

January 25, 2006

OFCCP News Roundup

Agency Will Not Delay Effective Date of Internet Applicant Rule But Agrees to 90-Day Grace Period

Last week the Office of Federal Contract Compliance Programs (OFCCP) advised Federal contractors that it will not delay the February 6, 2006 effective date of its Internet Applicant Rule. However, the Agency has agreed to grant a 90-day grace period to those contractors who will not have updated their internal systems in time to comply with the requirements of the new rule, provided they satisfy certain conditions. During this 90-day period, the OFCCP, under its enforcement discretion, will not cite a contractor for a purely technical recordkeeping violation if the federal contractor can: 1) demonstrate that it is “taking reasonable steps to update its systems to comply with the rule, including a projected date of compliance,” and 2) show that it “collects and maintains records according to the established procedures consistent with OFCCP’s recordkeeping requirements that pre-existed the Internet Applicant final rule, i.e., 41 C.F.R. 60-1.12.”

A more in-depth discussion of the Internet Applicant Rule can be found in the Firm’s Management Alert dated October 10, 2005. Additionally, the OFCCP has posted guidance in a question-and-answer format at <http://www.dol.gov/esa/regs/compliance/ofccp/faqs/iappfaqs.htm>.

Agency Recommends Elimination Of Its Equal Opportunity Survey

The OFCCP is proposing to eliminate the requirement that selected federal contractors complete Equal Opportunity Surveys (EO Survey). The survey, in use since 2000, requests information about the contractor’s personnel activities, employee compensation, and affirmative action plan. In 2003, the OFCCP commissioned a study to determine whether the data compiled from the EO Survey could be used to develop a model that would more effectively target contractors engaging in systematic discrimination. As a result of the study’s findings, the OFCCP concluded that the EO Survey has misdirected

valuable enforcement resources and has not enhanced the Agency's ability to target for review those contractors who may be engaging in systematic discrimination. The comment period on the OFCCP's proposal extends until March 21, 2006.

In proposing the elimination of the EO Survey, federal contractors should not infer that the OFCCP is reducing its emphasis on enforcement. Rather, the OFCCP will likely redirect its resources to conduct more compliance evaluations.

No News on Proposed Guidelines for Evaluating Compensation Discrimination

In late 2004, the OFCCP issued proposed new standards for evaluating systemic compensation discrimination. To date they remain under Agency review. The Agency's lack of action may signal that it is not willing to adopt the guidelines' emphasis on multiple regression analysis as the analytic tool of choice for compensation analysis.

For more information about affirmative action compliance and the OFCCP, please contact Valerie Hoffman at vhoffman@seyfarth.com, Bob Nobile at rnobile@seyfarth.com, Bill Perkins at wperkins@seyfarth.com or any attorney on our website at www.seyfarth.com.



Breadth. Depth. **Results.**