

IHRIM WSR (Oct-Nov 2011) – