

Cooley

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Federal contractors that are required to annually develop an affirmative action plan (AAP), **meaning that they have 50 or more employees and a single federal contract or subcontract of \$50,000 or more**, must comply with two upcoming deadlines under a new requirement put in place by the Office of Federal Contract Compliance Programs (OFCCP).

- **On or before March 30, 2022:** Contractors **must register** in the OFCCP's new contractor portal by creating a [Login.gov](#) account. To complete the registration, contractors should be prepared with their Employer Identification Number (EIN) and EEO-1 Headquarter/Company Number and Establishment/Unit Number, and need to register each establishment for which they have an AAP. The OFCCP has posted a [user guide](#) to troubleshoot problems with the registration process.
- **Between March 31 and June 30, 2022:** Contractors **must certify** in the contractor portal that they are meeting the requirement to develop and maintain an AAP for each establishment. The OFCCP has not revealed the exact content of the certification, but has suggested that it will be a "yes" or "no" election, with no requirement to upload an AAP. To be able to comply with this certification requirement, contractors should ensure that they will have their current AAP in place on the date that they opt to complete their certification. Contractors with an AAP cycle that starts in May or June should complete their certification before the beginning of their new AAP cycle, so that they are able to represent that their current AAP is active.

The OFCCP has added the certification requirement in recognition of the fact that it has limited insight into whether most contractors are complying with their AAP obligations. Although this is the first year that the certification requirement is in place, the OFCCP has announced that certification will be required on an annual basis.

It is critical that covered contractors comply with these new registration and certification requirements. If you have questions about whether your company is required to register in the new portal and/or is covered by the AAP requirements, please contact one of our attorneys listed below.

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