Affirmative Action Plan 101 for Universities

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Agenda

Define Affirmative Action

- Laws enforced by the OFCCP
- Female/Minority AAP
- Individuals with Disabilities AAP
- Protected Veterans AAP

Areas of focus for your Program

- How to create meaningful Job Groups
- Other important responsibilities
What is Affirmative Action?

• Proactive action-oriented programs designed to ensure equal opportunity of qualified women, minorities, individuals with a disability and veterans in the employment process

• Enforced by the Office of Federal Contract Compliance Programs (OFCCP)

• Designed to:
  • Promote equal employment opportunity
  • Eliminate discrimination for protected members
  • Create an opportunity to make a difference
  • Remove barriers in the workplace
  • Level playing field in every phase of the employment process
Affirmative Action IS...

• Affirmative Action is a set of specific and results-oriented procedures to which a federal contractor commits itself

• This commitment means federal contractors will make “Good Faith Efforts” and engaged outreach and recruiting methods to ensure Equal Employment Opportunity

• Affirmative Action is proactive, preventive and inclusive

Affirmative Action IS NOT...

• Affirmative Action Is Not A Quota

• Affirmative Action Does Not Create Preferences

• Affirmative Action Does Not Foster Discrimination of Non-Protected Classes
What does this mean?

• We must analyze our workforce and employment decisions at least annually
  • Applicant pools
  • Hires
  • Promotions
  • Transfers, Terminations
  • Compensation

• Specifically, we must:
  • Develop written Affirmative Action Plans
  • Provide details regarding outcome of the analysis of the workforce
  • Develop proactive action-oriented programs and goals designed to address any issues and to ensure equal opportunity of qualified women, minorities, individuals with disabilities and protected veterans in the employment process
  • Review and evaluate our good-faith-efforts and engaged outreach and recruiting resources to ensure efforts are effective
  • Train all managers and supervisors to ensure compliance with the regulations
Laws Enforced by OFCCP

Executive Order 11246

Section 503 of Rehabilitation Act

Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA)
Affirmative Action Plans

Unless granted permission to write a Functional AAP, you must have a separate plan for every facility with 50 or more people.

Locations with less than 50 employees have three (3) options in preparing an AAP

1. Prepare an AAP for that establishment
2. Roll the employees up into the AAP which covers the location of the personnel function which supports the establishment
3. Roll the employees up into the AAP which covers the location of the person to whom they report
An acceptable Affirmative Action Program must include the following:

• Analysis of the total selection, recruitment, referral and other personnel processes to determine whether they result in disparities in the employment or advancement of women or minorities

• Analysis of personnel activities such as applicant flow, hires, terminations or promotions to determine whether there are selection disparities.

• Analysis of compensation to determine whether there are gender, race or ethnicity-based disparities
Affirmative Action

Look Back
- Goal Attainment
- Data Collection and Analysis (Vets/IWD)
- Impact Ratio Analysis
- Compensation Review

Look forward
- Placement Goals - Calculated
- IWD Utilization Goals 7%
- Hiring Benchmark 7%
- Recruiting, Outreach and GFE Strategy

3 NARRATIVES
EO 11246 (Women/Minority)
Protected Veterans
Individuals with Disabilities
Establishing Goals - Who is covered:

- **Women**
  - Must analyze current utilization
  - Compare to labor area
  - Establish placement goals where applicable

- **People of Color**
  - Must analyze current utilization
  - Compare to labor area
  - Establish placement goals where applicable

- **Veterans**
  - Hiring Benchmark of 7% per plan

- **Individuals with Disabilities**
  - Utilization goal of 7% per job group, per plan

Even though you have established goals you should always hire the **most qualified** individual. The key is to make good-faith-efforts and engaged outreach and recruiting efforts to get qualified women, minorities, veterans and individuals with disabilities into your applicant pools and into your workforce.
AAP Requirements for Females/Minorities

Evaluate workforce vs. labor pool

How you attract, recruit, & select protected class members

STATISTICAL COMPONENT

NARRATIVE COMPONENT
Work Force Analysis (41 CFR 60-2.11)

• Big picture view of who the employees are and where the employees work \(^1\)
• Examine evidence of concentrations & under representations
• Rank jobs lowest to highest paid
• Identify if a glass ceiling exists
• Identify any segregated departments
• Identify a supervisor in each department

\(^{1}\) Daisy Hartin, 2012
# Work Force Analysis (41 CFR 60-2.11)

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Job Group Analysis (41 CFR 60-2.12; 2.13)

- Big picture look at what the employees do at work
- Group job titles by similar:
  - Content
  - Opportunity
  - Wage
- Foundation for remaining reports
- Provides utilization of job group as of the plan date
- Review diversity within job titles and groups

2 Daisy Hartin, 2012
## Job Group Analysis

**Plan:** 01.12 - XYZ Corporation CHICAGO PLANT  
**Job Group:** 06A - CRAFT WORKERS (SKILLED)

<table>
<thead>
<tr>
<th>Location</th>
<th>Job Title</th>
<th>Total Employees</th>
<th>Female</th>
<th>Minority</th>
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<tr>
<td></td>
<td></td>
<td>Persons</td>
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<td>3.44</td>
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</table>

**Totals**  
- Total #: 29  
- Total %: 0.00%

**Current Utilization of Protected class:**  
- Total Employees in Protected Class: 8  
- Total Employees in Job Group: 0

No Females in this JG
Let’s talk about job groups
The first intuitive split is the Administrators

– The job role is primarily management of the institution or a division of the institution

– Depending on the size of the institution, sub groups of First/Mid Level Officials may be desired

http://www.cupahr.org/surveys/worksheets.aspx
“Functional professional” positions with primary assignments and responsibilities requiring professional-level expertise and work in a specific functional area, such as academic or student services, facilities management, human resources, information technology, athletics, etc.

Positions covered include those with supervisory duties that do not represent the majority of their time and effort.

All positions require at least a baccalaureate degree or equivalent in the field, and may require a professional licensure in the field.

All positions are FLSA exempt.

http://www.cupahr.org/surveys/worksheets.aspx
Nonexempt Staff

• All of the positions are non-exempt, meaning that job incumbents are paid an hourly rate and are eligible for overtime.

• The annual salary for these individuals is the compensation they would receive for working 2080 hours in 12 months without overtime.

• Remember COW? Resist the urge to have all nonexempt positions in the same job group

http://www.cupahr.org/surveys/worksheets.aspx
## Nonexempt Staff

### Sales workers
- Museum Shop Manager
- Sales Workers
- Retail Operations Supervisor

### Admin Support Workers
- Accounting Assistant/Financial Clerk
- Administrative Assistant
- Library Assistant
- Grant Proposal Coordinator

### Technicians
- Library Paraprofessional
- IT Technical Support/Paraprofessional
- Research Asst/Tech, Life Science
- Lab Asst/Tech, Social Science

### Craft workers
- Carpenter Lead/Supervisor
- Electrician (journeyman)
- Vehicle Mechanic
- Printer / Bookbinder

### Operatives
- Police / Public Safety Lead
- Grounds / Landscape Worker
- Motor Vehicle Operator
- Equipment Repairer

### Laborers & Helpers
- General Maintenance Worker
- Construction Laborer
- Farm/Agricultural Worker
- Greenhouse Worker

### Service workers
- Equipment Manager/Athletics
- Security Guard
- Custodian / Housekeeper, Floor Maintenance
- Line Cook

[http://www.cupahr.org/surveys/worksheets.aspx](http://www.cupahr.org/surveys/worksheets.aspx)
Professionals (Faculty)

- Faculty are professional positions
- Depending on your institution’s size, you will want to split the faculty into meaningful groups
- Classification of Instructional Programs (CIP) provides a taxonomic scheme that will support the accurate tracking, assessment, and reporting of fields of study
  

http://www.cupahr.org/surveys/worksheets.aspx
Graduate Assistants

• **Graduate Assistant - Teaching**
  - Assists faculty or other instructional staff in postsecondary institutions by performing teaching or teaching-related duties, such as teaching lower-level courses, developing teaching materials, preparing and giving examinations, and grading examinations or papers. Graduate teaching assistants must be enrolled in a graduate school program. Graduate assistants who primarily perform non-teaching duties, such as research, should be reported in the occupational category related to the work performed. Excludes staff [non-student] “Teacher Assistants” (25-9041).
  - Illustrative examples: Graduate Teaching Assistant, Graduate Teaching Fellow, Instructor. Individual must be simultaneously enrolled in the institution as a graduate student whose primary reason for being affiliated with the institution is ‘working toward a degree’ – rather than ‘being employed’

• **Graduate Assistant - Research**
  - Graduate Assistants whose specific assignments are for the purpose of conducting research, regardless of academic discipline, by performing duties such as preparing and conducting scientific research or engaging in original scholarship / scholarly inquiry under the supervision and mentorship of a faculty member or senior researcher. Graduate research assistants must be enrolled in a graduate school program. Excludes staff [non-student] “Research Assistants,” which are reported under the appropriate occupational category related to the work performed.

• **Graduate Assistant – Other Categories**
  - If your institution has graduate assistants performing duties in the following categories, they should be placed in the appropriate graduate assistant categories below. For example, a graduate assistant updating websites for a campus department should be considered a graduate assistant in the IPEDS HR category called, “Computer, Engineering, and Science Occupations.”

http://www.cupahr.org/surveys/worksheets.aspx
Student workers should be accounted for in your AAP. Place them in a separate job group than your full-time regular employees.
Placement Goals

How are goals calculated?

1. Define the test to determine goal
2. Check for Underutilization
3. Total Weighted Availability
   - External Availability
   - Internal Availability
4. Establish Goals
   - Current Utilization
   - Total Weighted availability
Placement Goal Reports

Example:

- **Job Group - Professionals**
- **Class - Minorities**
- **Goal Placement Rate % - 18.69%**

Example: if you hire 4 people over the course of the year and one was a minority 1 / 4 = 25% (your goal was 18.69) so you would meet your goal
Incumbency vs. Availability *(41 CFR 60-2.15)*

- Identify where the weight is distributed (internal or external)
  - Weighted averages for internal/external are assigned to the university work force, U.S. Census or other data
- Determine total availability
- Consider all sources for placement
Incumbency vs. Availability **(41 CFR 60-2.15)**

### Incumbency vs. Availability

**Analysis Data as of 12/31/20**

**Plan:** 01,12 - XYZ CORPORATION CHICAGO PLANT

**Job Group:** 07A - OPERATIVES (SEMI-SKILLED)

**Total Employees in Job Group:** 47

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<td>Requisite skills in recruitment area</td>
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<td>12.76</td>
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**Binomial Probability**

- Exact Binomial less than or equal to 0.0500
  - Yes
  - Yes

**Availability is compared to utilization**
Placement Goals (41 CFR 2.16)

To Do
- Develop action-oriented programs
- Document GFE
- Involve recruiters
- Involve hiring managers

Goal Placement Rate
**NOT A QUOTA**

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<tr>
<th>Job Group</th>
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<th>Goal Placement Rate %</th>
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<td>07A - OPERATIVES</td>
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<td>07B - ENTRY OPERATIVES</td>
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**Goal Attainment (41 CFR 60-2.17)**

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<th>Job Group</th>
<th>Class</th>
<th>Employees as of Plan Date</th>
<th>Goal Placement Rate %</th>
<th>Total Job Group Placements</th>
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Only job groups with a goal in the previous AAP year will appear on this report.
Compensation Review

- Regular review
- Maintain sufficient information on factors which influence pay
- Prepare to correct any issues discovered
AAP Narrative Components
EO 11246 AAP

• Designation of Responsibility
• Identification of Problem Areas
• Internal Auditing and Reporting System
• Action-Oriented Programs
Designation of Responsibility 41 CFR 60-2.17 (a)

