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OFCCP Proposed Rule to Collect Pay Data/Addition of Sexual Orientation and Gender Identity to Protected Groups

OFCCP PROPOSED RULE TO COLLECT PAY DATA

Earlier this month, the OFCCP announced proposed regulations that would require contractors to submit an annual Equal Pay Report on employee compensation. This would apply to all covered contractors and subcontractors with more than 100 employees. The OFCCP is proposing to have employers file the information electronically as an annual supplement to the EEO-1 report and are requesting the following information:

- The total number of employees by EEO-1 category by ethnicity, race and gender;
- The total W-2 wages for all workers in the job category by ethnicity, race and gender;
- The total hours worked by all employees in the job category by ethnicity, race, and gender.

This report will be reviewed by OFCCP and used to determine potential targets for compliance audits. The agency also intends to publish aggregate summary data on the race and gender pay gap by industry and EEO-1 category "to enable contractors to review their pay data using the same metrics as OFCCP and take voluntary compliance measures".

This Notice of Proposed Rulemaking (NPRM) will be open for public comments from August 8 – November 6, 2014. We will keep you posted on any ongoing developments. In the meantime, if you are interested in either learning more about this or commenting, please go to the following link: www.dol.gov/ofccp/EPR.

ADDITION OF SEXUAL ORIENTATION AND GENDER IDENTITY TO PROTECTED GROUPS

Last month President Obama amended Executive Order 11246 to include sexual orientation and gender identity to the list of protected categories. Thus, federal contractors and subcontractors are prohibited to discriminate based on sexual orientation and gender identity.

The amendment requires the Secretary of Labor to propose regulations that would implement the requirements of this amendment by October 19th of this year.

Some states, Connecticut being one, had already banned discrimination on the basis of both sexual orientation and gender identity or expression in public and private employment. So, for many of you, the addition of these protected groups is not significant. It is also reported that a significant percentage of the top

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50 federal contractors already prohibited discrimination on the basis of sexual orientation and/or gender identity.

What is not known is how these new requirements will be implemented or enforced. We will continue to monitor these developments and will keep you posted.

In the meantime, if you have any questions, please feel free to call John Zandy at 203-498-4330 or Robin Martocci at 860-297-3710.

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.