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Employer Mandates: Employee Notifications Under FAR And DFARS

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AMADEO LAW FIRM

PROFESSIONAL LIMITED LIABILITY COMPANY



Introductions

Mark A. Amadeo

- Over 20 years experience as government counsel & law firm counsel
- LL.M. Georgetown University Law Center; J.D. University of Wisconsin Law School; B.A. Boston College
- Founder & Managing Partner of Amadeo Law Firm, PLLC
- Focus on Government Contracting & Technology
 - Review/negotiation: FAR/DFARS Compliance
 - Pre & Post Award Teaming, JV's & Subcontracts
 - Technology: IP Preservation & Commercialization

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Employer Mandates Employee Notifications Under FAR And DFARS

Introduction

- **Employer Mandates**
 - **Substantive requirements**
 - **Employee notification requirements**

Employer Mandates Employee Notifications Under FAR And DFARS

Nondiscrimination

Veterans

52.222-35 Equal Opportunity For Veterans

52.222-37 Employment Reports On Veterans

52.222-38 Compliance with Veterans' Employment Reporting
Requirements

Workers With Disabilities

52.222-36 Equal Opportunity For Workers With Disabilities

Segregated Facilities

52.222-21 Prohibition of segregated facilities

*EO

52.222-26 *Equal Opportunity*

Employer Mandates Employee Notifications Under FAR And DFARS Nondiscrimination

EO

52.222-26 Equal Opportunity

- **Contracting Officer Notices**
 - **52.222-26 Explanation – post in conspicuous place**
 - **Labor union or CBA representative notice – post in conspicuous place**
- **Job listings – nondiscrimination statement**
- **OFCCP Pay Transparency Notice**
 - **Employee manuals or handbooks**
 - **Electronic post or post in conspicuous place**

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Affirmative Action

- Construction contractors
- Contractors > 50 Employees Under Certain Contracts

52.222-23 Notice of Requirement For Affirmative Action To Ensure Equal Employment Opportunity For Construction

52.222-25 Affirmative Action Compliance

***52.222-27** *Affirmative Action Compliance Requirements For Construction*

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Affirmative Action

52.222-27 Affirmative Action Compliance Requirements For Construction

- **Equal Employment Policy**
 - **Provide notice to unions, and training, recruitment and outreach**
 - **Review with management personnel and minority and female employees**
 - **Post policy on bulletin boards**
 - **Review equal employment policy and affirmative action obligations with employees that hire and fire**
 - **Review with on-site supervisors before starting construction**

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Worker Behavior

Drug-Free

**52.223-6 Drug-free workplace*

DFARS 252.233-7004 Drug-free work force

Texting While Driving

**52.223-18 Encouraging Contractor Policies To Ban Text
Messaging While Driving**

Ethics

**52.203-13 Contractor Code of Business Ethics and Conduct*

**52.203-16 Preventing Personal Conflicts of Interest*

Combat Trafficking In Persons

**52.222-50 Combat Trafficking In Persons*

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Worker Behavior

Drug-Free

52.223-6 Drug-free workplace

- **Statement – Publish w/in 30 days, prohibiting manufacture, distribution, possession & use & actions taken for violations**
- **Statement – provided to employees performing under contract**
- **Statement – inform that compliance & self reporting within 5 days of workplace violation leading to conviction are conditions of employment**

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Worker Behavior

Ethics

52.203-13 Contractor Code of Business Ethics and Conduct

- **W/in 30 days, make copies available to employees performing under contract**

52.203-16 Preventing Personal Conflicts of Interest

- **Covered employees – must obtain disclosure of affected interests**
- **Covered employee – must update if circumstances change**

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Worker Behavior

Combat Trafficking In Persons

52.222-50 Combat Trafficking In Persons

- **Notify employees of government policy**
- **Notify employees of actions that will be taken for violations**

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Confidentiality Agreements

52.203-18 Prohibition on Contracting with Entities that Require Certain Confidentiality Agreements or Statements - Representation

****52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements***

- **Must notify employees inconsistent restrictions no longer in effect**

Employer Mandates Employee Notifications Under FAR And DFARS Whistleblower Protections

- *52.203-15 *Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009*
 - **Post notice of employee whistleblower rights and remedies**
- *52.203-17 *Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights; and*
- *DFARS 252.203-7002 *Requirement To Inform Employees of Whistleblower Rights*
 - **Inform in writing, in predominant workforce language, of employee whistleblower rights and protections**

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Wage, Hour and Benefits

52.222-4 Contract Work Hours and Safety Standards - Overtime Compensation

52.222-6 Construction Wage Rate Requirements

52.222-9 Apprentices and Trainees

52.222-20 Contracts for Manuals, Supplies, Articles and Equipment

****52.222-41 Service Contract Labor Standards***

****52.222-55 Minimum Wages For Contractor Workers Under Executive Order 14026***

****52.222-62 Paid Sick Leave Under Executive Order 13706***

Employer Mandates Employee Notifications Under FAR And DFARS

Wage, Hour and Benefits

52.222-41 Service Contract Labor Standards

- **Notify employees of min wages and fringe benefits or post wage determination**
- **DOL poster – prominent and accessible place**

52.222-55 Minimum Wages For Contractor Workers Under Executive Order 14026

- **Notify workers of applicable E.O. min wage**
 - **SCLS or (Construction) Wage Rate Requirements – post wage rate determinations**
 - **FLSA – post DOL notice/poster**
 - **Post electronically, if customary**

52.222-62 Paid Sick Leave Under Executive Order 13706

- **Notify employees of federal paid sick leave requirements**
 - **Post DOL notice/poster; electronically, if customary**

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Hiring

52.207-3 Right of First Refusal of Employment

52.222-3 Convict Labor

52.222-54 Employment Eligibility Verification

**DFARS 252.203-7001 Prohibition on Persons Convicted of Fraud or
other Defense Contract-Related Felonies**

DFARS 252.222-7000 Restrictions on Employment of Personnel

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Miscellaneous Employee Notification Requirements

52.203-14 Display of Hotline Poster(s)

- Agency & DHS fraud hotline identified by CO – common work areas
 - Employee information website – must post electronic versions
- Business ethics and conduct awareness program w reporting mechanism – only DHS posters

252.203-7004 Display of Hotline Posters

- DoD fraud, waste and abuse hotline poster – display in common work areas
 - If significant portion non-English speakers – foreign language
 - Employee information website – must display electronic versions
- Outside U.S. & security concerns – may provide employee private instructions or briefings
- DHS disaster relief funds & in U.S. – DHS fraud hotline poster

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Miscellaneous Employee Notification Requirements

52.222-40 Notification of Employee Rights Under the National Labor Relations Act

- **DOL employee notice**
 - **In conspicuous places where notices customarily posted physically and electronically**
 - **In languages that employees speak**

Employer Mandates Employee Notifications Under FAR And DFARS Last Thoughts

Employee Notification Mandates In FAR And DFARS

THANKS!

Any questions?

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