



Understanding Employment Laws for Federal Contractors



Meet the higher standards of working
for the federal government

Disclaimer: This Module Is Not Intended To Give Advice Regarding Business, Federal, Or Other Laws. This module Is For Informational Purposes Only With Knowledge Derived From, Study, Experience, Or Instruction.



Learning Objectives

At the end of this module, you will be able to:

- List the various laws that govern all federal contractors and subcontractors.
- Understand the impacts that federal government contracts might have on your business.
- Identify six recommended compliance steps.

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About FDIC Small Business Resource Effort

- The Federal Deposit Insurance Corporation (“FDIC”) recognizes the important contributions made by small, veteran, and minority and women-owned businesses to our economy. For that reason, we strive to provide small businesses with opportunities to contract with the FDIC. In furtherance of this goal, the FDIC has initiated the FDIC Small Business Resource Effort to assist the small vendors that provide products, services, and solutions to the FDIC.
- The objective of the Small Business Resource Effort is to provide information and the tools small vendors need to become better positioned to compete for contracts and subcontracts at the FDIC. To achieve this objective, the Small Business Resource Effort references outside resources critical for qualified vendors, leverages technology to provide education according to perceived needs, and offers connectivity through resourcing, accessibility, counseling, coaching, and guidance where applicable.
- This product was developed by the FDIC Office of Minority and Women Inclusion (OMWI). OMWI has responsibility for oversight of the Small Business Resource Effort.



Executive Summary

- Doing business with the government can be rewarding and profitable *as long as* you are aware of employment laws that you must adhere to.
- Several types of laws—which govern federal contractors and subcontractors—can significantly impact your work.
- A working knowledge of employment laws will help you avoid potential legal pitfalls.



Employment Law Basics

- The U.S. has numerous federal and state laws and regulations regarding employee rights and employer responsibilities. The laws cover four broad categories:
 - Discrimination
 - Fair pay
 - Employee privacy
 - Safety in the workplace
- Various government agencies enforce these laws including the Equal Employment Opportunity Commission (EEOC), the Department of Justice, and the Department of Labor.
- Small businesses are exempt from some of these federal laws (see the following page), but as a federal contractor or subcontractor, you must adhere to certain specific laws.

Key Federal Employment Laws

	Law	Brief Description	Exemption Criteria
1	Title VII of the Civil Rights Act of 1964	Prohibits discrimination in the hiring process (race, color, religion, sex, national origin)	Businesses with fewer than 15 employees
2	American with Disabilities Act (ADA)	Prohibits discrimination against a person with a qualified disability	No exemptions
3	Age Discrimination in Employment Act (ADEA)	Prohibits discrimination against workers aged 40 or older	Businesses with fewer than 20 employees
4	Fair Labor Standards Act (FLSA)	Governs the following: duration of work hours, breaks, minimum salary, and overtime	Businesses with less than \$500,000 in annual sales
5	Family and Medical Leave Act (FMLA)	Employers must allow employees (who have worked there more than 12 months) up to 12 weeks off for certain medical conditions	Businesses with fewer than 50 employees

(State laws might be more stringent)



Unique Laws for Federal Contractors and Subcontractors

- **These laws apply to all businesses:**
 - Executive Order 11246
 - Americans with Disabilities Act, Section 503 of the Rehabilitation Act
 - Vietnam Era Veterans' Readjustment Assistance Act of 1974
- **These laws apply only to construction contractors/subcontractors:**
 - Davis-Beacon and Related Acts
 - McNamara-O'Hara Service Contract Act



Executive Order 11246

- Executive Order 11246 is similar to *Title VII* in that it addresses discrimination, but is geared specifically toward ***federal contractors***.
- The Order “prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over **\$10,000** in Government business in **one year** from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin.”
- The Order also requires “supply and service contractors—generally those with **50** or more employees and a contract of **\$50,000** or more—to develop and maintain a written affirmative action program (AAP).”



Administration of Executive Order 11246

- Executive Order 11246 is administered by the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP).
- The OFCCP's mission is "to enforce, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government."
- The OFCCP **proactively audits** federal contractors and subcontractors to ensure compliance.
- The OFCCP also enforces Section 503 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified individuals with disabilities; and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act, which prohibits discrimination against qualified protected veterans.



A Comparison of Governing Bodies Regarding Discrimination

	Equal Employment Opportunity Commission	Office of Federal Contract Compliance Programs
Agency Acronym	EEOC	OFCCP
Agency Status	Independent Government Agency	Office within the Department of Labor
Employment Law Focus	Discrimination	Discrimination, Fair Pay
Business Focus	Private and public companies (covered by the laws) as well as the federal agency sector	All federal contractors and subcontractors
<u>Functions:</u>		
Responds to complaints?	Yes	Yes
Performs audits?	No	Yes
Education and training?	Yes	Yes
Enforcement Authority	Lawsuits	Disbarment



What This Means for Small Business Owners

- If you are awarded a sizeable contract with a federal government agency, you must make your books and records available if audited by the OFCCP.
- For very small firms who are not currently subject to the federal laws, you may have to make changes including but not limited to the following:
 - Create/upgrade employee policies, procedures, and practices.
 - Create and administer an Affirmative Action Program.
 - Create/update employee training programs.
 - Become more knowledgeable about employment law and/or hire an attorney or Human Resources firm to help you become compliant.



6 Major Guidelines from the OFCCP

1

PREVENT
DISCRIMINATION
FROM HAPPENING

2

POST EEO POSTERS IN
THE WORKPLACE

3

INCLUDE EEO TAGLINE
IN EMPLOYMENT
ADVERTISING

4

KEEP GOOD RECORDS

5

PERMIT OFCCP ACCESS
TO YOUR BOOKS AND
RECORDS

6

FILE AN ANNUAL
EEO-1 REPORT



Self-Audits

- The OFCCP recommends conducting self-audits to ensure that you provide equal opportunities to applicants and employees.
- Audit suggestions:
 - Assess your hiring or promotion decisions: How have they impacted your numbers?
 - Review job families and geography within your business: Where are there women and minorities? Where are women and minorities missing?
 - Review your hiring practices: How have they affected women and minorities over longer time periods (quarters, years)?



Next Steps

If you are a small business that is already doing business with a federal agency (\$10,000 or more per year) or plans to in the future:

- Visit the Office of Federal Contract Compliance Program pages on the Dept. of Labor's website (www.dol.gov/ofccp/).
- Review the guidelines.
- List any actions you need to take to be fully compliant.
- Perform a self-audit to see how your business is doing (use the how-to guide on the website).



Excellent Employment Law Resources for Small Businesses

- www.smallbusiness.findlaw.com
- www.HG.org
- www.HRHero.com
- www.DOL.gov/ofccp/



Key Takeaways from This Module

- Before you pursue a federal contract, it is important to understand how the employment laws impact doing business with the federal government.
- Following the six steps outlined by the OFCCP will help your business stay compliant.
- Self-audits of your hiring and promotion practices will help you proactively find and address problem areas.



Sources and Citations

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- Smallbusiness.findlaw.com, *Employment and Anti-Discrimination Laws: An Introduction*