• EEO/AA coordinator
• Managers and supervisors
• Top executives
EEO Coordinator Responsibilities

- Abide by Executive Order 11246, Rehabilitation Act, VEVRAA
- Ensure compliance with policies and postings
- Help identify of AAP / EEO problems areas & effective solutions to AAP / EEO problems
- Internal audit & reporting system
- Company liaison to enforcement agencies
Management Responsibilities

Follow HR policies/procedures and ensure they are making non discriminatory/non bias decisions
This should be the highest ranking official in the AAP and is instrumental in supporting the goals of the affirmative action plan and its support to overall EEO practices.
Identification of Problem Areas

Performance Management
- Job Profiles
- Goal Management and Appraisals

Compensation
- Incentive Management

Succession Planning
- Talent Assessment
- Succession Pools

Recruiting
- Hiring workflows
  - Contingent
  - Salaried
  - Hourly
  - Disposition Codes
  - Data Management Techniques
  - Assessments

Succession Planning
- Talent Assessment
- Succession Pools
Action-Oriented Programs

- Develop strategy
- Specific and result-oriented solutions
- Implement & execute Good Faith Efforts
Protected Veterans and Individuals with Disabilities
BENCHMARK FOR VETERANS AND UTILIZATION GOAL FOR INDIVIDUALS WITH DISABILITIES

• These are government established goals/benchmarks:
• You must track and evaluate applicant pools and hires against your outreach and recruitment efforts to determine if progress is being made, if not you must develop an alternative plan (or find other outreach and recruitment resources) to attain goals/benchmarks.

In order to meet these goals/benchmarks it will take assistance from everyone.
VEVRAA and Section 503 Narrative Components
Under VEVRAA and Section 503

• EEO policy statement
• Review of personnel processes
• Reasonable accommodations
• Physical and mental qualifications
• Harassment
• Data collection and metrics
• Internal/external dissemination
• Assessment of outreach and recruitment
EEO Policy Statement

• Update annually; sign the policy and date
• Identify the hours and location where the protected veterans / IWD AAP can be viewed
• Visible posting that allows for self-identification
• Post where applicants and employees can view
• **Must reference top U.S. based Executive**
## Sample Accommodation Log

<table>
<thead>
<tr>
<th>Date of request</th>
<th>Name</th>
<th>Applicant or Employee</th>
<th>Request Made</th>
<th>Date Applicant/Employee Notified</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2/15</td>
<td>John Doe</td>
<td>Applicant</td>
<td>Sign language interpreter present for interview</td>
<td>1/2/15</td>
<td>John Doe Provided SL interpreter for interview conducted 1/5/15</td>
</tr>
<tr>
<td>1/3/15</td>
<td>Jane Smith</td>
<td>Employee</td>
<td>Ergonomic chair for back injury</td>
<td>1/5/15</td>
<td>Upon receiving Dr. verification of back condition, Jane Smith granted chair – cost $2500</td>
</tr>
</tbody>
</table>
Online Application Tracking Systems

Ensure that employers using Internet systems for applications are compliant for accessibility for persons with disabilities.
Recommended Website Verbiage

In compliance with the Americans with Disabilities Act Amendment Act (ADAAA), if you have a disability and would like to request an accommodation in order to apply for a position with x company, please call xxx-xxx-xxxx or e-mail xxxx.xxxx@xcompany.com.
Self-Identification Forms

• The new regulations require that contractors invite applicants to self-identify as protected veterans at both the pre-offer and post-offer phases of the application process.
  • The new regulations include sample invitations to self-identify that contractors may use.
• IWD: use the same form for pre-offer, post-offer, and to survey employees
Job Listing Requirement

