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July 10, 2014

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

The Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) enforces affirmative action and nondiscrimination employment laws. The agency's jurisdiction covers approximately 200,000 federal contractors and roughly one out of every four American workers. Among other things, OFCCP enforces Executive Order 11246, which prohibits federal contractors from discriminating on the basis of race, color, religion, sex, or national origin. This order also requires contractors to take affirmative action to ensure equal opportunity is provided in all aspects of employment.

We are concerned OFCCP's current enforcement agenda and practices rely on a rigid formula that is an ineffective method for determining whether unlawful discrimination is occurring. In addition, OFCCP recently finalized two rules that require federal contractors to establish annual hiring benchmarks for protected veterans and to hire a certain percentage of individuals with disabilities.¹ There are a number of concerns with these regulatory requirements. For example, employers would be forced to ask job applicants to self-identify whether they have a disability, which would run afoul of the *Americans with Disabilities Act*.

In light of these and other concerns, we ask the Government Accountability Office (GAO) to review OFCCP's enforcement activities and respond to the following requests:

¹ 41 C.F.R. § 60-300.45, § 60-741.45.

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- Describe the legal and regulatory framework covering federal contractors' conduct relative to nondiscrimination and affirmative action employment requirements, as well as the procedures contractors must follow to comply with these requirements.
- Evaluate OFCCP's guidance to assist contractors in complying with these requirements and identify areas in which greater clarity and transparency is needed.
- Describe how OFCCP conducts compliance reviews, including the methodology and resources used for conducting reviews and the criteria used for selecting companies and industries for review. We are interested to learn whether there are disparities between industries or regional offices in conducting and completing these reviews.
- Describe OFCCP's organization and budget, particularly with regard to how its resources are used to conduct compliance reviews and provide guidance to assist contractors.
- Describe the results of OFCCP enforcement activities, including the remedies employed and identify the number of cases referred to administrative law judges, referred to DOL's administrative review board, and appealed to federal district court. Please include the average time it takes for a case to reach final disposition.

We appreciate your assistance in this matter. Should you have any questions, please contact John Martin or Joe Wheeler of the committee staff at 202-225-7101.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



TIM WALBERG
Chairman
Subcommittee on Workforce Protections