



**Thursday, August 18, 2022**

**11:00am – 2:00pm**

**Virtual Meeting**

**Meeting Minutes**

11:00am – 11:15am	Opening Remarks and NILG Update
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PILG Chair Allison Fantine opened the meeting welcoming attendees. Allison informed the group about the upcoming board elections and encouraged they become involved with the chapter and consider running for the Chair, Co-Chair, Secretary and Treasurer roles. Members were informed to contact Allison or Co-chair Tracey to express interest in running for a board position. Tracey shared the collaboration opportunities with the agencies and other stakeholders which is a benefit for these roles. The roles and responsibilities of the officer positions, will soon be sent out to members.

Janet Fiore from the Sierra Group announced the opportunity to participate in a listening tour and complementary trainings provided by the United States Access Board that will be offered in Philadelphia on September 13<sup>th</sup> and 14<sup>th</sup>, which include trainings around architectural barriers around the ADA and digital accessibility. On the 14<sup>th</sup> from 8:30-Noon, Sierra Group and Tamman Digital IT Company are hosting the U.S. Access Board. The events are free and space is limited. Janet directed the group to look at [www.usaccessboard.gov](http://www.usaccessboard.gov) to look at events and register for this great opportunity as we work towards making the city more accessible.

Ornella Castman, Chair of the ILG shared with the members the 2023 National ILG conference, August 1<sup>st</sup> – August 4<sup>th</sup>, in Phoenix, Arizona. Details are included, in Ornella’s presentation, attachment.

11:15am – 12:45pm	Direct Employers
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Candee J. Chambers and John C. Fox, began their presentation, ‘How to connect your AA to diversity, equity & inclusion efforts. This was a great presentation and our members can receive HRCI/SHRM for their presentation.

Highlights of the presentation:

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Employers have an affirmative duty to make sure discrimination does not occur in their processes and need to figure out how to stop discrimination before it starts. In our roles we are considered DE&I officers, based on the history of Title IV. As a federal contractor, we have a duty to be affirmative beyond Title VII.

If contractors are discussing persons with disabilities, contractors may want to increase our targeted recruitment to this community because disabilities do not discriminate against any protected class.

A few things to consider: Do your AAPs, utilize the proper job groups and are we using our placement goal as our recruitment goals? Are you getting the applicants in your pool that we are saying is available? Are we conducting exit interviews? Do we offer apprenticeships? What are our companies missing if we are not getting the applicants in the door? Do your compliance officers work with the recruitment team? It is recommended to do a quarterly effectiveness review of the recruitment and outreach for Section 503 and VEVRA, even though you are only required to do once a year.

We are invited to subscribe to the Direct Employers OFCCP Week in Review at <https://directemployers.org/subscribe> and attend the DEAMcon23 conference in Chicago, April 12-14, 2023.

The full presentation and an outreach and positive recruitment checklist provided by Direct Employers is attached to the minutes.

HRCI/SHRM certificate will be sent in a separate email to individuals in attendance during this session.

12:45pm – 1:15pm	OFCCP General Updates, Key Priorities
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Sam Maiden began by introducing Assistant District Director in Pittsburgh; Reginald Bridges and if we have members in the Pittsburgh area, feel free to contact Reginald.

Sam shared that while he has been in Pittsburgh, he has met with District Director Tracey Brown and they met with construction contractors about a highway construction, virtual pre-apprenticeship programs called Future Road Builders, which includes apps, video games, etc., that will let individuals learn about the construction trades and also offers interview skills and other skills to be successful in the construction field. Contact Sam, if more information is desired.

Construction is a priority for the Mid-Atlantic region. There will be a mega construction project later in the year. In the Mid-Atlantic region, they are reviewing items, like occupational segregation, crews that have only one race, women not in the trade, or disproportioned into specific positions. Training new compliance officers and ensuring that staff members have the same tools and training to be consistent in the work, however; investigations will be tailored, to particular companies and issues.

Sam discussed the OFCCP announcement received on 8/18/22. Director Yang issued a revised Directive to clarify some issues around pay equity and stated equity is one of America's core principles. There were three things to know about the revised Directive:

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1. It explicitly reaffirms the agency's position that it does not require the production of attorney-client privileged communications or attorney work product.
2. It identifies the documentation that OFCCP requires from a contractor to determine that the contractor has satisfied its obligation to perform a compensation analysis.
3. It explains the documentation required from a contractor when its compensation analysis identifies problem areas to demonstrate that it has implemented action-oriented programs.

In the Mid-Atlantic region, another priority is educating contractors and create a culture where contractors empower employees take pro-active measure to monitor and address barriers of opportunities. There have been recent complaints resolved that the contractors failed to listen and engaged with their employees. Another priority is the corporate management compliance evaluations, that will look if women and men are advancing and are they leaving at the same rate, what efforts are being done to create a diverse workforce, competitive and non-competitive promotions and off-cycle promotions, which can be 2 years of data.

This to consider as best practices is to create employee resource groups, mentorships, and employee surveys, as ways to engage and make your employees thrive.

