

## Publications

### Labor and Employment Alert: The OFCCP Launches 'Class Member Locator' Website to Troll for Plaintiffs

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This week, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) commenced its "Class Member Locator" [website](#) in support of the president's Transparency and Open Government Initiative. The website's purpose is to identify and "locate as many class members as possible" who may have been victims of discrimination with a federal contractor. Prominently displayed on the website is this message from the OFCCP to potential class members:

*"The U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), seeks your assistance in the following settlements. If you applied for a job or worked at one of the facilities below between the dates shown and believe you may be part of an affected class, contact us immediately. Upon your timely submission of additional documentation verifying that you are part of the class, you may be entitled to a portion of monetary relief and/or consideration for job placement."*

The OFCCP informs potential class members that they may be eligible for "hundreds or thousands of dollars."

The heart of the Class Member Locator is a chart listing the contractor's name; city and state; the time period of the alleged violations; the affected group by race, gender, and/or ethnicity; and the job titles. The chart provides links to a summary of the case and a redacted version of the contractor's conciliation agreement with the OFCCP. Notably, the settlement amounts and the other terms of the settlement (such as offering seniority or training or conducting specific recruiting) are **not** redacted. The names of the company officials who signed the conciliation agreement are also not redacted. The website invites potential class members to peruse the Class Member Locator chart and contact the OFCCP if they believe they fit within one of the affected classes.

One question federal contractors may have is whether a company can negotiate in a conciliation agreement not to appear in the Class Member Locator. The answer is, no. The OFCCP explains that it is

making the conciliation agreements involving financial remedies available online and reiterates that doing so supports its efforts to locate as many class members as possible.

The Class Member Locator raises several issues for federal contractors. First, an inquiry to the OFCCP may spark an investigation into the contractor's activities that is unrelated to any of the conciliation agreements. Second, the conciliation agreements are now easily found on the internet – meaning sensitive or confidential company information may be publicly posted on the website. Similarly, the monetary and other settlement terms could be used in private lawsuits against the contractor or in union organizing efforts. Contact your Vorys lawyer if you have questions about OFCCP conciliation agreements.