OFCCP Grants Exemption and Waiver for New Coronavirus Relief Contracts

Wednesday, March 18, 2020

In a Memorandum issued yesterday, OFCCP has granted a three-month, national interest exemption and waiver from AAP obligations for new federal contracts “entered into specifically to provide Coronavirus relief.”

In summary, the “exemption and waiver extends to all affirmative action obligations of supply and service and construction contracts, and other obligations as specified in” FAR clauses 52.222-26 (EEO-Executive Order 11246); 52.222.35 (veterans); and, 52.222-36 (individuals with disabilities).

The exemption and waiver, although limited in time (expires after June 17), is broad and suspends the following obligations under EO 1124, Section 503 and VEVRAA:

- Affirmative action efforts, but not the prohibition against discrimination;
- Written AAPs;
- EEO Policy Statement and other posting requirements;
The requirement to include the EEO Tagline in job postings;
Listing of job openings with state workforce agencies;
Union notices regarding the EEO Policy Statement;
EEO-1 filing requirements (unless the contractor also has 100 or more employees); and,
On-site audit access, but not access to contractor premises for complaint investigations.

OFCCP has also issued helpful FAQs, which explain:

Only new supply & service and construction contracts solely for the specific purpose of providing Coronavirus relief are covered by the exemption.

The coronavirus National Interest Exemption only applies to new supply & service and construction contracts specifically for coronavirus relief efforts. Contractors that hold contracts unrelated to coronavirus relief, and thus were already required to comply with the affirmative action requirements of laws enforced by OFCCP, must continue to do so.

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