

Report From OFCCP Legal Industry Town Hall – Law Firms Beware

Government Contractor Compliance & Regulatory Update on April 11, 2019

On April 10, 2019, in New York City, OFCCP hosted a town hall focused on the “legal industry and related fields.” Guy Brenner of Proskauer attended the event, which had far fewer attendees than the financial sector town hall held the previous day.

The purpose of the town hall was to provide government contractors in the legal sector the opportunity to share their views with OFCCP. To that end, participants engaged in a number of brainstorming sessions, sharing their views on what OFCCP can do to help contractors, as well as ideas to improve diversity and inclusion results.

But, like the prior day’s town hall, the most significant aspect of the event was remarks made by OFCCP Director Craig Leen to the attendees. In addition to [sharing a number of the new initiatives that he raised during the financial sector town hall the day before](#), Director Leen made a number of pointed statements about law firms and OFCCP’s planned efforts with regard to the legal sector.

During his opening remarks, Director Leen stated that law firms “need to get their house in order.” He said that law firms should be examples to the rest of the country with regard to legal compliance, but that National Association for Law Placement (“NALP”) statistics suggest that is not the case. He focused primarily on promotions at law firms and his conclusion that law firms have a “systemic” issue with career advancement of women and individuals with disabilities, citing NALP figures showing roughly 22% of equity partners are women, while only 1% are women of color, and less than 1% are individuals with disabilities. It is Director Leen’s view that OFCCP has a role to play in addressing the lack of women in equity partner positions at law firms.

Director Leen believes one reason for the lack of women in equity partner positions at law firms may stem from parental leave programs. He questioned whether generous leave programs offered by law firms adequately address reintegrating women into the firm after their leave has ended, and whether male associates are discouraged from using their leave benefits.

During the town hall, OFCCP asked participants questions regarding disclosure of equity partner data, which led participants to question whether OFCCP viewed equity partners as employees subject to OFCCP regulations. Director Leen acknowledged the “debate” over that question, and said OFCCP would be issuing guidance on that issue. He said that non-equity partners are, in his view, employees. He also said that OFCCP will seek equity partner information in future audits as part of its analysis of promotions and determining whether promotions to partner may reflect discriminatory bias.

Director Leen also addressed why only a few law firms ended up on this year’s CSAL list. He explained that the methodology used for the 2019 list focused on specific industries and did not focus on law firms. He said the methodology will change each year, and suggested that law firms would be a focus for next year’s audits.

The unmistakable feeling at the end of the town hall was that law firms with government contracts are now a focus of the OFCCP. Law firms should anticipate a greater likelihood they will be selected for audit in 2020 and be aware that a focal point of that examination will be partnership promotion decisions.

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