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The Management Advantage, Inc., PO Box 3708, Walnut Creek, CA 94598
www.hrwebstore.com newsletter@management-advantage.com 925-671-0404

FINANCIAL INSTITUTIONS AND AFFIRMATIVE ACTION REQUIREMENTS

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Financial institutions are frequently in the news these days, mostly because of the meltdown of real estate loans made in the past few years. Many are working on solutions that could involve ownership of some portion of their common stock by the federal government. It doesn't even require that degree of federal involvement in banking operations to capture most of these businesses in the financial industry under regulations detailing affirmative action. Of course, the larger banks are complying and smaller ones do also once they are audited by the Department of Labor.

We receive questions every day about the jurisdiction of the Office of Federal Contract Compliance Programs (OFCCP). Most of the answers are easily found in the regulations, but OFCCP has tried to make it simpler to find them by creating a series of Frequently Asked Questions (FAQ) on its web site.

About financial institutions there are two considerations...1) U.S. Savings Bonds and 2) funds in the federal banking system. Here's how OFCCP explains the requirements for participating in affirmative action programs:

“Our business operates as a fund depository, and an issuing and paying agent for U.S. Saving Bonds and savings notes; therefore, are we required to comply with the Affirmative Actions Program (AAP) obligations under Executive Order (E.O.) 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, 38 U.S.C. 4212 and Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended?”

“The E.O. 11246 implementing regulations at [41 CFR 60-1.40\(a\) and 60-2.1\(b\)](#) state, in relevant part, that any nonconstruction (Supply and Service) contractor that serves as a depository of Government funds in any amount or a financial institution which is an issuing and paying agent for U.S. saving bonds and saving notes in any amount must develop an affirmative action program.”

[Go to OFCCP on Page 2](#)

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“Is a financial institution that is covered by the Federal Deposit Insurance Corporation (FDIC) for insurance coverage subject to the Affirmative Actions Program (AAP) requirements under Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, 38 U.S.C. 4212 and Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended?”

Banks and Credit Unions that have federal deposit and share insurance are required to have written affirmative action plans. Handling U.S. Savings Bonds will also qualify.

“Financial institutions with federal share and deposit insurance are considered to be government contractors within the meaning of the regulations implementing Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, 38 U.S.C. 4212 and Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended. These three programs enforced by the OFCCP require equal employment opportunity by government contractors.”

[SOURCE: OFCCP Web Site

<http://www.dol.gov/esa/ofccp/regs/compliance/faqs/emp/faqs.htm>]

So, if you have deposits insured under FDIC, or issue and exchange U.S. Savings Bonds (and/or notes), you are very likely required to have written affirmative action plans to meet the federal requirements. While it is true that OFCCP has not yet put a full-court press on enforcement in the financial industry, they have done extensive research about that part of the American employment arena in years past. All it will take is a concerted emphasis from the new Administration to focus its compliance efforts on banks and credit unions. Given the current financial (and political) exposure, that could come to pass.

EMPLOYING ILLEGAL ALIENS NOT JUST A BORDER STATE PROBLEM

Wheaton and Kensington, MD; Houston, TX; Pottsville, IA; Greeley, CO; Grand Island, NE; Cactus, TX; Hyrum, UT; Marshalltown, IA, Worthington, MN; DC; Oacoma, SD; Lindon, UT; Beardstown, IL; Greenville, MS; New Bedford, MA; Mount Pleasant, TX; Live Oak, FL; Chattanooga, TN; Batesville, AR; Moorefield, WV; Van Nuys, CA; Fairfield, OH; Chicago, IL. All are sites of arrests by the U.S. Immigration and Customs Enforcement (ICE) involving illegal employment activities.

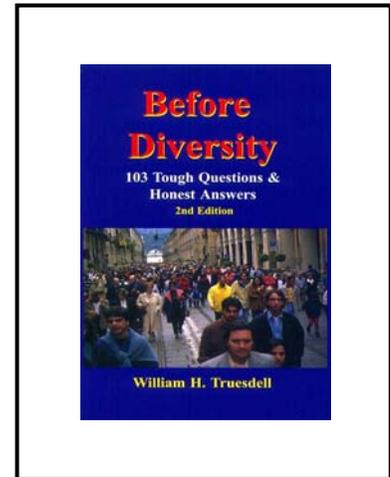
Business owners and managers, including at least one human resource manager, have been sent to prison and slapped with millions of dollars in fines following their convictions in recent years. It is a problem that reaches America's heartland, not just border states.

http://www.ice.gov/pi/news/factsheets/worksite_cases.htm

Before Diversity: 103 Tough Questions & Honest Answers

Employers today need to understand the differences among Equal Employment Opportunity, Affirmative Action and Workplace Diversity. With proper design and implementation all of these programs can work in concert to improve your organization through increased production, employee participation and loyalty. This volume presents honest answers to 103 tough questions that supervisors and managers must face today. Before you venture into a diversity management program in your organization, read the answers you will need to have for employee discussions.

<http://www.management-advantage.com/products/beforediv.htm>



STANDARD FORM 100 EMPLOYER SURVEYS

Many employers must report race and sex demographics (and for some, compensation information) of their workforce to the federal government on what is called the Standard Form 100. Depending on the sector of the economy you happen to be part of you will use one or another of the various forms.

EEO-1 Report

Known as the "Employer Information Report" it is due each year by September 30th. Used by private sector companies with 100 or more workers and by federal contractors with 50 or more people on the payroll and \$50,000 or more in a federal contract.

EEO-3 Report

Known as the "Local Union Report" it is collected every other year and is due by December 31st of even-numbered years.

EEO-4 Report

Known by names that can't be printed here, this report is used by state and local governments and is collected in odd-numbered years. Full-time and part-time employment figures should cover the payroll period which includes June 30 of the survey year. New hires data is for the entire fiscal year which ends on June 30th.

EEO-5 Report

Known as the "Elementary-Secondary Staff Information Report" this document is used by the Office of Civil Rights, the EEOC, and the National Center for Education Statistics within the Department of Education. It is used every other year in even-numbered years. It will be due next on November 30, 2010.

[SOURCE: EEO Surveys, <http://www.eeoc.gov/employers/surveys.html>]

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SOLIS CONFIRMED AS SECRETARY OF LABOR

On February 24, 2009, the U.S. Senate confirmed the appointment of Hilda Solis as the Secretary of Labor for the new Administration. The process had taken over a month of hearings and committee debates, but in the end, the confirmation came in time for the new Secretary to attend President Obama's speech to the joint meeting of Congress that evening.

Since 2001, Ms. Solis has represented the 32nd Congressional District in California. She graduated from California State Polytechnic University, Pomona and earned a Master of Public Administration degree from the University of Southern California. A former federal employee, she worked in the Carter White House Office of Hispanic Affairs and was later appointed as a management analyst with the Office of Management and Budget in the Civil Rights Division.

She served in the California State Assembly from 1992 to 1994 and in 1994 was the first Latina elected to the California State Senate. She was chair of the California Senate Industrial Relations Committee and authored a record seventeen state laws aimed at combating domestic violence.

<http://www.dol.gov/sec/welcome.htm>

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PO Box 3708
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925-671-0404

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Editor: William H. Truesdell, SPHR
billt@management-advantage.com

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