It is recommended to collaborate with OFCCP with regular communication to understand one another's perspective and work towards successful resolutions.

Ed Rogers began by introducing Tracey Reid, OFCCP Assistant District Director and highlighted her background. Ed also introduced some of the new compliance officers, who were in attendance.

Ed's office is in process of doing on-site visits and some virtual. Ed spoke about the commitment OFCCP has to Section 503 and as he is on-site, he is considerate of the access from the parking lot and can an individual maneuver in the building. Does the company have an inviting environment and this can lead to a more diverse pool of applicants?

Ed is also in process of training and onboarding new compliance officers. They are conducting outreach to minority servicing institutions and they are fulfilling their regulatory agenda.

As of August 5<sup>th</sup>, all contractors who asked for assistance in the contractor's portal, has been completed. Beginning September 1<sup>st</sup>, a list of those who have not certified their AAP and it will be sent to federal agency contracting officers, to help OFCCP with other certification obligations.

Ed discussed (3) upcoming events that we are invited to attend. Highlights from the 2<sup>nd</sup> quarter accomplishments. They have closed 427 reviews, 53 conciliation agreements, 5 cases of discrimination, monetary relief over \$1.3m to class members and over 2400 class members impacted.

1:15pm – 1:30pm	EEOC General Updates/Hot Topics
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Robert McMeekin began with his introduction to the members and discussing the jurisdictions that his office covers.

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Robert discussed EEOC Chair Burrows priorities for FY22. He highlighted the algorithmic fairness & AI and the fairness or filtering out applicants and is there integrity in the artificial intelligence and sexual orientation and gender identity has become a focus for the agency.

EEOC hearing was held May 17, 2022 to examine discrimination and harassment in the construction field There are hiring initiatives and round table discussions are currently in place. EEOC and OFCCP met June 28, 2022 to discussed skill-based hiring and examined hiring and recruiting practices. There is a hiring initiative to reimagine equity and identifying strategies to remove hiring barriers. Part of this review includes is focused on potential issues around recruitment, job advertisements, job assignments and promotions, to mention a few.

EEOC and U.S. Department justice warn against disability discrimination and the use of artificial intelligence tools and the potential violation related to the Americans with Disability Act. There are technical assistance documents released about disability discrimination related to the use of AI when making hiring decisions. Visit <https://www.eeoc.gov/ai> for tips on disability discrimination and the use of AI. It is recommended for employers to look at your hiring and promotion policies and review algorithmic systems used in our process.

The slide deck will be attached and it includes contact information, EEOC settlements and helpful links.

1:30pm – 2:00pm	NILG Conference Update
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Matt Camardella provided highlights from the NILG conference that was in Boston Massachusetts, July 25<sup>th</sup> – 28<sup>th</sup>.

Common themes included:

- OFCCP is interested in moving beyond contractor compliance are reviewed on a multiple establishment basis. Integration and uniformity in employment practices and OFCCP wants to see how these policies and practices impact an employer EEO posture and this is done through compliance evaluations.
- The HIRE Initiatives
- Artificial intelligence was covered in many discussions and what are the implications.
- Agency use of technical analytical capabilities and EEOC/OFCCP discussed bringing on additional resources to help analyze data, with a focus on meta-analysis.
- The notion of ESG ‘Environmental, Societal, Governance’ and companies paying attention to these elements due to pressures from internal and external forces.

OFCCP highlights from Director Jenny Yang’s presentation. Agency is rebuilding by adding several hundred employees. Looking at the scheduling methodology and shift to a risk focus approach, by choosing contractors for audit based on risks that they are in non-compliance. Contractors who did not certify their AAP’s, could be a potential reason to audit their establishment. Restarting physical on-site audits and renew focus on construction contractor audits.

Director Yang discussed Directive 2022-01 Pay Equity Audits. The agency is a compliance agency and they are tasks with ensuring contractors comply with their regulatory obligations. To do this, they have to review the documents necessary to review if the contractors are doing

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what they need to do. Director Yang mentioned that this Directive is not intended to breach attorney/client privilege. She does recognize that contractors are wanting more guidance in how to conduct pay analysis.

Directive 2022-01 Compliance Reviews will not receive extensions, unless specific circumstances. By certifying the AAP, if a scheduling letter is received, there should be no reason that an extension should be needed. Director Yang did state that the agency will prioritize agencies who do not certify for future audits.

Additional information included in the regulatory updates and the use of FAAPs, the self-identification process and non-binary gender designation.

Matt discussed the enforcement statistics from the OFCCP regional directors from 2021 – 2022 and the coordination within the regions and between the regions.

Charlotte Burrows and Jocelyn Samuels discussed the renewed pay data collection table, new guidance related to COVID testing, greater coordination with OFCCP, the HIRE initiative, to list a few highlights.

2023 NILG Conference theme is 'Transforming for Tomorrow.'

The slide deck is attached and also provides information on Jackson Lewis.

2:00pm	Adjourn
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**Notes for members:**

- Fourth Quarter Meeting, Thursday, November 17, 2022
- 2023 Board Elections Ballot will be distributed in advance of the Q4 Meeting

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