



September 2013

FEDERAL CONTRACTORS and OFCCP'S NEW RULES

*What you need to know and do **now***

By now you have all been inundated with newsletters about the new OFCCP rules which were just recently published in the Federal Register. Don't panic (yet)! PMP can and will assist you with this in any way possible.

The purpose of the new rules is to *measure the effectiveness and results* of a contractor's outreach efforts towards veterans and disabled individuals. Failure to meet the stated percentages will not result in violations or penalties, however, not being able to produce proof of your efforts and documentation of required metrics may have negative results during an audit.

The Federal Registers for the new final rule for disabled individuals and for veterans are 72 and 67 pages long respectively. I have summarized the major points in this article.

The six things you absolutely need to know now are:

1. Federal contractors and subcontractors are not required to comply with most of the new rules **until March 24, 2014**;
2. The final VEVRAA rules require contractors to establish an annual "hiring benchmark," based on either the national percentage of veterans in the workforce (currently 8%), or on the best available data and factors unique to their establishments. (*It is far easier to use the 8% than trying to come up with your own factors.*);
3. The final disability rule establishes a 7% utilization "goal" for the employment of individuals with disabilities by **job group**, unless a company has fewer than 100 employees – then the use of 7% utilization for the entire workforce is permitted (rather than by job group). (*The "goal" attainment is similar to the current goals for females and minorities*);
4. The new rules will require contractors to ask job seekers to voluntarily identify if they are a "protected veteran" and/or an "individual with disability" in addition to the current requirement requesting gender and ethnicity/race identification. Contractors will be required to invite all applicants to identify as individuals with

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disabilities and/or protected veterans at both the pre-offer and post-offer phases of the application process.

5. EEO taglines in future job postings must include “Protected Veterans” and “Individual with Disability”;
6. Although not yet published, the OFCCP will be issuing specific language that must be added to a contractor’s post-offer hiring paperwork, current purchase orders and current vendor certifications.

There are significant changes in the regulations related to recordkeeping and to documentation of specific metrics. Contractors should start discussing with their IT department and/or ATS vendors how best to:

1. Facilitate the gathering of the required information at the job seeker stage;
2. Store this information at the new employee stage;
3. Establish the reporting metrics and reports that will be required.

It is important to determine, now, how these changes can be facilitated and operational by the implementation date of March 24, 2014.

Contractors with calendar year AAPs (January 1 to December 31) are not impacted when updating their 2014 AAPs, as the regulations do not affect that data until 2015. Additionally, should the company be audited during 2014, that plan (containing the 2013 data) will not be reviewed based on the new regulations—your 2015 plan will have to be in adherence with the new rules.

In the announcement Director Shiu reminded federal contractors that “Being a federal contractor is a privilege...”

There are still many unanswered questions on the new rules which will, hopefully, be addressed by the OFCCP prior to the implementation date. Things may change or future guidance may add to a contractor’s on-going requirements. PMP will keep you posted as changes develop.

If you wish to discuss your implementation questions or any other affirmative action planning, please contact Grace Conti at PMP.



PMP provides personalized affirmative action guidance and assistance to clients throughout the United States. We are very proud of our exceptional record of successfully closed OFCCP audits. To discuss your company’s policies, or to discuss compliance assistance, please contact Grace Conti at 516-921-3400 or gconti@pmpHR.com.