

 e-Alert

10.06.22

OFCCP Extends Deadline to File Responses to EEO-1 FOIA Notice

Background

The Office of Federal Contract Compliance Programs (OFCCP) has received a [Freedom of Information Act \(FOIA\)](#) request seeking federal contractors and first-tier subcontractors to disclose Type 2 Consolidated EEO-1 reports. In June of 2022, the request was amended to include all data submitted by federal contractors and first tier-subcontractors spanning from 2016 through 2020. As of August 19, 2022, [Notices](#) of this request were sent to all federal contractors and first tier-subcontractors.

Summary

The OFCCP believes the disclosure of confidential commercial information may fall under protections from Exemption 4 under the Freedom of Information Act (FOIA). The OFCCP is requesting all federal contractors and first tier-subcontractors to review the request and determine whether the information would include any *'trade secret, commercial or financial information that is privileged or confidential.'* If the information is privileged or confidential, the federal contractor or first-tier subcontractor should file an objection to

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this disclosure initially by September 19, 2022.

Most recently, the OFCCP has granted an extension for filing objections to October 19, 2022, allowing federal contractors and first tier-subcontractors more time to properly review and submit objections. The OFCCP has created a [Response Portal](#) to submit objections.

The OFFCP will review all submitted objections to evaluate whether the requested information does include any *'trade secret, commercial or financial information that is privileged or confidential.'* If an objection is not submitted, the OFCCP will not withhold the information.

In addition to extending the deadline, OFCCP has indicated it will now be emailing contractors what the OFCCP believes is covered by this FOIA request, using the email address provided by contractors that have registered in OFCCP's Contractor Portal and the email addresses provided as a contact for the EEO-1 report. This email will be provided in an attempt to assist contractors.

Employer Next Steps

- Federal contractors and first-tier subcontractors should review their Type 2 Consolidated EEO-1 reports to determine whether the information includes any *'trade secret, commercial or financial information that is privileged or confidential.'*
- If Federal contractors or first-tier subcontractors object to this information being disclosed due to privileged or confidential information, the contractor should submit an objection on the [Response Portal](#) no later than October 19, 2022.
- Federal contractors and first-tier subcontractors should review the [FAQs](#) for additional information.
- If you are a Full-Service or Virtual HR client and have questions, please [email us](#).

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