

## **Speaker Q&A**

**Q:** How advantageous is it to have FAAP vs a location AAP?

**Quenton:** This response varies employer to employer. A FAAP structure is not necessarily advantageous. In deciding whether a functional structure makes sense for your organization, you should reflect on the considerations discussed through the entirety of the presentation and consult with counsel, and potentially a statistician, in weighing the advantages and disadvantages for your organization. Ultimately, if employment decisions such as hiring, promotions, and compensation are not made by a leader overseeing an establishment, and you want metrics from your plans to align with the way your business operates, then FAAPs provide contractors the flexibility to design a customized reporting structure.

**Q:** If you have both functional and establishment AAP's-how would the data gathering be different to include the function, and location?

**Quenton:** The data gathering would be very similar, but the contractor would want to be sure to include fields indicating the organizational structure, specifically those organizational fields that are pertinent to the various employment processes that the AAPs model. These organizational data points might include: the leadership hierarchy, business unit, line of business, company, segment, and/or cost center.

**Q:** Can a business have both FAAPs and establishment AAPs within their corporation?

**Quenton:** Yes, I have seen OFCCP approve a hybrid functional and establishment structure. OFCCP would need to approve the structure, so the contractor would need to apply to the FAAP program and justify why a hybrid approach makes sense for the contractor.

**Q:** Can contractors being audited enter the FAAP approval process?

**Quenton:** Yes, but the open establishment-based audit would remain establishment-based. This is covered in OFCCP's FAQs where OFCCP states, "Contractors are only exempt from future establishment-based compliance evaluations once the FAAP agreement is signed and executed by the OFCCP Director."

**Q:** What was the name of the database Quenton mentioned to use to build an external benchmark. The one that tracks students and their degree.

**Quenton:** Integrated Postsecondary Education Data System (IPEDS) found here:

<https://nces.ed.gov/ipeds/use-the-data>

**Q:** For the promotable and transferable employees - how do you figure out the job groups that feed into that job group? Especially if they are in one location and the employee doesn't want to move to the headquarters, etc.?

**Quenton:** When designing the non-competitive "proxy pool" that is used to measure against the non-competitive promotions within a FAAP and job group, your "proxy pool" is the set of feeder job groups that you would have considered in selecting who was promoted into the destination job group within the FAAP. It is important to remember that when analyzing your non-competitive promotions, your pool is a "proxy" because it approximates the people that might have been considered for promotion. It is approximate because there is no expression of interest that is used to define the pool. The question remaining is, how do we define the feeder job groups to include in this "proxy pool"? One technique is

to use one or more years of historical non-competitive promotion data to see what job group progressions occurred. You can use the most common feeder job groups in the historical data to inform as to what groups might be best in computing the internal availability going forward. Non-competitive promotions typically do not require a relocation, so movement across geography is not often a consideration in building the benchmark. With that said, benchmarks should be built taken the employment process in mind, so there may be employer-specific nuisances that need to be addressed on a case by case basis.

**Q:** Do the FAAPs need to follow a similar job group structure or can there be different job group structures depending on the size of the FAAP?

**Quenton:** I have worked with employers where we used a different job group structure across FAAPs.

**Q:** Would it be practical to use FAAP for a University AAP? What would be the benefit?

**Quenton:** OFCCP's FAAP FAQs directly answer this question and since I responded to this question already during the session, I am going to provide OFCCP's response from the FAQs: "Developing FAAPs allow educational institutions the opportunity to organize their affirmative action programs by functional or business unit instead of by establishment. Educational institutions may choose to develop their FAAP by schools, job functions, departments, or other functional or business units applicable to their organization. For example, a university could develop a FAAP that covers professors and associate professors, and another FAAP for administrative staff."

**Q:** How do you account for the roll-up groups of under 50 employees in an FAAP?

**Nicole:** We took the approach of going to the next level up within the organization so that from a leadership and decision-making process there was still a clear line of ownership and accountability. Alternatively, we also looked at support functions within a business being able to be grouped together.

**Q:** Does initiating a FAAP agreement subject you to be more visible for review?

**Nicole:** In my opinion, entering into a FAAP agreement does not subject a Federal Contractor to be more visible for review. The FAAP Directive released by OFCCP in 2019 removed the mandatory audit requirement during the term of a FAAP. Our understanding of this change is that we, as a FAAP federal contractor, have the same likelihood to be selected for a compliance review as those who are on establishment-based AAPs.

**Q:** Could we have multiple FAAPs assigned to the same manager who is responsible for multiple geographic areas?

**Nicole:** Our FAAP Units are not geographically based. If your structure is facility/location based for some of your lines of business, it might be beneficial to consider a blended model of establishment-based plans and FAAP units.

**Q:** When a company initially submits an application to begin developing FAAPs, will OFCCP do any type of audit or further investigation of the company initially? Or is it more or less an approval or denial?

**Nicole:** The application process does not include an audit from OFCCP. You may receive follow-up questions from OFCCP regarding your structure and a request for more details regarding your units and how they vary if your descriptions are not detailed enough. Questions during the application process are

more conversational in nature and do not have the same feeling as a compliance review. We had a very pleasant experience!

#### **OFCCP Q&A**

**Q:** What percent of companies/contractors prepare FAAPs vs AAP by establishments?

**OFCCP:** We have roughly 76 contractors in FAAP. We recently received another application yesterday from another contractor. The program is growing and more and more contractors are entering the program.

**Q:** Why does OFCCP want Federal contractors to use a FAAP reporting structure?

**OFCCP:** We are giving the contractor the option to better tailor their AAPs to their organizational structure and functions. If a contractor finds this more useful, then they should reach out to FAAP to discuss the process and expectations. We are more than happy to have one on one calls to discuss the possibility.

*Further questions about the FAAP program can be directed to William Crews who is Acting Chief, Branch of Functional Affirmative at [OFCCP\\_FAAP-UNIT@dol.gov](mailto:OFCCP_FAAP-UNIT@dol.gov) or 704-749-3380.*