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NEW OFCCP ENFORCEMENT FOCUS

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The new director at the Office of Federal Contract Compliance Programs (OFCCP), Patricia Shiu, is making her presence known with a focus on enforcement tactics. There are two major issues being emphasized by the agency in compliance reviews these days.

Issue #1: Good Faith Efforts – Particularly Related to Veterans

Federal regulations tell us that federal contractors will be judged on the extent of their good faith efforts to implement their affirmative action plans, not on their success or failure in meeting placement rate goals. What hasn't been emphasized much until now is the need to actually demonstrate what good faith efforts have been made for placement of veterans. At most, Compliance Officers reviewed a list of veteran placement agencies that were sent job opening announcements and let it go at that. Today, contractors can expect to be asked to pull out a great deal more documentation. The objective is to identify which recruiting and outreach efforts have had success and which have not. Then, contractors are being expected to drop sources that have not brought candidates and focus on building relationships with those that have produced qualified job candidates. Bottom line: Prove that your recruiting efforts are successful for veterans (and disabled...and minorities and women).

Issue #2: Adverse Impact Analysis

OFCCP is strengthening its focus on disparate impact testing for illegal discrimination. This is analysis required of federal contractors for employee movement selections in new hires, promotions, terminations at a minimum. The numbers on OFCCP reports of remedies obtained for minorities and women suffering disparate treatment come mostly from "failure to hire" and pay discrimination. While analyzing compensation programs is a field of great controversy, OFCCP is nonetheless sticking to its guns about identifying disparate impact through Adverse Impact Analysis of the federal contractor's compensation programs. Our suggestion is that all federal contractors should conduct statistical significance testing on their compensation and employee movement data at least once per year and be prepared to show that data to the agency if they come knocking on your door. Of course, it should go without saying that any statistically significant results that hint at a problem should be followed up with further investigation and documentation.

Congress Considering Major Changes to Immigration Law – and Employment

Excerpts from Siskind's Immigration Bulletin – April 30, 2010...

<http://www.visalaw.com>

Democrats in the US Senate are circulating a 26-page plan outlining soon to be introduced comprehensive immigration reform legislation.

The current E-Verify system would be replaced with the Biometric Enrollment, Locally-stored Information and Electronic Verification of employment (BELIEVE) System.

Achieving Control of the Borders

The plan is different in many respects from earlier proposals. The most significant change involves the delaying of a legalization program until the following eight benchmarks are met:

1. Increasing the number of Border Patrol officers;
2. Increasing the number of ICE agents combating smuggling;
3. Increasing the number of ICE worksite enforcement inspectors and resources;
4. Increasing the number of ICE document fraud detection officers and improved detection capability;
5. Increasing the number of personnel to conduct inspections for drugs, contraband and illegal immigrants at ports of entry;
6. Improving technology, infrastructure, and resources to assist the Border Patrol and ICE;
7. Increasing resources for prosecuting smuggling and unauthorized border crossers; and
8. Increasing immigration court resources to expedite the removal of unlawfully present individuals.

The proposal also notes plans for additional ports-of-entry and the hiring of thousands of new CBP (Customs & Border Patrol) inspectors. State and local governments will be barred from enacting their own immigration laws.

Ending Illegal Employment through Biometric Employment Verification

Within 18 months, SSA will begin issuing tamper-resistant, machine-readable biometric social security cards. The cards will be used to verify work authorization and not as proof of citizenship or lawful immigration status. SSA will verify identity and work authorization of each person before issuing card. An administrative adjudication process can be invoked if an individual is unable to establish identity.

Employers will be required to use a new **Biometric Enrollment, Locally-stored Information and Electronic Verification of Employment (BELIEVE) System** as a means of verification. Employees will present the biometric SSA card to employers who will swipe the cards through a card reader. The BELIEVE system will replace the current I-9/E-Verify system within six years. **Fines will be tripled for employers** hiring someone not authorized for employment, hiring someone without verifying work authorization, continuing to employ someone the employer knows is not authorized to work or for violating the anti-discrimination rules.

The new system will be funded through a fee charged to non-citizens as part of the biometric social security card application process, EAD application fees, fees charged to businesses seeking to act as authorized employment eligibility screeners, fines charged for violating the new law and fees charged to US citizens for obtaining replacement Social Security Cards.

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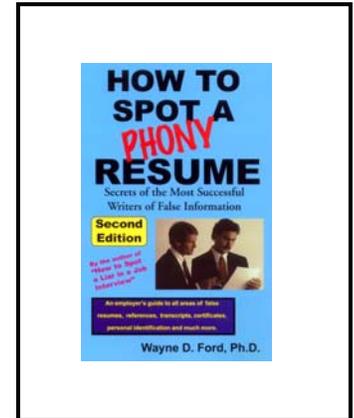
<http://www.EmployeeRetentionManager.com>

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How to Spot a Phony Resume – Second Edition

If you have responsibility for hiring employees in your organization, you will want to have this book by your side as you process each candidate. **Human Resource Managers** nearly universally complain that resumes they receive from job candidates are inflated in content. What may be a "slight enhancement" to one person is a "complete fabrication" to another. There are ethical issues involved and questions about legal liability if those mis-truths cause injury to others.

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



INTERNET SOURCES FOR EMPLOYERS RECRUITING VETERANS

Here are some resources for federal contractors (or other employers) who are searching for qualified candidates among U.S. military veterans. There are a great many former military members who are now looking for employment in both the government and private sectors of our economy. Don't forget that the government has spent a great deal of money training these people and they have practiced skills that may just fit in with your needs.

All federal contractors with a contract of \$100,000 and 50 or more employees must comply with federal regulations that specify implementation of an outreach and recruiting program for veterans. The OFCCP is now holding contractors accountable for proving their outreach and recruiting efforts are "paying off" with results reflecting actual veteran hires.

You might experiment with these resources. Some will likely work for you while others won't deliver the results you want. Use those that work and discontinue those that aren't productive.

- www.military.com
- www.usajobs.com (federal gov't jobs)
- www.hireahero.com
- www.hirevetsfirst.dol.gov/
- www.militaryhire.com
- www.usmilitary.about.com/od/jobopportunities/a/disabledvet.htm
- www.recruitmilitary.com
- www.militaryjobzone.com
- www.militarystars.com/job_seekers.htm
- Or ... develop your own resource list

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OFCCP COMPENSATION ANALYSIS

At an April 14, 2010, meeting of the Silicon Valley Industry Liaison Group (ILG), Jackson/Lewis attorney Mickey Silberman (silbermanm@jacksonlewis.com) shared these observations with the group of assembled employers...

- The three most productive factors in regression analysis of compensation are:
 - Starting salary
 - Years of prior related experience
 - Salary prior to joining the organization
- Prior related experience is not data kept in most HRIS databases. Age cannot be used as a proxy variable for related experience.
- Compensation analysis, and data related to it, should always be analyzed at the job title level.
- OFCCP continues to conduct its pay analyses at the job group level.
- The 30-10-3 screening test (Tipping Point) will be abandoned by OFCCP. It is unclear what will replace it.

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