

An Introduction to OFCCP

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About OFCCP

- Network of 6 regional offices and 50+ district and area offices
- More than 600 employees nationwide
- Reviews personnel practices of federal contractors and subcontractors through compliance audits
- Audits 4,000-10,000 contractor establishments annually



OFCCP'S Mission

- Ensure federal contractors comply with the laws and regulations requiring nondiscrimination and affirmative action:
 - Executive Order 11246
 - Section 503 of the Rehabilitation Act
 - VEVRAA
- Ensure compliance with Executive Order 13201
- I-9 Documentation



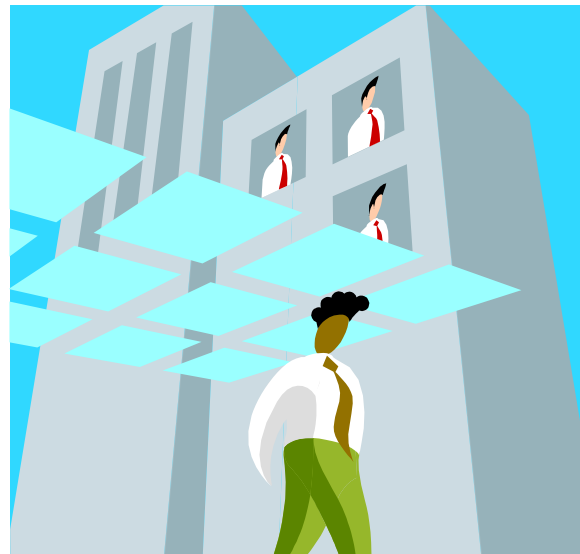
Basic EEO Obligations of Federal Contractors

- Don't Discriminate
- Post EEO Posters
- Include the EEO Tag Line in Employment Advertising
- Keep Records
- Permit OFCCP Access to Books and Records During a Complaint Investigation or Compliance Evaluation
- File an Annual EEO-1 Report



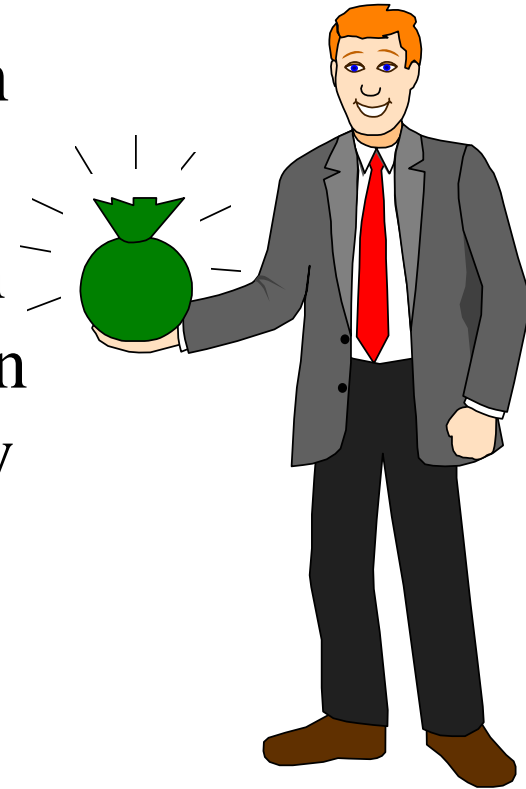
Executive Order 11246

- Prohibits employment discrimination by covered federal contractors and subcontractors on the basis of
 - Race
 - Color
 - Gender
 - Religion
 - National Origin



EO 11246 Jurisdiction

- Federal contract or subcontract in excess of \$10,000
- Contracts or subcontracts with an aggregate total value of more than \$10,000 or, which can reasonably be expected to exceed \$10,000, within a 12-month period
- Government bills of lading – any amount



EO 11246 Jurisdiction

- Financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes in any amount.
- Depositories of federal funds in any amount.



EO 11246 Exemptions

- Contracts valued at \$10,000 or less
- Work performed outside the U.S.
- Contracts with State and local governments
- Work on or near Indian Reservations
- National Interests
- National Security



Defining a government contract

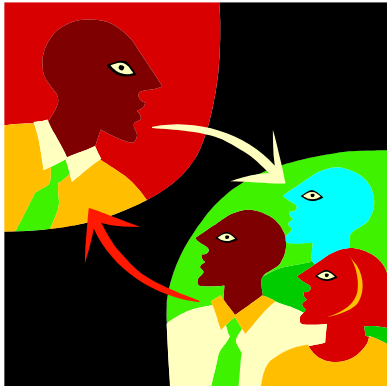


Agreement between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services.

