Complying with OFCCP’s New Regulations
What to do by March 24th, 2014

Presented by
Hudson Mann
February 19, 2014
Welcome!
Key Resources


OFCCP’s webinars: http://www.dol.gov/ofccp/regs/compliance/final_rules_webinars.htm

OFCCP’s FAQs: http://www.dol.gov/ofccp/regs/compliance/faqs/offaqs.htm
Session Agenda

Overview of New Regulations

What to do by March 24th

Next Steps

Your Questions
Overview of New VEVRAA and Section 503 Regulations

Part 1
VEVRAA

Protects veterans

Contracts of $100,000 or more

50 employees + $100,000 contract = written AAP requirement

CFR 60-300

SECTION 503

Protects individuals with disabilities

Contracts of $10,000 or more

50 employees + $50K in contracts = written AAP requirement

CFR 60-741
Quantitative Analyses

for veterans & individuals with disabilities
7%

Utilization Goal

for individuals with disabilities
Hiring Benchmark for protected veterans

8%
New Self-ID Forms
at pre-offer & post-offer stages
New Section 503 & VEVRAA Regulations

5 Subparts Each:
A) Preliminary Matters, Equal Opportunity Clause
B) Discrimination Prohibited
C) Affirmative Action Program
D) General Enforcement and Complaint Procedures
E) Ancillary Matters

Appendices
Phased-in Examples

Affirmative Action Plan Year 1/1-12/31
   No changes to written AAP until 1/1/2015

Affirmative Action Plan Year 4/1-3/31
   Changes to AAP starting 4/1/2014
New Section 503 & VEVRAA Regulations

5 Subparts Each:

A) Preliminary Matters, Equal Opportunity Clause
B) Discrimination Prohibited
C) Affirmative Action Program
D) General Enforcement and Complaint Procedures
E) Ancillary Matters

Appendices
Due on March 24, 2014

Part 2
Due on March 24

- Post jobs & supply additional information to ESDS
- Update EEO policy statement & postings
- Notify labor organizations of your EEO policy
- Update EOE tagline on job advertisements
- Update EO clauses in purchase orders & subcontracts
ESDS Job Postings

Post all open positions with appropriate ESDS

Three exceptions:

   Executive and senior management
   Positions filled internally
   Positions lasting three days or less

Must post in a manner & format permitted by the ESDS

3rd parties OK as long as they are posting in a manner & format permitted by the ESDS
ESDS Job Postings

Ensure the following elements are added to your templates for each state:
Notification of status as a Federal contractor - “VEVRAA Federal Contractor”
Desire for priority referrals of protected veterans
Name and location of each hiring location within the state
Contact information for the official “responsible for hiring at each location”
Contact information for external job search organization(s), if used

Only required with first posting in each state or when the information changes
Update Your EEO Policy Statement to indicate support of top U.S. executive
EEO is the Law Poster

http://www1.eeoc.gov/employers/poster.cfm

Must be “accessible and understandable”

“Conspicuously store” with electronic application
EEO is the Law

Applicants to and employees of this company are protected under Federal law from discrimination on several bases. Follow the link above to find out more.
Labor Organization Notification

Applies if you have employees covered by a collective bargaining agreement

Notify organizations of your EEO/affirmative action policy and request their cooperation
Job Ad Taglines

EEO tagline required on all job ads

Tagline must at least spell out “disabled” and “vet”

Examples:
EOE M/F/Disabled/Vet
This company is an equal opportunity employer and makes employment decisions without regard to race, gender, disability or protected veteran status.
Equal Opportunity (EO) Clause

Must be in the terms & conditions of all subcontracts and purchase orders
  VEVRAA = $100,000
  Section 503 = $10,000

Mandatory language for incorporation by reference

Must be in bold text

You may combine the statements for all three sets of OFCCP regulations
Equal Opportunity (EO) Clause

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
Due on March 24 - Recap

- Post jobs & supply additional information to ESDS
- Update EEO policy statement & postings
- Notify labor organizations of your EEO policy
- Update EOE tagline on job advertisements
- Update EO clauses in purchase orders & subcontracts
Don’t discriminate!

Subpart B prohibits discrimination
focus on ABILITY not assumptions about disabilities
Subpart B – Reasonable Accommodations

Ensure reasonable accommodations are made for disabled veterans and individuals with disabilities

Appendix A of Section 503 regulations give guidelines on this obligation

OFCCP recommends implementing written reasonable accommodation procedures
Suggested guidelines in Appendix B
Subpart C

Requirements don’t apply until your next AAP cycle
Changes from Subpart D

- Extended Temporal Scope of Audits
- On-site or Off-site Review of Documentation
Subpart E

Recordkeeping: 2 years for employment records
Next Steps

Part 3
Major Subpart C Additions

Self-Identification

Data Collection

Reporting Requirements
Self-Identification

PRE-OFFER
- Race
- Gender
- Protected Veteran – Yes or No
- Disability Status – OFCCP’s form

POST-OFFER
- Race
- Gender
- Specific Veteran Category
- Disability Status – OFCCP’s form
Disability Self-Identification

Can be an electronically fillable form

Electronic forms must:

- Display the OMB number and expiration date;
- Contain the text of the form without alteration;
- Use a sans-serif font, such as Calibri or Arial; and
- Use at least 11-point font size (with the exception of the footnote and burden statement, which must be at least 10-point in size).
Self-Identification

Resurvey your current workforce with new forms

Update HRIS and payroll systems with new information

Self-ID forms must be kept in a separate “data analysis file”
  Can be HRIS if certain requirements are met
  Disability self-ID forms SHOULD NOT be kept in employees’ confidential medical files

Resurvey workforce every 5 years
Data collection

Annual data analyses:

- # openings
- # jobs filled
- # applicants
- # applicants who self-identified as veterans and/or IWD’s
- # applicants hired
- # protected veterans and IWD’s hired
New Reporting Requirements

Data collection reports – veterans and IWD’s

Utilization Analysis for Individuals with Disabilities

Veterans hiring benchmark analysis
Transitional AAP

Include as many compliant aspects as possible

Discuss plans for coming into compliance with outstanding items
What it’s all about:

Non-discrimination

Reasonable accommodation

Good faith outreach efforts
View our checklist!

http://hudsonmann.com/ofccp-new-regulations-compliance-checklist/
Your questions!

Part 4
Thank You!

Allen Hudson, PHR – Director of Corporate Communications
ahudson@hudsonmann.com
www.HudsonMann.com
843-884-5557