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Labor and Employment Law

August 2014

OFCCP Proposes Rule Regarding Annual Submission of Employee Compensation Data

On August 6, 2014, the Office of Federal Contract Compliance Programs (OFCCP) issued a [proposed rule](#) requiring covered Federal contractors and subcontractors with more than 100 employees to submit an annual Equal Pay Report on employee compensation. Prior to this proposed rule, President Obama signed a [Presidential Memorandum](#) on April 8, 2014, instructing the Secretary of Labor to propose a rule within 120 days to collect compensation data from Federal contractors and subcontractors.

The Equal Pay Report applies to contractors and first-tier subcontractors who are required to file EEO-1 Reports, have more than 100 employees, and have a Federal contract, subcontract, or purchase order worth \$50,000 or more that covers a period of at least 30 days. The Report requires contractors to submit:

- Total number of workers within a specific EEO-1 job category by race, ethnicity, and sex;
- Total W-2 wages, defined as the total individual W-2 wages for all workers in the job category by race, ethnicity, and sex; and
- Total hours worked, defined as the number of hours worked by all employees in the job category by race, ethnicity, and sex.

According to the OFCCP, this data will allow the OFCCP to direct its enforcement resources towards Federal contractors whose summary data suggests potential pay violations. However, according to a [Fact Sheet](#) and [FAQs](#) published by OFCCP, the Equal Pay Report will not collect individual pay data or additional factors that may affect pay.

The OFCCP is proposing a reporting window of January 1 to March 31. The data would be based on W-2 earnings for the prior calendar year for all employees included in the contractor's EEO-1 report for that year.

The OFCCP plans to develop a web-based portal for reporting and maintaining compensation information that conforms to applicable IT security standards. The OFCCP has indicated it intends to protect the confidentiality of the data to the maximum extent permitted under the Freedom of Information Act.

Comments regarding the proposed rule must be submitted by November 6, 2014.

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