

Compliance At 100,000 Feet



Presented by Kathy Albarado, CEO, Helios HR
www.helioshr.com

Compliance At 100,000 Feet

- ❖ Federal Employment Regulations
- ❖ Requirements for Federal Contractors
- ❖ Affirmative Action Plan (AAP) Content
- ❖ How Could you be Audited?
- ❖ New Enforcement Approach to Affirmative Action: Systemic Discrimination
- ❖ OFCCP Compliance Review: Would you pass an audit?

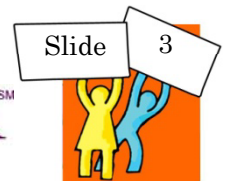
About the Presenter

Kathy Albarado is President & CEO of Helios HR, a firm specializing in outsourced human resources management and consultation. Helios delivers targeted HR services, focusing on the challenges unique to government contractors.

Helios HR provides outsourced, retained, interim and project based HR solutions. We provide targeted support that allows our clients to focus on strategic initiatives. For more information visit us at www.helioshr.com.

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Federal Employment Regulations

Federal Regulation	Number of Employees				
	100+	50+	20+	15+	ALL
Annual Report (Form 5500)	✓				
EEO-1 Reporting (*100 for private sector)		✓			
Family Medical Leave Act of 1993(FMLA)		✓			
Age Discrimination in Employment Act of 1967 (ADEA)			✓		
Consolidated Omnibus Reconciliation Act of 1990 (COBRA)			✓		
Title VII, The Civil Right Act of 1964, as amended				✓	
Americans with Disabilities Act of 1990 (ADA)				✓	
Equal Pay Act (EPA)					✓
Fair Labor Standards Act (FLSA)					✓
Employee Retirement Income Security Act of 1974 (ERISA)					✓
Health Insurance Portability and Accountability Act (HIPAA)					✓
Uniform Services Employment and Reemployment Rights Act (USERRA)					✓
Immigration Reform and Control Act of 1986 (IRCA)					✓
Employee Polygraph Protection Act of 1988					✓
OSHA					✓
Consumer Credit Protection Act					✓
Fair Credit Reporting Act					✓

Slide 4

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Federal Employment Regulations

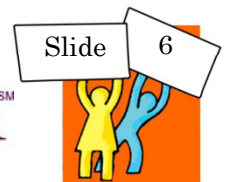
- ❖ New minimum wage requirement of \$7.25 per hour goes into effect on July 24, 2009
- ❖ Formalized policies are required
- ❖ State and Federal laws require employers to post labor laws

Requirements for Federal Contractors

Regulation	\$100k In government contracts	\$50k In government contracts	\$25K in government contracts	\$10K in government contracts	\$2,500 in government contracts	\$2000 In government contracts
Drug Free Workplace Act of 1988	✓					
Vietnam Era Veterans Readjustment Act of 1974 *includes Vets 100 reporting			✓			
Rehabilitation Act of 1973				✓		
Service Contract Act					✓	
Walsh-Healey Public Contracts Act				✓		
Davis-Bacon Act						✓
Executive Orders 11246 (as amended by 11375 and 11478)				✓		
Executive Orders 11246 (as amended by 11375 and 11478) and have 50 employees a formalized Affirmative Action plan required		✓				

NOTE: E-Verify becomes mandatory for Federal Contractors
on **September 8th, 2009**

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Affirmative Action Plan (AAP) Content

What is included in an AAP?

Analysis of Applicant Flow

By job group, # of applicants, hires, by race and sex

Analysis of Hires, Promotions and Terminations

By job group, by race and sex

Affirmative Action Plan (AAP) Content

- ❖ Statistical Analysis
 - ❖ Workforce Analysis
 - ❖ Job Group Analysis
 - ❖ Availability Analysis
 - ❖ Utilization Analysis & Goals
 - ❖ Narrative & Prior Year Goals

- ❖ Veteran's & Disabled AAP

Definition of an Applicant

Applicant (versus a Candidate)

- ❖ Has applied for a specific position
- ❖ Has been “considered” for a position
- ❖ Meets the “minimum qualifications” and
- ❖ Has not withdrawn the application

How a Federal Contractor is Selected for Audit

- ❖ Federal Contractor Selection System (FCSS)
 - ❖ Based on EEO-1 Reports and census/industry data
- ❖ In response to complaints from employees, former employees, applicants or community organizations
- ❖ Pre-award compliance review for contracts over \$1M

AAP Enforcement: Outcomes of an Audit

- ❖ Best
 - ❖ Audit is closed (without an onsite visit)
 - ❖ Letter of Compliance

- ❖ Worst
 - ❖ Finding of discrimination with demand for back pay and hire/promotion/change in compensation/reinstatement
 - ❖ Could result in up to 2 years of back pay

- ❖ Mixed
 - ❖ Audit continues to onsite visit
 - ❖ Record keeping and technical violations
 - ❖ Violations for insufficient outreach efforts/Conciliation Agreement
 - ❖ Progress Reporting obligations for up to 2 years

New Enforcement Approach to Affirmative Action: Systemic Discrimination

- ❖ The Office for Federal Contract Compliance (OFCCP) is the EEOC for government contractors
- ❖ The new enforcement approach has tripled the monetary settlements in back pay and “remedies” since 2002
 - ❖ 2002 = \$24M vs. 2008 = \$67.5M
- ❖ Every compliance review has the potential to become a full-scale discrimination investigation
- ❖ Does not require any charge of discrimination

OFCCP Compliance Review: Would you pass an audit?

- ❑ Do you have a formal written plan with analysis; established goals and progress to goals?
- ❑ Are your goals reviewed with Executive Committee members and Department Heads?
- ❑ Is your recruitment process documented and followed by all hiring managers?
- ❑ Can you prove there is no adverse impact in your hiring process?
- ❑ Are applicants tracked? Do you offer the opportunity for applicants to self identify?
- ❑ Are your open positions posted with state Job Service Offices?
- ❑ Do your Employment Advertisements state EOE/M/F/D/V?
- ❑ Are your I-9 Forms accurately completed?: Current employees and terminated employees separated?
- ❑ Is your Employee Relations environment monitored?
- ❑ Are your vendors required to have an AAP statement?
- ❑ Is your community outreach documented?
- ❑ Are signed EEO and AA policies posted?

Thank You For Attending

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