

UNIVERSITY OF CALIFORNIA

Office of Ethics, Compliance and Audit Services, HR-Compliance

Information Sheet: OFCCP Compliance Evaluations and Enforcement Trends August 2016

BACKGROUND:

The University of California is a large government contractor receiving approximately 3.3 billion dollars in Federal contracts and grants (12.4% of UC's \$26.7 billion operating budget for 2014-15). The Office of Federal Contract and Compliance Programs (the "OFCCP") enforces the equal employment opportunity and affirmative action requirements of Executive Order 11246; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA). The OFCCP has performed compliance evaluations at UCLA, UCSC, UCSF, and UCR campuses and is currently auditing UCSD and UCI. Other UC locations may be selected for compliance evaluations in the future.

OFCCP'S CURRENT ENFORCEMENT TRENDS:

- **Continued focus on compensation discrimination/ Equal Pay Act enforcement.** The Obama Administration has made clear "fair pay" is its number one enforcement priority, and OFCCP has clearly been placed in the driver's seat on this issue. In accordance with the regulations, contractors must evaluate compensation practices annually. When conducting a compensation analysis, contractors should review record retention practices, analyze compensation policies and practices, and evaluate pay decisions while considering the factors that influence pay.

- **Compliance with regulations concerning individuals with disabilities and protected veterans.** With the revised Section 503 and VEVRAA regulations becoming effective nearly one year ago, the OFCCP is now reviewing affirmative action plans ("AAPs") that are subject to the revised requirements. Over the next year, it's likely the OFCCP will focus on evaluating the progress contractors have made in complying with the data collection and record retention components of the revised regulations. Additionally, the OFCCP is expected to continue to focus on a contractor's outreach and recruitment efforts during compliance reviews, particularly for Individuals with Disabilities and Protected Veterans.
Activities: The list below includes some of the efforts that UC has implemented in the last year to comply with the Section 503 and VEVRAA revisions:
 - Revised applicant and new hire forms.
 - Incorporated the voluntary survey regarding disability status into the application and onboarding process for all academic and staff positions.
 - Administered a systemwide survey asking employees to voluntarily self-identify disability status.
 - Revised compliance language in procurement contracts and purchasing orders

- **Focus on "steering" claims during audits of federal contractors.** "Steering" claims examine whether women or minorities are discriminatorily assigned to less desirable jobs, typically positions with lower pay, less prestige, and/or fewer opportunities for advancement. Using defined requisition systems where applicants choose the jobs and shifts to apply to may help with avoiding potential steering issues.

- **Continued focus on hiring disparities.** The OFCCP's interest in hiring disparities combined with the agency's interest in issues concerning veterans and individuals with disabilities, means that robust, complete applicant reports are critical to the success of a compliance review. An effective applicant report should demonstrate the following:
 - That all classes of applicants were properly considered for open positions.

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- That there was sufficient outreach associated with open positions to draw minorities, females, veterans, and persons with disabilities into applicant pools.

All University personnel involved in hiring must also receive information regarding the University's affirmative action compliance obligations and commitment to equal employment opportunity.

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