- Personal property includes supplies and contracts for the use of real property (such as lease arrangements)
- Nonpersonal services includes utilities, construction, transportation, research, insurance, and fund depository



Not Government Contracts



- Agreements in which the parties stand in the relationship of employer and employee;



- Federally assisted construction contracts



Contract versus Grant

Contract

Principal purpose is to acquire property or services

Grant

Principal purpose is to transfer a thing of value to carry out a public purpose of support



Section 503 of the Rehabilitation Act

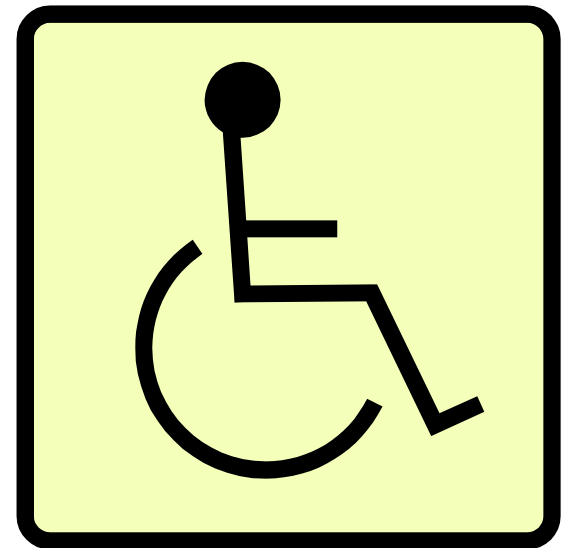


- Prohibits employment discrimination against qualified individuals with disabilities
- Applies to all employers that have a nonexempt Government contract or subcontract in excess of \$10,000
- Requires certain contractors to develop a written AAP



Americans with Disabilities Act

- Prohibits employment discrimination against qualified individuals with disabilities
- Applies to employers with 15 or more employees
- Primary enforcement by EEOC
- OFCCP authorized to act as EEOC's agent for complaints under both Section 503 & ADA



VEVRAA

- Prohibits employment discrimination and requires affirmative action in all personnel practices for protected veterans
- Applies to employers with nonexempt Government contracts of:
 - \$25,000 or more if issued before 12/2003
 - 100,000 or more if issued after 12/2003



Executive Order 13201

- Effective June 20, 2005
- Enforced by OLMS
- Requires nonexempt government contractors and subcontractors to:
 - Post notices informing employees that they have certain rights related to union membership and the use of union fees and dues.
 - Include the clause in all government contracts, except for CBAs and purchases under the simplified acquisition threshold



Immigration Reform and Control Act of 1986

- Requires employers to complete and maintain I-9 forms for employees
- OFCCP examines I-9 forms during onsite portion of a compliance evaluation
- Results are reported to the Bureau of Immigration and Customs Enforcement



How OFCCP Works

- Conducts Compliance Evaluations
 - Pre-Award Review
 - Off-site Review of Records
 - Focused Review
 - Full Compliance Review
 - Compliance Check
- Conducts Complaint Investigations

