

LEGAL UPDATES

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Department of Labor's July 7, 2011, Regulatory Agenda Signals Increased Enforcement Efforts

On July 7, 2011, the Department of Labor released its regulatory agenda for the next 6 to 12 months. The agenda for the Office of Federal Contract Compliance Programs (OFCCP) has five items: compensation, construction, veterans, disabilities and sex discrimination. OFCCP will host a live Q&A session on its regulatory agenda at 1 p.m. EST July 12, which will be accessible through its website: www.dol.gov.

OFCCP's regulatory plans are as follows:

Compensation. OFCCP has been increasing its enforcement efforts in the compensation arena. Part of its toolbox to combat compensation discrimination may be a new "compensation data collection tool." OFCCP intends to propose a way for it to identify contractors that are "likely" violating the law, and to conduct establishment-specific, contractor-wide and industrywide analyses. OFCCP's stated target deadline to issue its proposed compensation regulations was June 2011 — a target OFCCP has already missed. However, be on the lookout for these proposed regulations to be published soon.

Construction. OFCCP intends to issue a Notice of Proposed Rulemaking to "strengthen and enhance" the affirmative action program requirements for federal and federally assisted construction contractors, particularly concerning recruitment and job training. OFCCP's target deadline to issue its proposed

construction regulations is November 2011.

Veterans. OFCCP previously released a Notice of Proposed Rulemaking, seeking to expand the information it collects, and the requirements in affirmative action plans, concerning veterans. Please see our prior alert for more information. The comment period has now closed, and OFCCP is determining what the final veterans regulations will contain.

Disabilities. OFCCP intends to issue a Notice of Proposed Rulemaking "to increase linkages and conduct more substantive analyses of recruitment and placement actions" for individuals with disabilities. OFCCP's target deadline to issue its proposed disabilities regulations is August 2011.

Sex discrimination. Existing OFCCP regulations concerning discrimination based on sex are more than 30 years old. OFCCP intends to issue a Notice of Proposed Rulemaking to update these regulations. OFCCP's target deadline to issue its proposed sex discrimination regulations is February 2012.

What This Means to You

OFCCP's regulatory agenda demonstrates, again, that OFCCP intends to aggressively enforce the laws under its jurisdiction, and, where appropriate, seeks to strengthen the regulations that implement those laws. We encourage you to participate in OFCCP's Live Q&A on July 12, 2011. We also strongly encourage you to review and update not only your affirmative action plans, but also your daily practices and procedures, to ensure compliance.

Contact Info

For additional information and assistance, please contact your Husch Blackwell attorney or Molly Kurt at 816.983.8229.

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