



HR CORNER

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OFCCP Proposes Potentially Burdensome Changes to Compliance Review Scheduling Letter

The Office of Federal Contract Compliance Programs (OFCCP), the office responsible for ensuring that federal contractors comply with laws and regulations requiring nondiscrimination, currently sends scheduling letters approved by the Office of Management and Budget (OMB) to federal contractors. These scheduling letters notify contractors that they have been scheduled for a compliance evaluation on certain employment policies. The OFCCP has recently proposed changes to the scheduling letter that would require contractors to provide additional data on their leave policies, employment activity, compensation data, and accommodations to veterans. However, the Society for Human Resource Management (SHRM) and the College and University Professional Association for Human Resources (CUPA-HR) have estimated that the additional burdens on a federal contractor to respond to such a scheduling letter will be too great.

The proposed scheduling letter would require federal contractors to submit to the OFCCP their leave policies, including sick leave, medical leave, personal leave, leave for pregnancy, leave for pregnancy-related conditions, leave for religious holidays and observances, and Family and Medical Leave Act (FMLA) leave. Federal contractors would also have to submit their policies on accommodations for religious beliefs. While the OFCCP estimates this will add a 0.02 hour increase in the burden for a contractor responding, the SHRM and the CUPA-HR disagree, estimating that producing this additional data would add five to ten additional hours to a federal contractor's reporting obligations. In addition, the associations have questioned whether the collection of these policies would shed any light on whether a federal contractor has complied with its obligations to provide equal employment opportunity and take affirmative action.

In addition, the OFCCP has proposed that federal contractors report personnel activity by five or seven separate racial and ethnic categories rather than the current two categories, and that contractors report this data by job group and job title. This will create a huge burden on large federal contractors that may have more than 30 job groups and more than a thousand individual job titles. The SHRM and the CUPA-HR have estimated that this reporting requirement could increase a contractor's time to respond to the proposed scheduling letter by 10 to 15 hours.

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Federal contractors may also have to alter the way they currently report compensation data. The OFCCP has proposed that federal contractors report compensation information by individual employee rather than in an aggregated format. The proposal also expands the groups of employees to be included in the report. Contractors would have to provide documentation and policies related to compensation practices; data regarding hours worked for each individual; and individualized information about bonuses, incentives, commissions, merit increases, locality pay, and overtime. The SHRM and the CUPA-HR estimate that this part of the proposal could add up to 30 hours alone to a contractor's burden.

Federal contractors would also be required by the proposal to provide copies of accommodations provided to veterans. SHRM and CUPA-HR have asked the OMB to evaluate the benefits and burdens of the revised scheduling letter independently to ensure that the least amount of burden is placed on federal contractors to achieve the OFCCP's objectives, as the proposal could greatly increase the burden on such contractors in responding to a scheduling letter.

FEES & BURGESS, P.C. - Calendar of Events

Employment Law Survival Training for Managers: 10 Key Areas of Legal and Practical Knowledge

Date: January 19, 2012

Location: Fees & Burgess, P.C.

This day-long program, presented by Jeffrey Roth, Leah Green, and Ryan Blount, is a must for training managers and supervisors to recognize and deal with challenging employee issues that arise daily in the workplace. Attendees will learn key aspects of critical issues and how to work with existing company policies to address and resolve them.

The key areas covered in the program will include the employment relationship, company policies and handbooks, equal employment, medical issues in the workplace, and other key areas. This highly interactive program includes discussion of real-life scenarios encountered by supervisors, and how, and how not, to respond to each scenario or crisis. This program is designed to help managers and supervisors from small and large businesses recognize high risk situations and minimize, or eliminate, those risks.

To register, or for more information on these, and other upcoming events, please e-mail us at seminars@feesburgess.com, or visit us online at www.feesburgess.com.

NEW FOR 2012 - LUNCH AND LEARNS

Beginning in January, and continuing throughout the year, Fees & Burgess, P.C., will be presenting periodic lunch and learns. These sessions will last approximately 75 minutes and will cover a wide range of timely topics. The first session will focus on Fair Labor Standards Act Compliance.

This program has been submitted for one hour of HRCI Credit, and will cover:

- Likely areas for misclassification of non-exempt employees;
- Common misunderstandings related to payment on a “salary basis”;
- Overtime payment and payments overlooked in calculating regular rate;
- Independent contractors versus employee, and joint employer issues;
- Recordkeeping requirements; and
- Recent enforcement activity.

These lunch and learns will be located in our office in downtown Huntsville, easily accessible from both Memorial Parkway and the I-565 freeway. The price of attendance will also include lunch.

For more information on this, and other upcoming events, please visit us online at www.feesburgess.com, or e-mail us at seminars@feesburgess.com.

FORM I-9 AUDIT SERVICES

The Employment Eligibility Verification Form I-9 is a simple form used by employers to verify their employee’s identification and establish that the employee is eligible to work in the United States. Every individual hired after November 6, 1986, and his or her employer must complete an I-9 Form at the time of hire. It is the company’s responsibility to ensure that the I-9 form is completed in full within three days of the employee’s hire.

Employers who fail to fully comply with Form I-9 can face significant legal and public relations risks. Whether intentional or accidental, non-compliance has severe consequences imposed by the Department of Homeland Security and its enforcement agency, Immigration and Custom Enforcement, including potentially large fines. A basic review of I-9 forms can save companies from unnecessary risk.

Is your company unknowingly in violation of I-9 requirements?

- Does your company have an I-9 on file for all applicable employees?
- Has someone from the company signed and certified each I-9 form?
- Are the forms properly dated?
- Are you reviewing proper documentation?
- Has anyone reviewed expired documentation?
- Have you made appropriate re-verifications?
- Are you keeping appropriate documentation required by an E-Verify MOU?

For more information on this, and other services, please visit us online at www.feesburgess.com, or e-mail us at info@feesburgess.com.



SPEAKERS

FEES & BURGESS, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact seminars@feesburgess.com.

NEWSLETTERS

FEES & BURGESS, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these newsletters, please e-mail newsletters@feesburgess.com with your contact information.

To remove your name from our mailing list, please e-mail newsletters@feesburgess.com.

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HR Corner should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only. Anyone needing specific legal advice should consult an attorney.

“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”

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