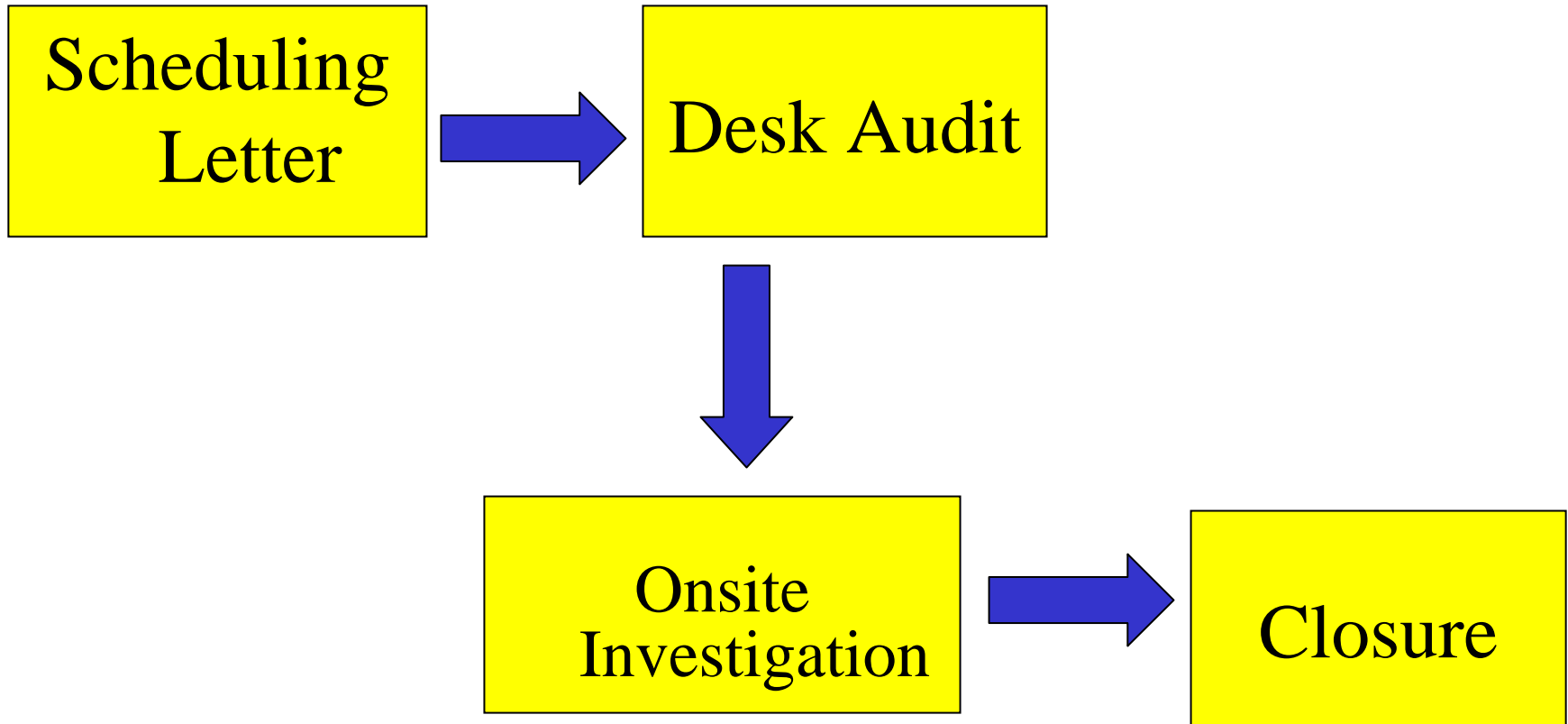


Identifying Contractors for Compliance Evaluations

- Federal Contractor Selection System
- Pre-awards
- Class Complaints
- Progress Report Violations



Compliance Evaluation Overview



Affirmative Action Programs

- A written program detailing the steps a contractor will take and has already taken to ensure equal employment opportunity
- Must meet the requirements of 41 CFR Part 60-2, 60-250 or 60-741.5
- Must be completed annually



Who must develop an AAP?

- Each nonconstruction contractor must develop and maintain a written AAP for each of its establishments if it has:
 - 50 or more employees AND
 - A contract for \$50,000 or more (or meets one of the exceptions to the \$50,000 single contract rule)
- AAP must be developed within 120 days of contract commencement
- AAP must be updated annually



Exceptions to the \$50,000 single contract rule (EO 11246 only)

- If bills of lading aggregate to a total of \$50,000 or more in any 12 month period or can reasonably be expected to total \$50,000 in a 12 month period.
- Depository of Government funds in any amount.
- Financial institutions which is an issuing and paying agent for U.S. savings bonds or saving notes in any amount.



EO 11246 AAP Requirements

- Organizational Profile
 - Organizational Display
 - Workforce Analysis
- Job Group Analysis
- Determining Availability
- Comparing Incumbency to Availability
- Placement Goals



