MOVING FORWARD AS GOVERNMENT CONTRACTOR: E.O. 11246, REHAB ACT & VEVRAA

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About the Presenter

Christine D. Hanley, Esq., is a Partner of Ford & Harrison LLP. Ms. Hanley received her J.D. and M.B.A. from the University of Miami. She is Board Certified in Employment and Labor Law by the Florida Bar of Legal Specialization and is admitted to the Florida and Georgia State Bars; she is also certified as a Senior Professional in Human Resources (SPHR) by the Society For Human Resource Management.

Ms. Hanley is a member of the Palm Beach County Bar Association, the Federal Bar Association, the Executive Women of Palm Beach County, the Rotary Club, the Forum Club of the Palm Beaches, Inc., the Human Resource Association of Palm Beach County, the Chamber of Commerce of the Palm Beaches, and the Business Forum of Palm Beach County.

Ms. Hanley has been awarded the South Florida Business Journal’s 2004 Best of the Bar Award, the South Florida Business Journal’s 2004 Heavy Hitters in Human Resources Award, the 2006 Academy of Florida Management Attorneys Past Presidents’ Award, the Chamber of Commerce of the Palm Beach’s 2011 Athena Business Award, the Executive Women of the Palm Beaches 2014 WILA Award for Public Sector, a 2006 through 2014 Florida Super Lawyer as nominated by Law & Politics, and selected for inclusion in the 2008 through 2014 Editions of The Best Lawyers in America. She is a past President and current member of the Academy of Florida Management Attorneys (AFMA).

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Let's begin the conversation...

Federal Government
Doing Business With
Prime Contractor
Subcontractor Subcontractor Subcontractor Subcontractor

Doing Business With
Supply & Service Contractors
Construction Contractors
Federally Assisted Contractors
A supply and service contract is any agreement for the purchase, sale, or use of supplies and services. These contracts include those for "personal property," contracts for the use of real property, and contracts for the provision of "non-personal services," including, utilities, transportation, research, insurance, and fund depository. Agreements made between employers and employees in the context of their work relationship are not considered "Federal contracts."

Supply and service contracts are subject to all of the laws that OFCCP enforces.

A construction contract is any agreement to provide construction services directly to any department, agency, establishment or instrumentality of the executive branch of the Federal Government.

Construction contracts are subject to all of the laws that OFCCP enforces.

But they are not required to develop a written affirmative action program.

A federally assisted construction contract is any agreement to perform construction that is paid for in whole or in part with funds provided by the Federal Government or borrowed on the credit of the Federal Government. Typically, a federally assisted construction contract involves funds received pursuant to a Federal program by means of a grant, loan, insurance, or guarantee provided to a company through that Federal program.

Federally assisted construction contracts are subject to EO 11246. However, EO 11246 does not require these contractors to develop a written affirmative action program.

Federally assisted construction contracts are not subject to Section 503 or VEVRAA.
Executive Order 11246 (EO 11246), as amended.

Requires non-discrimination and affirmative action to ensure equal employment opportunity on the basis of race, color, religion, sex, or national origin, and, as of April 8, 2015, sexual orientation and gender identity. Executive Order applies to all contractors, but construction contractors and companies participating in a construction project receiving Federal funds ("federally assisted construction contractor") have different affirmative action obligations than non-construction ("supply and service") contractors.

Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended.

This law prohibits supply and service and construction contractors (and their subcontractors) from discriminating in employment on the basis of disability.

 Contractors must take affirmative action to employ and advance in employment qualified individuals with disabilities.


This law prohibits supply and service and construction contractors (and their subcontractors) from discriminating in employment against veterans.

It also requires that these contractors take affirmative action to employ and advance veterans.

VEVRAA applies equally to disabled veterans, Armed Forces service medal veterans, separated veterans, and veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized.
Absent discrimination, over time a contractor's workforce, generally, will reflect the demographic profile of the labor pools from which the contractor recruits and selects.

You say To-may-to
I say To-mah-to

Benchmarks
Goals
EO 11246
Minorities
(By Economic Area)
Women
6.9%

VEVRAA
National Percentage
7.2%
or
Individualized Benchmark

Five Factors
- Average percentage of veterans in civilian labor force in states where contractor located (over preceding 3 years)
- Number of veterans (previous 4 quarters) who participated in ESDS in the state
- Applicant ratio and hiring ratio for previous year
- Contractor’s recent assessment of effectiveness of outreach and recruitment efforts
  - Other factors
Section 503

7% Utilization Goal

Got Goals?

Compliance Status

No contractor's compliance status will be judged alone by whether it reaches its goals.

The composition of the contractor's workforce does not, by itself, serve as a basis to impose sanctions.
Each contractor's compliance with its nondiscrimination obligations will be determined by analysis of statistical data and other non-statistical information which would indicate whether employees and applicants are being treated without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

Each contractor's compliance with its affirmative action obligations will be determined by reviewing the nature and extent of the contractor's good faith affirmative action activities . . . and the appropriateness of those activities to identified equal employment opportunity problems.
The secret's in the sauce...

Good Faith Efforts

Outreach

Documentation

Outreach Sources
Veterans
- www.vetjobs.com
- www.veteranrecruiting.com
- www.nrd.gov/home/veterans_job_bank
- www.hireveterans.com
- www.military-civilian.com
- www.recruitmilitary.com
- www.militaryconnection.com/postingprogram.asp
- www.mynextmove.org/vets
- www.america'sheroesetwork.gov/www.myskillsmyfuture.org
Outreach Sources
Individuals With Disabilities
- www.jobaccess.org
- www.abilityjobs.com
- www.askearn.org
- www.askjan.org
- www.cosdonline.org
- www.recrutdisability.org

And what about the Hmong?