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Special Report for HR Professionals

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OFCCP QUIET SINCE NOVEMBER ELECTION

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Since the presidential election last month, the Office of Federal Contract Compliance Programs (OFCCP) has remained silent. Before the middle of this year, the agency had several regulatory proposals in the works, and could have easily published them as final rules. So far, that has not happened. Why? We haven't been given any hints.

OFCCP continues to be confrontational in compliance evaluations. As a matter of fact, often the Compliance Officer begins with a demand to know if the contractor will be using a consultant or attorney during the audit process. A simple request for information would be sufficient, but often it is made as a demand with a strong suggestion that consultants and attorneys will only muddy the waters. It is strongly suggested that the agency wants to deal directly with the contractor without interference. If you are now undergoing an audit or have received a scheduling letter notifying you of one upcoming, leave your options open and tell the Compliance Officer that you reserve the right to request assistance if you decide it is in your best interest to do that.

And, be advised that during on-site inspections, the second audit phase for some contractors, Compliance Officers frequently wish to interview managers and supervisors in addition to senior executives. You should remember that whatever management people say can be accepted as the official position of the company. Therefore, it is wise to exercise caution each time a member of management is interviewed. Be sure that an HR professional or company attorney is present during the interview to clarify any misunderstandings that might occur.

Finally, be aware that OFCCP is sometimes showing up with two Compliance Officers to do interviews. One will conduct the interview while the second types away on a computer recording the things said. In the end, they will ask the person interviewed to sign the record of their session. First, always read whatever is prepared to be sure it is accurate and complete. Usually, there will be things omitted or incorrectly stated. Second, seek the advice of your attorney about the wisdom of signing such a record. We usually consider it a bad idea, especially for management people. In the private sector, it is not a requirement.

EEOC RELEASES PERFORMANCE REPORT UNDER NEW STRATEGIC PLAN

The Equal Employment Opportunity Commission (EEOC) has continued to make progress in reducing its backlog of complaint case investigations. It closed its 2012 fiscal year at the end of September having resolved 111,139 charges of discrimination, leaving 70,312 cases in inventory waiting for resolution. That represented a reduction of nearly 20% in the backlog.

Its first objective under the recently enacted strategic plan was to increase the amount of monetary relief for employees when illegal discrimination had occurred or the employer wished to settle without admission of ill treatment of employees. FY 2012 saw a recovery of \$365.4 million, the highest level in agency history. About \$36 million (10%) came from cases involving charges of systemic discrimination. That is up by a factor of four from the FY 2011 numbers.

EEOC litigators generated \$44.2 million in complaint relief from employers. The lawyers for EEOC filed 122 lawsuits during the year, based on the merits of cases.

It received 99,412 charges from employees around the country. Since it resolved 11,727 more than it received during the year, there was the reduction in inventory we mentioned earlier.

The EEOC is also responsible for investigating complaints of illegal workplace discrimination from federal employees. In FY 2012 the agency secured more than \$61.9 million in federal complaint cases. Federal agencies are responsible for processing their own complaints and the EEOC handles appeals from final agency decisions. During the year there were a total of 7,728 requests for hearings received and the EEOC resolved 7,538 cases.

One of the EEOC's key strategic objectives is to conduct educational and outreach programs across the country. In FY 2012 EEOC offices participated in 3,992 no-cost educational, training, and outreach events, reaching 318,838 people in those programs. These efforts targeted small businesses, vulnerable workers, underserved geographic areas and communities.

During the year, EEOC personnel had to begin implementing protections for new statutory provisions including those for migrant workers, human trafficking problems, and youth.

Equal pay issues continued to receive highlighted attention under the Obama Administration's emphasis on reducing the pay gap it says exists between men and women.

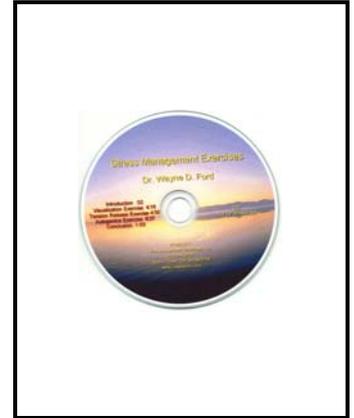
For more information about the EEOC's performance and accountability report go to:

[http://www.eeoc.gov/eeoc.newsroom/release/11-19-12.cfm](http://www.eeoc.gov/eeoc/newsroom/release/11-19-12.cfm)

Stress Management Exercises on Disk

Holiday stress can be severe. With all the extra tasks to perform, gatherings to attend, family needs to support, and additional work load due to a shorter work month, life can seem overwhelming. That's when you need the help Dr. Wayne Ford offers in this disk of relaxation exercises. Treat yourself to a lower stress level. Order your copy today.

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



OSHA ANNOUNCES NURSING HOME PLAN

Earlier this year, the Occupational Safety & Health Administration (OSHA) announced a program for emphasizing safety in the nation's nursing and residential care facilities. It made its announcement saying certain injuries are common among employees in these work places.

During the fiscal year 2010 (FY 2010) nursing and residential care facilities experienced one of the highest rates of lost workdays due to injuries and illnesses of all major American industries. The incidence rate for cases involving days away from work in this group of employers was 2.3 times higher than that of all private industry as a whole, despite the availability of feasible controls to address hazards. Slips, trips and falls, combined with overexertion claimed the top number of accident causes.

OSHA has plans to increase its inspections of these medical facilities in the future. The hazards to workers include "bloodborne pathogens and biological hazards, potential chemical and drug exposures, waste anesthetic gas exposures, respiratory hazards, ergonomic hazards from lifting and repetitive tasks, laser hazards, workplace violence, hazards associated with laboratories, and radioactive material and x-ray hazards. Some of the potential chemical exposures include formaldehyde, used for preservation of specimens for pathology; ethylene oxide, glutaraldehyde, and paracetic acid used for sterilization; and numerous other chemicals used in healthcare laboratories," according to the OSHA web site.

It is not just the medical staff that are exposed to increased risks. There are many non-medical staff employed by nursing and residential care facilities. They include mechanical equipment maintenance staff, medical equipment maintenance staff, housekeeping staff, food service personnel, building and grounds maintenance staff, laundry and administrative staff.

For more information go to:

http://www.osha.gov/OshDoc/Directive_pdf/CPL_03-00-016.pdf and
<http://www.osha.gov/SLTC/nursinghome/index.html>

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CENSUS BUREAU RELEASES 2010 EEO DATA FILES

On November 29, 2012 the U.S. Bureau of the Census began releasing the EEO data files from the 2010 Census. Eventually, there will be 107 tables available.

The EEO Tabulation serves as the primary external benchmark for comparing the race, ethnicity, and sex composition of an organization's internal workforce, and the comparable external labor market. There is more than race and sex data available, however.

Other crosstabulated characteristics include citizenship, occupation, industry, age, educational attainment, earnings, and unemployment status. Geographically, these categories are included in the tabulation: U.S. total, each state, the District of Columbia, Puerto Rico, metro and micro areas, counties, places and EEO County sets.

Affirmative Action Plans depend on comparable Census data to compute availability and then determine placement rate goals for the year. This 2010 update has been long awaited.

<https://www.census.gov/people/eeotabulation/>

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