

DRAFT FOR DISCUSSION

This document is drafted solely for discussion during the January 20, 2017 meeting of the Definitions Subcommittee and should not be construed as legal advice or a final recommendation of this subcommittee or the Task Force.

HIGH PRIORITY RECORDKEEPING REQUIREMENTS

Record	Legal Authority	Summary of Requirements	Length of Time
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)			
External outreach and recruitment efforts related to protected veterans and individuals with disabilities	41 C.F.R. §§ 60-300.44(f)(4), 741.44(f)(4)	Requires documentation of: <ol style="list-style-type: none">1. External outreach and recruitment efforts for hiring protected veterans and individuals with disabilities; and2. Annual written assessment of the effectiveness of each of the contractor's activities.	3 years
Data collection analysis (related to protected veterans and individuals with disabilities)	41 C.F.R. §§ 60-300.44(k), 741.44(k)	Requires contractors to document and update annually: <ol style="list-style-type: none">1. Number of applicants who self-identified as protected veterans or individuals with disabilities;2. Total number of job openings and jobs filled;3. Total number of applicants for all jobs;4. Number of protected veterans and individuals with disabilities hired; and5. Total number of applicants hired.	3 years
Annual hiring benchmark (related to protected	41 C.F.R. § 60-300.45	Requires documentation of the benchmark used by the contractor each year, including each of the factors considered in establishing the hiring benchmark and the relative significance of each of these factors (if the contractor chooses to create its own benchmark consistent with the regulations, rather than	3 years

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veterans)		simply use the national percentage of veterans in the civilian labor force, which will be published and updated annually on the OFCCP Web site).	
All other documents required to be retained for OFCCP compliance	41 C.F.R. §§ 60-1.12(a), 300.80(a), 741.80(a)	Applies to “any personnel or employment record made or kept by the contractor . . . from [1] the date of the making of the record or [2] the personnel action involved, whichever occurs later.”	2 years
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)			
Personnel records	29 C.F.R. § 1602.14	Private employers must preserve all “personnel records . . . from the date of the making of the record or the personnel action involved, whichever occurs later.” This includes, but is not limited to, “requests for reasonable accommodation, application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship.” <i>Note:</i> Because these records that must be preserved substantially overlap with the documents required for OFCCP compliance, employers may find it easier to preserve those same documents for 2 years regardless of the EEOC’s requirements.	1 year
CALIFORNIA REQUIREMENTS			
Applications and	CAL. GOV.	Employers must maintain records of “all applications,	

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referral records	CODE § 12946	personnel, membership, or employment referral records.”	2 years
Terms and conditions of employment	CAL. LAB. CODE § 1197.5(d)	Employers must maintain records of the “wages and wage rates, job classifications, and other terms and conditions of employment” of employees for purposes of the California Equal Pay Act.	3 years
Payroll records	CAL. LAB. CODE § 1174(d)	Employers must maintain payroll records showing the daily hours worked by the employees and the wages paid to them.	3 years
Wage deductions	CAL. LAB. CODE § 226(a)	Employers must maintain copies and a record of any wage deductions showing the month, day, and year of the deduction.	3 years
Personnel records	CAL. LAB. CODE § 1198.5(a), (c)(1)	Employers must maintain a copy of each employee’s “personnel records” for at least three years. This requirement applies to “personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.”	3 years
Employee information and time records	Wage orders issued by the California Industrial Welfare Commission. <i>See, e.g., IWC ORDER 4-2001(7)</i> (applicable to “professional, technical, clerical, mechanical, and similar occupations”)	Employers must maintain records with the employee’s: <ol style="list-style-type: none">1. Full name, home address, occupation and social security number;2. Birth date, if under 18 years, and designation as a minor;3. Time records showing when the employee begins and ends each work period.4. Meal periods, split shift intervals and total daily hours worked;5. Total wages paid each payroll period, including other compensation actually furnished to the employee;6. Total hours worked in payroll period and applicable	3 years

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