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CLIENT ALERT

OFCCP Announces New Regulations on Disability and Veterans Employment

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On August 27, 2013, the Office of Federal Contract Compliance Programs (“OFCCP”) announced new rules outlining how federal contractors should handle their affirmative action and nondiscrimination obligations for protected veterans and for individuals with disabilities under the Vietnam Era Veterans’ Readjustment Assistance Act (“VEVRAA”), governing protected veterans, and Section 503 of the Rehabilitation Act (“Section 503”), governing persons with disabilities. The new rules attempt to measure federal contractors’ progress toward achieving equal opportunity for people with disabilities and protected veterans and fundamentally alter the rules for compliance.

The rules will soon be published in the *Federal Register* and will take effect 180 days later. Although some aspects of the rules were made less onerous, the final versions of both rules include significant requirements for employers. The VEVRAA rule requires contractors to establish an annual hiring benchmark, either based on the national percentage of veterans in the workforce (currently 8%), or based on the best available data and factors unique to their establishments. The Section 503 rule establishes an aspirational 7% utilization goal for the employment of individuals with disabilities. The rules also require that contractors compare the number of individuals with disabilities who apply to the number of individuals with disabilities that are hired, and keep those records for three years for audit purposes.

In addition to the above, an [article](#) in *Government Executive* of August 28, 2013, reports the Professional Services Council has their concerns about the rule. According to the article:

Two rules set new goals for federal contractors on hiring veterans and people with disabilities will increase paperwork and costs for companies that do business with the government -- but by how much depends on who you ask. A commercial construction contractors group has charged the rules will cost companies nearly six billion dollars a year in compliance costs, a figure the government strongly disputes. Under one of the new rules, federal contractors must set benchmarks for veteran hiring either at the national level of eight percent or based on their own analysis of the best available data, as part of an update to the 1974 Vietnam Era Veterans’ Readjustment Assistance Act. This rule increases record-keeping mandates and clarifies job listing and subcontractor requirements, the Labor Department’s Office of Federal Contract Compliance Programs (OFCCP) said.

Under another rule, contractors also must strive to fill seven percent of each job group in their workforces with qualified people with disabilities. This rule, which updates the 1973 Rehabilitation Act, also sets new recruiting, training and record-keeping requirements similar to those aiming to protect women and minorities in the workplace. The rules are scheduled to take effect 180 days after they appear in the *Federal Register*, which should happen “shortly,” OFCCP said.

We will keep you updated as this topic progresses.