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## New Affirmative Action Rules for Federal Contractors

On August 27, the U.S. Department of Labor announced two significant final rules governing affirmative action. The Office of Federal Contract Compliance Programs (OFCCP) administers affirmative action requirements that federal contractors must follow. Nearly two years in the making, these new rules expand affirmative action obligations regarding disabled workers and Vietnam veterans.

Section 503 of the Rehabilitation Act of 1973 prohibits federal contractors from discriminating against disabled individuals and requires affirmative efforts to recruit, hire, promote, and retain disabled workers. The new final rule implements a 7% nationwide utilization goal for disabled individuals. Going forward, federal contractors must use this goal in analyzing their affirmative action plan statistics, goals, and accomplishments. The rule also requires expanded data collection, pre-offer and post-offer invitations to self-identify, incorporation of mandated language into subcontracts, and production of records in a form most convenient for the OFCCP.

A separate final regulation modifies the affirmative action obligations regarding veterans pursuant to the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). The VEVRAA prohibits discrimination against protected veterans and requires federal contractors to take affirmative steps to recruit, hire, promote, and retain them. The new rule requires annual hiring benchmarks for veterans. As with the other new rule discussed above, data collection, invitation to self-identify, mandated subcontract language, and record production requirements also are included in this new rule affecting veterans.

Both of these rules will take effect 180 days from their publication in the Federal Register, which should occur in the next week. Because many federal contractors have annual affirmative action plan cycles, the new rules allow such employers to follow these cycles, rather than having to immediately update their affirmative action plans mid-year, etc. to reflect the new requirements described above. However, the data collection requirements (which require federal contractors to be aware of what percentage of their workforce self-identifies as being a Vietnam Era veteran or qualified person with a disability) will become effective immediately once these new rules become effective.

So, federal contractors should start planning their future compliance efforts now – particularly those whose affirmative action plan cycles will be starting again shortly after the new rules go into effect in the Spring of 2014.

For assistance in understanding or complying with your affirmative action requirements, please contact [David Whitlock](#), [Karen Smith](#), or any other member of our [Labor & Employment Practice Group](#).

*The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.*

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