract or subcontract of \$150,000 or more, identifying the name of the federal contracting agency, the contract number, the contract period, and the name of the prime contractor if the contractor is a subcontractor. If the contractor does not have at least one federal contract or subcontract of \$150,000 or more, the contractor must provide updated information concerning at least one federal contract or subcontract of \$50,000 or more, identifying the name of the federal contracting agency, the contract number, the contract period, and the name of the prime contractor if the contractor is a subcontractor.
- v. The contractor must submit the renewal request at least 120 calendar days prior to the expiration of the existing FAAP agreement. Instructions for submitting this information is included on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. The failure to make a timely renewal request will cause the FAAP agreement to expire at the end of its five-

year term. The contractor is then required to develop establishment-based AAPs and may be scheduled for compliance evaluations under the Federal Contractor Selection System. In the event OFCCP is unable to make a decision on a timely submitted renewal request before the agreement expiration date, the contractor will continue to operate under the existing FAAP agreement until its request is approved or denied. OFCCP may request additional information on the contractor's structure and the contractor's renewal materials during this renewal process.

- vi. Should OFCCP deny the FAAP renewal, it will provide the contractor with at least 90 calendar days' written notification.
- vii. An existing FAAP agreement is renewed only after it is signed by the contractor and OFCCP's Director. The effective date is the date it is signed by OFCCP's Director. Once renewed, the existing FAAP agreement is authorized for another five-year term.
- viii. During an open compliance evaluation of a functional or business unit, OFCCP may extend the term of an existing FAAP agreement until the evaluation has been completed, if necessary.

e. Termination of a FAAP agreement:

- i. Either party may terminate the FAAP agreement with 90 calendar days' written notice. Instructions for submitting this information is on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>. The notice must provide a brief explanation of the reason for the termination and the effective date of the termination and must be submitted electronically. If a contractor is unable to submit the termination notice electronically, it may contact OFCCP\_FAAP-UNIT@dol.gov or (202) 693-1125 to discuss an alternative submission method.
- ii. OFCCP's reasons for terminating a FAAP agreement include, but are not limited to: (1) if the contractor fails to account for all of its employees in a functional or establishment AAP; or (2) if the contractor repeatedly fails to notify OFCCP of a modification to its functional or business units, or structure or organization that affects a FAAP agreement or change in primary corporate contact and management officials, as provided in 9(b) and 9(c). Two or more such instances during the term of the agreement could constitute a repeated failure to meet these requirements.
- iii. Upon termination of a FAAP agreement, all the contractor's employees are required to be covered by establishment-based AAPs. The establishment-based AAPs shall be in place no later than 120 calendar days from either OFCCP's or the contractor's notification that the FAAP agreement has been terminated.

10. **INTERPRETATION**: This directive does not create new legal rights or requirements or

change current legal rights or requirements for contractors. EO 11246, Section 503, VEVRAA, OFCCP's regulations at 41 CFR Chapter 60, and applicable case law are the official sources for contractors' compliance responsibilities. Nothing in this directive is intended to change otherwise applicable laws, regulations, or other guidance or to restrict or limit OFCCP's ability to perform compliance reviews, request data, or pursue enforcement of any issue within its jurisdiction. Noncompliance with voluntary standards will not, in itself, result in any enforcement action. This directive is not intended to have any effect on pending litigation or alter the Agency's basis for litigating pending cases.

11. **ATTACHMENTS:** A and B

**SIGNATURE:**

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JENNY R. YANG  
Director  
Office of Federal Contract Compliance Programs

## Attachment A

*All documents below must be submitted with the FAAP request. Instructions for submitting this information are included on OFCCP's website at <https://www.dol.gov/agencies/ofccp/faqs/faap>.*

1. The contractor must provide a statement that it is a covered federal contractor or subcontractor under 41 CFR parts 60-1, 60-2, 60-300, 60-741 or some combination of these laws as enforced by OFCCP. The statement must include specific information on at least one federal contract or subcontract of \$150,000 or more, if the contractor has one, identifying the name of the federal contracting agency, the contract number, the contract period, and the name of the prime contractor if the contractor is a subcontractor. If the contractor does not have at least one federal contract or subcontract of \$150,000 or more, the contractor must provide updated information concerning at least one federal contract or subcontract of \$50,000 or more, identifying the name of the federal contracting agency, the contract number, the contract period, and the name of the prime contractor if the contractor is a subcontractor.
2. A copy of the contractor's most recent Consolidated Employer Information Report (EEO-1 Report).
3. An organizational chart that clearly identifies all the proposed functional or business units to be covered by the requested FAAP and how they are related to each other within the corporation's overall structure.
4. A narrative description of the "business or function" of each proposed FAAP unit and how it meets the definition of a functional or business unit set forth above.
5. Identify and provide the name and address of the contractor's corporate headquarters that oversees contractor operations in the United States and its Territories. For each proposed functional or business unit, provide the name, address, and email address of the managing official in MS Excel or CSV format. Additionally, provide the company or subsidiary name, street address, and total number of employees covered at each location within the functional unit.<sup>12</sup>
6. A statement identifying the location, including the city and state, where each proposed FAAP unit will maintain its employee personnel records and applicant processing activities. If records are maintained electronically, identify and provide a description of the data-maintenance/cloud-based system that is utilized.
7. If the contractor proposes to maintain some establishment-based AAPs, provide a list of the locations with establishment-based AAPs in MS Excel or CSV format. This includes the physical address, number of employees, phone number of the establishment's managing official and AAP contact, and the EEO-1 unit number for each establishment.

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<sup>12</sup> Information for each proposed functional unit including the description, addresses, and names of managing officials and contact persons should be provided in MS Excel or CSV format. Employees based remotely should be included in the facility to which they report.

8. A statement addressing how the contractor plans to transition from establishment-based AAPs to FAAPs, including its timeline for completion.
9. The dates of the proposed AAP year for the functional programs.
10. Copies of unit-specific personnel policies relevant to evaluating the proposed functions or business units, including policies related to recruitment, hiring, promotion, compensation, and termination where different from the corporate policies.

## **Attachment B**

### *Discussion Items for the FAAP Negotiation Process*

1. The reporting hierarchy of the functional or business units.
2. Personnel procedures, including recruitment, hiring, promotion, compensation, termination; and record retention and data analysis as they apply to each functional or business unit, including identification of units that have differing personnel or compensation practices.
3. How the contractor anticipates complying with the affirmative action requirements of Executive Order 11246, Section 503 and VEVRAA.
4. How each functional unit manages its human resources and equal employment opportunity responsibilities.