



9 HR Questions Every Federal Contractor **Must Be Able To Answer**

By C2 Essentials

Question:

Are any of our government contracts subject to the OFCCP Affirmative Action Plan requirements?

Why?

Both Prime contractors and subcontractors are required to annually prepare and maintain affirmative action plans if they have at least 50 employees and federal service contracts in excess of \$50,000. Failure to prepare and maintain up-to-date AAP's can result in fines and penalties to contractors.

Question:

Am I required to pay any of my employees pursuant to Service Contract Act wage determinations?

Why?

That depends on whether your service contract is denominated by the government as being covered by the Service Contract Act (SCA). Your Contracting Officer will be able to tell you and should be able to provide you with the applicable wage determinations. Alternatively, your prime or subcontract should include a provision if the positions filled under the contract are to be covered by the SCA.

Question:

Are you in compliance with Section 503 of the Rehabilitation Act? Are you utilizing the self-ID form? Have you incorporated the heightened utilization goals into your Affirmative Act Plan?

Why?

If you have 50 or more employees and have federal contracts in excess of \$15,000, then you must include individuals with disabilities in your AAP. Additionally, you must give job applicants the option to declare whether they are disabled. Contractors are required to shoot for a disability utilization goal of 7% as part of their affirmative action requirement.

Question:

Are you required to use E-Verify to check the work authorization of employees working on your federal contracts?

Why?

E-Verify is an electronic system designed to allow companies to check whether individual job applicants are eligible to work in the United States. With limited exceptions, federal contractors are required to use E-Verify. The E-Verify requirement affects Federal contractors who were awarded a new contract on or after September 8, 2009, that includes the Federal Acquisition Regulation (FAR) E-Verify clause (found at 48 C.F.R., Subpart 22.18). Some existing Federal contracts may also be bilaterally modified to include the FAR E-Verify clause after the effective date of the rule.

Question:

Do you know whether you are required to annually file the VETS 4212 form with the Department of Labor?

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Why?

The U.S. Department of Labor (DOL)'s Veterans' Employment and Training Service (VETS) is responsible for administering the requirement under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA) (38 U.S.C. 4212(d)) that federal contractors and subcontractors track and report annually to the Secretary of Labor the number of employees in their workforces who belong to the categories of veterans covered under the affirmative action provisions of the Act. Federal contractors and subcontractors with a contract or subcontract of \$150,000 or more are required to annually file a VETS-4212 Report, which requires the company to list the number of employees and new hires during the reporting period who were "protected veterans".

Question:

Do you have “contractors”
or “1099 employees”
working on your projects?
Do you know whether they
are correctly classified as
such by the Department of
Labor and the IRS?

Why?

Did you know that whether a worker is an “employee” or an “independent contractor” is not determined by how the company classifies them? Rather, the IRS and DOL have tests for determining whether a person is an employee or not. Misclassifying a worker as a “1099 contractor” otherwise known as an “independent contractor” can cost federal contractors a lot of money in back wages, fines, and attorneys’ fees. So correctly classifying workers is an essential component for federal contractors.

Question:

Does your initial job application ask applicants to indicate whether they have been convicted of a crime? If so, do you know whether the state in which the employee works allows such questions on the initial application?

Why?

Over the last several years, many states have enacted differing “ban-the-box” laws, which refers generally to the idea that employers cannot ask on an initial job application whether an applicant has ever been convicted of a crime or arrested. Requirements vary by state, so federal contractors must be aware of the law in all jurisdictions in which they plan on hiring employees.

Question:

Are your e-mail, social media, and internet usage workplace policies compliant with the standards enunciated by the National Labor Relations Board?

Why?

Did you know that even if you do not have a unionized workforce, you and your employees are still subject to the National Labor Relations Act (NLRA)? Your company handbook and policies must not restrain employees in their ability to discuss among themselves the terms, privileges, and conditions of their employment. In recent years, social media and internet use policies have come under fire for preventing employees from discussing anything that is not “work related”.

Question:

Does your company have a corporate ethics program? If not, do you know whether the FAR requires your company to have one?

Why?

Under the FAR, federal contractors are required to “conduct themselves with the highest degree of integrity and honesty” and to have a written code of business ethics and conduct, an employee business ethics and compliance training program and an internal control system. This compliance program requirement applies if the value of the contract is expected to exceed \$5.5 million and the performance period is 120 days or more. The ethics program must typically be in place within thirty (30) days after the contract is awarded unless the Contracting Officer sets a longer time period.

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