

OFCCP's Actions: Headaches for Government Contractors

By Hope Eastman

Just in time for the Labor Day holiday, the Office of Federal Contract Compliance Programs (OFCCP) on August 27, 2013 issued two sets of final regulations designed to enhance greatly employment opportunities for veterans and individuals with disabilities. These regulations (available here and here) were published in the Federal Register on September 24, 2013 and will go into effect on March 23, 2014. Government contractors have already been obligated to engage in affirmative action under existing regulations. According to Patricia Shiu, director of the OFCCP, these regulations will be "an important step toward reducing barriers for real opportunities."

Much has been written about the fact that the new OFCCP regulations will require federal contractors and subcontractors to adopt quantifiable hiring goals for individuals with disabilities (nationwide 8%) and hiring benchmarks (either 7% nationwide or individually designed goals) for certain veterans.

Contractors with affirmative action plans in place on February 25, 2014, will have until their next plan year cycle begins to come into full compliance. For calendar year plans, that will be January 1, 2015.

Here is a list of things you should do to prepare:

FOR VETERANS:

- Resurvey your workforce with the new categories of veterans.
- Get prepared for record-keeping requirements that relate to the benchmarks for categories of Protective Veterans.
- Revise self-id forms to add "Protected Veteran Yes/No" to your pre-offer self id form for applicants or create new form for veterans to accompany form you use for women and minorities. Make sure there is an electronic version if you recruit on line. Use the OFCCP model form in the new regulations.
- Work with HRIS vendor (or internal capabilities) to get prepared for the additional record-keeping requirements and make sure they can give you updated vet information for new report in 2014 which will replace the VETS 100.

FOR INDIVIDUALS WITH DISABILITIES:

- Change your self-identification forms to ask applicants to self identify as an individual with disabilities PRIOR TO JOB OFFER. This is a huge change from prior practice. EEOC has issued opinion stating that it will not violate the ADA.
- Requires invitation to self identify for employees in the first year and every five years after that.

FOR BOTH:

- Review current AAPs for implementation dates. Determine for all requirements.
- Get prepared for record-keeping requirements that relate to the goals for individuals with disabilities.
- Review, revise and strengthen outreach activities and record-keeping of those efforts, including the ESDS in your state, posting and advertising requirements. This will be key to getting your required annual reports together
- Review your statement of policy (and CEO statement) and the Notice of Employee Rights and make sure they are disseminated and accessible in accordance with the regulations.
- Revise EO clause language to conform to OFCCP language for all purchase orders, contracts, and subcontracts.

And this is just for starters. Stay tuned.

The OFCCP also updated its Federal Contract Compliance Manual (FCCR). More about that in our next blog.