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***Presented by:***

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# 20-Minute Webinar Series: Equal Pay Report (Proposed Rules)

**November 17, 2014**

*Presented by:*

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# Compensation Reporting Notice of Proposed Rulemaking (NPRM)

- The Office of Federal Contract Compliance Programs (OFCCP) is the U.S. Department of Labor's enforcement agency for affirmative action requirements.
- Federal contractors required by 41 C.F.R. Part 60-1 to submit employee information by race, gender and national origin on Employer Information Report ("EEO-1").
- OFCCP published NPRM on August 8, 2014 entitled, "Government Contractors, Requirement to Submit Summary Data on Employee Compensation"
  - Would amend 41 C.F.R. Part 60-1 by adding requirement that contractors supplement EEO-1 with compensation information using new Equal Pay Report
  - Comments originally due November 6, 2014; now due January 5, 2015

# Stated Purpose of Compensation Reporting NPRM

- **Critical tool to eradicate compensation discrimination**
- **Would enable OFCCP to direct enforcement activities towards employers where data suggests potential pay violations**
- **Enhances two enforcement objectives:**
  - **Greater voluntary compliance**
  - **Greater deterrence of noncompliant behaviors by contractors**

# Equal Pay Reports

- **Summary data on compensation paid to employees by:**
  - **sex,**
  - **race,**
  - **ethnicity,**
  - **specific job categories;**
  - **and “other relevant data points.”**
- **Equal Pay Report must be submitted in format and manner required by OFCCP, and according to final regulations when they are published.**

# Employers Required to File Equal Pay Reports

- **Prime contractors and first-tier subcontractors required to file EEO-1, and have:**
  - More than 100 employees, and
  - A contract, subcontract or purchase order (at least 30 days) amounting to \$50,000 or more
- **Generally includes following private employers:**
  - Prime contractors or first-tier subcontractors with contracts amounting \$50,000 or more
  - Serve as depository of Government funds in any amount
  - Financial institutions that are issuing and paying agents for U.S. Savings Bonds and notes
  - Those not exempt under 41 C.F.R. Part 60-1.5

# Data Employers Would Include in Equal Pay Report

- For each EEO-1 job category
  - Total number of workers as of December 31
  - W-2 wages for all workers
  - Hours worked by all employees
  - By race, ethnicity and sex
- Information submitted in aggregate, not individualized basis

# Requirements Regarding Filing Equal Pay Reports

- Filed electronically through OFCCP's web-based filing system
- Exception: Contractors that have been granted hardship exemption
- Proposed filing window: Year-end data filed January 1 to March 31 of following year (comments sought on this proposal)



# Retention Requirements for Equal Pay Reports

- Not less than two years from date of report
- Exception: One-year retention for contractors with fewer than 150 employees or who do not have contract of at least \$150,000

# Confidentiality, Publication and Sanctions

- OFCCP will treat Equal Pay Report information confidential under FOIA.
- OFCCP may publish aggregate data based on compensation information in Equal Pay Reports, but will not reveal particular establishment or individual worker information.
- Sanctions: Contractors that do not file timely, complete and accurate Equal Pay Reports, certifications and representations subject to sanctions as Executive Order 11246 violation.

# OFCCP's Planned Use of Equal Pay Report Data: Audit Selection

- Generate “reliable and objective industry standards” for:
  - Assessing individual contractor compensation data; and
  - Conducting contractor self-assessments.
- OFCCP will aggregate each contractor’s summary data with those of peer employers by industry to construct “objective industry standards.”
- OFCCP will prioritize evaluations of contractors with larger race or gender pay gaps than what is “typically measured by objective industry standards.”

***Questions?***

***Thank You!***

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