List jobs through job service for all openings.
## Sample Applicant Flow Log

<table>
<thead>
<tr>
<th>Name</th>
<th>Race</th>
<th>Sex</th>
<th>IWD</th>
<th>Veteran</th>
<th>Date of App.</th>
<th>Job Title</th>
<th>Step/Disposition</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Doe</td>
<td>White</td>
<td>M</td>
<td>Y</td>
<td>Y</td>
<td>1/1/15</td>
<td>CNA</td>
<td>Hired</td>
<td>HireVets</td>
</tr>
<tr>
<td>Angela Rodriguez</td>
<td>Hispanic</td>
<td>F</td>
<td>Y</td>
<td>N</td>
<td>1/3/15</td>
<td>Hospital Admin.</td>
<td>Hired</td>
<td>Texas Workforce Commission</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source</th>
<th>Applied</th>
<th>Hired from Source</th>
<th>IWD</th>
<th>Veterans</th>
</tr>
</thead>
<tbody>
<tr>
<td>HireVets</td>
<td>20</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Texas Workforce Commission</td>
<td>300</td>
<td>20</td>
<td>3</td>
<td>7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Job Group</th>
<th>Total Hired</th>
<th>IWD</th>
<th>Veterans</th>
<th>Hire Vets</th>
<th>TWC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exec</td>
<td>5</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Professionals</td>
<td>25</td>
<td>2</td>
<td>4</td>
<td>1</td>
<td>3</td>
</tr>
</tbody>
</table>
## Sample Reports – Data Collection

### Data Collection by Job Group - IWD

<table>
<thead>
<tr>
<th>Job Group</th>
<th>Total Applicants</th>
<th>Total Disabled Applicants</th>
<th>Total Hires</th>
<th>Total Disabled Hires</th>
<th>Job Openings</th>
<th>Jobs Filled</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A - 1A description</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1B - 1B description</td>
<td>301</td>
<td>8</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1C - 1C description</td>
<td>61</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

### Data Collection by AAP – Veteran Status

<table>
<thead>
<tr>
<th>Plan</th>
<th>Total Applicants</th>
<th>Total Veteran Applicants</th>
<th>Total Hires</th>
<th>Total Veteran Hires</th>
<th>Job Openings</th>
<th>Jobs Filled</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.0054 - 0 description 0054 description</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>0.0055 - 0 description 0055 description</td>
<td>58</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>0.0056 - 0 description 0056 description</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
Other Important Responsibilities
Your Responsibility as a Manager is to consistently . . .

- Be aware of Placement Goals, Veteran Benchmarks and Utilization goals for the job titles that report to you
- Work with your recruiters effectively to recruit and hire from a diverse slate of qualified candidates
- Assist recruiters by seeking active affiliations with diverse organizations for recruitment leads
- Provide coaching, job counseling, and training to your current employees
- Evaluate all compensation decisions to ensure appropriate compensation levels throughout your area
- Follow proper procedures when completing paperwork to ensure legal compliance
- Document all hiring and promotional interviews appropriately and forward them to Recruiters
- Create an environment that is bias-free in words and actions
- Promote and encourage the introduction of diverse backgrounds, experiences and ideas into the organization
Human Resources Role:

Placement Goals, Benchmarks and Utilization Goals

• Communicate goals to recruiters and managers
• Develop action oriented plans to increase representation
  • Example: Develop a relationship with a local VA, Rehabilitation Center, community college or University to increase flow of qualified female managers into our applicant pool
• Regularly evaluate applicant pools for diversity representation
• Track and evaluate all GFE’s, outreach and recruiting efforts against results
Good Faith Efforts, Outreach and Recruiting Resources

• **HR**
  - Engage community resources and agencies to increase the number of qualified candidates with disabilities

• **Manager**
  - Work with HR to determine recruiting resources
  - Speak at career days or participate in Job Fairs
  - Have an annual meeting of your recruiting sources at your facility; give a tour and discuss qualification requirements of your organization

• **Recruiters**
  - Work with managers to determine recruiting resources
  - Establish Mentoring partnerships
  - Establish Internship programs with minority colleges and universities
  - Advertise in industry publications such as INSIGHT into Diversity
  - Review your website for accessibility and make sure you have a disclaimer
  - Contact predominantly minority or female schools and colleges
  - Contact sources of veteran, individuals with disabilities, female and minority applicants, develop a relationship

Document and evaluate all good faith efforts, outreach and recruiting efforts for HR, Recruiters, and Hiring Managers.
Record Retention

