

**ROFFMAN HORVITZ, PLC**  
**LEGAL COUNSELING**  
FEDERAL CONTRACT COMPLIANCE & EMPLOYMENT DATA ANALYTICS

Via Regulations.Gov

June 7, 2019

Mr. Harvey D. Fort  
Acting Director, Division of Policy and Program Development, OFCCP  
200 Constitution Avenue, Room C-3325  
Washington, DC 20210

Re: Construction Compliance Check Letter

Dear Mr. Fort:

Roffman Horvitz, PLC submits these comments in response to OFCCP's April 8, 2019 Notice in The Federal Register (84 Fed. Reg. 13964). In sum, Roffman Horvitz supports OFCCP's initiatives to shorten the amount of information requested as part of its compliance evaluation process through the use of a compliance check letter.

Roffman Horvitz, PLC

Roffman Horvitz, PLC is a McLean, Virginia law firm focusing on federal contractor compliance and employment law data analytics. Its principals – Joshua S. Roffman and Alissa A. Horvitz – each have been practicing in this field for more than two decades. Among the firm's client base are several construction companies that are direct federal contractors and federally-assisted construction contractors. We have obtained feedback from clients and from construction-focused industry trade association groups regarding the OFCCP's proposed compliance check letter and submit this feedback to OFCCP in the hope that OFCCP will consider modifying two requests in its compliance check letter.

Compliance Check Scheduling Letter

- I. The OFCCP's proposed compliance check letter, item 1, requests "Personnel records that list construction trade employment activity (applicants, hires, promotions, layoffs, recalls, voluntary terminations, and involuntary terminations, including the name, job classification, gender, race and/or

- ethnic designation for each employee or applicant (41 CFR § 60-1.12(a) and (c)).”
- a. COMMENT: The first bullet point of the letter should permit the employer to provide the requested information by name or unique identification number, similar to the way OFCCP has phrased its request in the second bullet point of the letter (“including each applicant or employee’s name or ID”)
- II. The OFCCP’s proposed compliance check letter, Item 2, requests payroll records. OFCCP is requesting “. . . total hours worked in each trade, overtime hours worked in each trade . . .”
- a. COMMENT: It is not clear whether OFCCP wants one data column that is the sum of regular and overtime hours worked (total hours), and a separate column just breaking out overtime hours worked, or the OFCCP wants one column of regular hours and a separate column of overtime hours. It would be useful for OFCCP to be clear what it seeks. If OFCCP wants total hours, please consider phrasing the request as: “total hours worked in each trade, overtime hours (broken out separately).”

Thank you for considering these comments in support of OFCCP’s revised construction employer compliance check scheduling letter.

Respectfully submitted,

Roffman Horvitz, PLC

cc: Alissa A. Horvitz, Member Attorney  
Joshua S. Roffman, Managing Attorney