

OFCCP Publishes Notice of NEW FOIA Request and Provides Opportunity for Contractors to Object to Release of Their 2021 EEO-1 Type 2 Reports

Government Contractor Compliance & Regulatory Update on **October 30, 2024**

On October 28, 2024, the Office of Federal Contract Compliance Programs (“OFCCP”) [published a notice in the Federal Register](#) informing federal contractors that the agency has received two new Freedom of Information Act (“FOIA”) requests from the University of Utah and a non-profit organization named “As You Sow” (the “Requests”).

The Requests seek all Type 2 Consolidated EEO-1 Reports filed by federal contractors for both the 2021 and 2022 reporting years. The Requests are separate from the FOIA request submitted by the Center for Investigative Reporting (“CIR”) which sought similar reports from 2016-2022 and for which the [OFCCP invited contractors to submit objections in 2022](#).

OFCCP has invited contractors to file objections to the release of the 2021 information sought in the new Requests—OFCCP does not have the requested 2022 reports in its possession and therefore its notice does not extend to that portion of the Requests. The notice provides that contractors objecting to the disclosure of their 2021 EEO-1 data must submit their objections to [OFCCP’s Submitter’s Response Portal](#) no later than December 9, 2024. Objectors must address the following questions in their submissions:

1. What specific information from the 2021 EEO-1 Report does the contractor consider to be a trade secret or commercial or financial information?
2. What facts support the contractor’s belief that this information is commercial or financial in nature?
3. Does the contractor customarily keep the requested information private or closely-held? What steps have been taken by the contractor to protect the confidentiality of the requested data, and to whom has it been disclosed?

4. Does the contractor contend that the government provided an express or implied assurance of confidentiality? If no, were there express or implied indications at the time the information was submitted that the government would publicly disclose the information?

5. How would disclosure of this information harm an interest of the contractor protected by Exemption 4 (such as by causing foreseeable harm to the contractor's economic or business interests)?

OFCCP has provided a list of contractors subject to the new FOIA requests, which is available [here](#). Contractors that would like additional information may contact the FOIA Help Desk at 1-800-397-6251 or OFCCP-FOIA-EEO1-Questions@dol.gov.

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