



Advise Prepare
Audit **Represent**
Train Monitor **Results**

Douglas B. Brown^{LLC}
Attorney at Law

Affirmative Action Plans & OFCCP Compliance

Overview



Douglas B. Brown, LLC

Douglas B. Brown, LLC is a boutique management-side employment law firm that provides legal support to employers who are government contractors and subcontractors subject to the broad spectrum of affirmative action obligations covering females, minorities, the disabled, and veterans. We work with employers in meeting all aspects of their compliance obligations with the various regulations as well as representing the client in their dealings with the Office of Federal Contract Compliance Programs (OFCCP).

Affirmative Action Plan preparation and OFCCP compliance is the core competency of our practice. We currently represent many different organizations in various phases of affirmative action compliance ranging from AAP preparation to representing the organization in its dealings with the OFCCP. We are a team of Attorneys, Statisticians, and Affirmative Action Specialists concentrating on providing the highest level of support to manufacturing, mining, construction, communications, financial, health care, social services, and educational organizations to ensure compliance with federal, state and local affirmative action and EEO obligations.

The majority of our professionals have prior experience as human resource executives in a variety of business enterprises before joining the firm. This allows us to bring a unique combination of both legal and business perspectives to the relationships with our clients. While we provide the highest levels of legal support and analysis to all matters, our clients also benefit from our many years of hands-on experience in the private sector.

Over the past 10 years, we have prepared more than 3,700 AAPs, and handled 260+ compliance reviews. We have trained over 800 HR professionals on how to; write an AAP, comply with the regulations, and audit their organizations to identify and remedy indicators of discrimination.

A Brief Explanation of Our Process for Preparing Affirmative Action Plans (AAPs)

The following steps are used in the preparation of the AAPs for an organization:

- Review and format the download of employee data from the client's HRIS system.
- Define job groups (per location) to put the client in the most favorable position.
- Provide guidance on the data gathering necessary to define labor areas, quantify recruiting practices, and the completion of the narrative portions of the AAP.
- Develop census data (customized as necessary) specific to each location to complete the availability analysis.
- Prepare the statistical portion of the AAPs. Conducting multiple utilization analyses to determine options for addressing underutilization.
- Prepare complete AAPs (narrative, statistical analysis and narrative analysis). The narrative portions of the AAPs are tailored for each location.
- Conduct additional analyses (adverse impact of the hiring, promotion and termination data by job group, compensation, record keeping, etc.).
- Prepare all back-up data for historical purposes.
- Prepare summary letters to the client outlining possible issues identified in the preparation of the AAPs.

AAPs are prepared on a project basis utilizing a sliding scale depending on whether this is a first AAP or an update to an AAP that we previously prepared. Pricing takes into account the number of AAPs being prepared, the number of employees covered by an AAP, and the level of involvement in preparing the AAPs. Typically, prices quoted for a first year's AAP are reduced 20% for the next two years of annual updates.

Adverse Impact and Compensation Analysis

While our focus has been and will be the preparation of a technically and substantively compliant AAP, the data analysis cannot stop there. The OFCCP has moved its focus from technical compliance with the affirmative action regulations to identifying evidence of discrimination. In order to identify potential issues before an OFCCP compliance review, we conduct adverse impact analyses of the hiring, promotional and termination data by job group. We also address the issue of how the organization will consistently define "who is an applicant?" for the purposes of record keeping.

We conduct compensation analyses on the employee pay structure using multiple approaches. Wages are reviewed by AAP job group, salary grade/band, and using a cohort (Equal Pay Act (EPA)) approach. We notify the establishment of any disparities that are flagged for further investigation.

We work with organizations to ensure that record keeping systems are functioning properly. We provide each establishment with our guidelines on record keeping, including all forms necessary to maintain records.

Special Support

We can provide, as needed, any special support that is requested by an organization in response to audits, checks, surveys and reviews. We can also prepare the compensation data requested in Item #11 of the OFCCP compliance review scheduling letter for any establishment receiving notice of a compliance review.

Additional Services

In addition to the services listed above, we provide legal representation to an organization in its dealings with the OFCCP. This includes advising on current issues, representation before the OFCCP, and responding to discrimination complaints by the EEOC, state and local FEP agencies.

Training for HR and Management Staff

We can provide training to an organization's HR and general management staff on AAPs, record keeping, compliance reviews, implementation of AAPs, changes in the law, EEO, and other related topics. Additional training is available at regular hourly rates plus expenses.

Preparation of EEO-1s and VETS-4212 Reports

We can prepare the annual EEO-1 and VETS-4212 reports for each establishment. We confirm the definition of "establishment" under the guidelines for preparation of the EEO-1s.

Quality of Results

The AAP format we use has been subject to compliance reviews at multiple organizations. To date, the OFCCP has found the content of the AAPs to be in compliance.

We utilize a service quality evaluation questionnaire, which is sent annually to all establishments to evaluate the preparation process and the establishment's perception of the end product. Results of the evaluation are used to update and modify the preparation process to ensure consistent, complete and defensible AAPs.

We also verify that each establishment, using a compliance checklist, is in fact meeting the many technical phases of compliance.

Why Preparation of Affirmative Action Plans and OFCCP Compliance is our Core Competency

Beyond our overall capabilities, there are a number of specific reasons why AAP preparation and OFCCP compliance is our core competency:

- We focus not only on writing the AAP, but we go beyond that step to determine whether the establishments and the organization as a whole are in both technical and substantive compliance.
- We take a preventative approach in performing early identification of potential problems, bringing them to the attention of the organization, and working with each establishment to resolve issues before the issues are identified by the OFCCP.
- Compliance reviews of AAPs we've prepared have resulted in findings of full compliance for the vast majority of our clients.
- The professionals of Douglas B. Brown, LLC have years of Affirmative Action/EEO and HR experience including hands-on HR practice. Much of our experience is in industry, with a concentration in manufacturing. This gives us the ability to look at affirmative action compliance not only from a strict technical compliance perspective, but more importantly from a practical business perspective. We consistently ask the question, "What makes the most sense for this organization and allows the establishment(s) to be seen in the most positive light?"
- Douglas B. Brown, LLC is a law firm which brings an additional level of security and support to a client's organization. The organization can be confident that the plans are legally compliant. When we prepare a plan and look at data, we take into account whether the product is legally defensible. With OFCCP's focus on discrimination, this is a critical consideration. We provide legal support as necessary and requested by the organization. To the extent that an argument may need to be made to protect the confidentiality of data, we can assert the Attorney/Client Privilege.
- Our record is one of taking the initiative, being proactive, staying current, and communicating any new changes and developments to our clients.



For more information please contact us at:
DOUGLAS B. BROWN, LLC
440.564.7987
info@affirmativeactionlaw.com

Any discussion in this brochure regarding prior results obtained is not a guarantee that similar results will be obtained in all matters. If there are any questions or comments concerning anything contained above, they can be directed to this office by calling us at 440-564-7987 or sending an email to dbb@dbbrown.com. The discussion of these matters is for the clients and friends of Douglas B. Brown, LLC and does not represent nor is intended as a substitute for professional legal advice.

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Douglas B. Brown LLC

Attorney at Law

440.564.7987 | www.affirmativeactionlaw.com

13715 Clover Lake Drive, Suite 100, Chardon OH 44024

email: info@affirmativeactionlaw.com