Commonly Cited Violation
Record Retention

- Application
- Test Results
- Interview Notes
- Accommodation Records
- Records of Outreach and Recruiting Efforts
Record Retention

Race, gender & ethnicity

March 24, 2014: Disability and veteran status at pre-offer stage
Record Retention

- Less than 150 employees and
- Less than $150,000 in government contracts

Keep Affirmative Action Plan for 1 year
Record Retention

- 150 employees or
- $150,000 or more in government contracts

Keep Affirmative Action Plan for 2 years
* Some records now need to be kept for 3 years under VEVRAA and Section 503 of Rehabilitation Act
Record Retention

Under audit?

Keep all records covering period under investigation.
Notices / Posters
Notices / Posters

WORKER RIGHTS
UNDER EXECUTIVE ORDER 13658

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN
Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex, national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES
Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS
The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

RETIWATION
Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-357-6251 (toll-free) or (202) 693-1237 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.
Executive Order 13665 (41 C.F.R. § 60)

- Executive Order 13665, promoting pay transparency and openness, makes it possible for workers and job applicants to share information about their pay and compensation without fear of discrimination.
- This Final Rule took effect on January 11, 2016, 120 days after its publication in the Federal Register, and amends the existing regulations that implement EO 11246.
- The Final Rule amends the EO 11246 implementing regulations by:
  - Requiring that certain information be included in covered federal contracts and subcontracts. The Final Rule requires that the equal opportunity clause included in covered federal contracts and subcontracts be amended to include that federal contractors and subcontractors must refrain from discharging, or otherwise discriminating against, employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants. An exception exists where the employee or applicant makes the disclosure based on information obtained in the course of performing his or her essential job functions;
  - Requiring that federal contractors incorporate a prescribed nondiscrimination provision into their existing employee manuals or handbooks and disseminate the nondiscrimination provision to employees and to job applicants;
  - Defining key terms such as compensation, compensation information, and essential job functions as used in EO 11246, as amended; and
  - Providing employers with two defenses to an allegation of discrimination: a general defense, which could be based on the enforcement of a "workplace rule" that does not prohibit the discussion of compensation information; and an essential job functions defense.
- Required postings: EEO is the Law, EEO is the Law Supplement and now the Pay Transparency Nondiscrimination Provision

http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm
External Dissemination

- Posting Language
- Purchase Orders/Contracts
Internal Dissemination

Training

EEO
Diversity/Inclusion
EO 11246
VEVRAA
Section 503

EEO Policy

Emails or postings on intranet regarding EEO/AA policy

Newsletter

Highlight achievements of employees in diverse groups
Promote outreach and volunteer opportunities
Non-Compliance with OFCCP
OFCCP Enforcement of EEO Laws

• Compliance evaluations
• Complaint investigations
• Not filing VETS-4212
• Bidding for contracts
Enforcement Action

• Conciliation agreement (usually a 2 year term)
• Continued oversight and scrutiny of recruiting and hiring practices by the OFCCP
• Termination of a federal contract or subcontract
• Loss of research grant funding
• Prohibit future federal contracts and subcontracts
• Fines and/or back pay
Recent OFCCP Penalties

**OFCCP v. Westat**
- Paid $1.5 million
- Hiring Discrimination for Race and Gender
- Required to extend offers to applicants previously rejected and implement self-monitoring measures

**OFCCP v. G&K Services**
- Paid $290K
- Gender Based Pay Discrimination
- Female workers “steered” into lower paying jobs
- Cited for Unfair Practices

**OFCCP v. Parking Co**
- Paid $275K
- Allegations of systematic hiring discrimination against minorities and females
- Required to hire 65 females and 27 minorities and pay retroactive pay and benefits

**Other Consequences and Enforcement Action**
- Termination of a federal contract or subcontract
- Prohibit future federal contracts and subcontracts
- Conciliation agreement (usually a 2 year term)
- Continued oversight and scrutiny of recruiting and hiring practices by the OFCCP
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