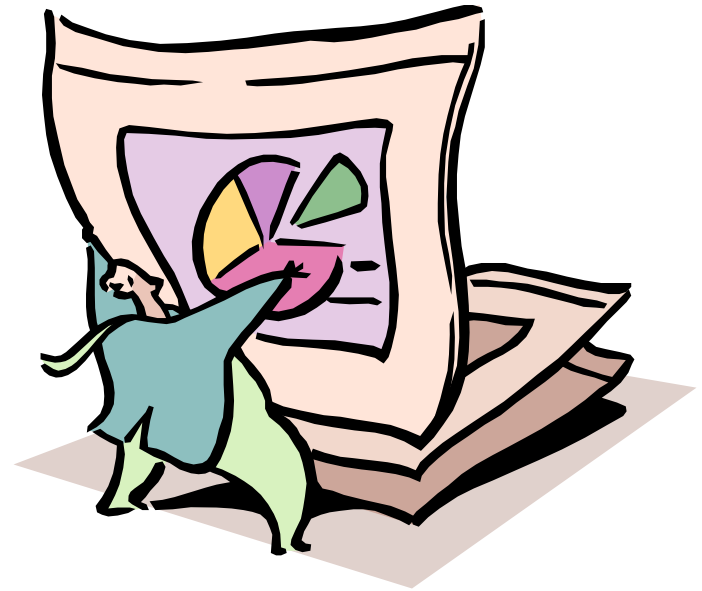
EO 11246 AAP Requirements (Continued)

- Designation of Individual Responsible for Implementation
- Identification of Problem Areas
- Action-Oriented Programs
- Periodic Internal Audits



503/4212 AAP Requirements

- Policy Statement
- Review of Personnel Processes
- Physical and Mental Qualifications
- Reasonable Accommodations to Physical and Mental Limitations
- Anti-harassment Statement



503/4212 AAP Requirements (Continued)

- External Dissemination of Policy, Outreach and Positive Recruitment
- Internal Dissemination of Policy
- Audit and Reporting System
- Responsibility for Implementation
- Training
- Job Listing (4212)



What's New at OFCCP

- Internet Applicant Recordkeeping Rule
- Changes to VEVRAA Regulations
- Compensation Notices



Internet Applicant Recordkeeping

- Requires contractors to solicit race, ethnicity and gender data from all Internet applicants
- Outlines search records a contractor must maintain
 - External databases (i.e. the dot com sites)
 - Dates, job, search terms and resumes of all that met basic qualifications and were considered
 - Internal databases
 - Dates, jobs, search terms, and all resumes added to the database



Who is an Internet Applicant?



- An Internet applicant
 - Expressed an interest using the Internet
 - Met the basic qualifications
 - Was considered for a particular position
 - And did not otherwise withdraw their interest
- Must Meet All 4 Criteria



VEVRAA Regulation Final Rule

- Conforms OFCCP regulations to statutory changes made by Congress
- Raised the amount of contract coverage from \$10,000 to \$25,000
- Granted VEVRAA protection to 2 new groups
 - Other protected veterans
 - Recently separated veterans



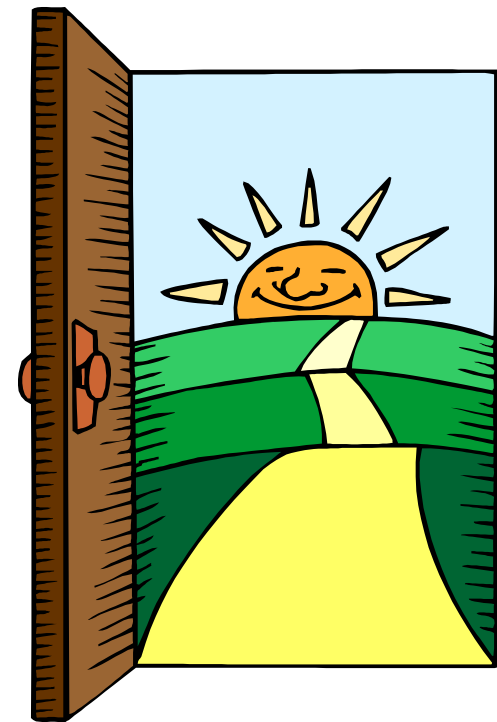
Compensation Notices

- Interpretive Standards
 - Govern OFCCP's analysis of contractors' compensation practices
 - Definitive interpretation of EO 11246 with respect to systemic compensation discrimination
- Voluntary Guidelines
 - Provides general guidelines for contractors to self-evaluate compensation practices
 - Availability of Coordination for OFCCP Compliance Monitoring



What's On the Horizon

- EO Survey Final Rule
- Revisions to OFFCP regulations that relate to new EEO-1 race/ethnicity groupings and job categories
- VEVRAA Proposed Rule



Compliance Assistance Resources

- Visit OFCCP's website
 - <http://www.dol.gov/esa/ofccp/index.htm>
 - Attend an OFCCP Seminar or Workshop
 - Calendar Online
 - Call or Email for Individual Assistance
 - 1-866-4-USA-DOL
 - OFCCP-Public@dol.gov
 - Does not trigger evaluation
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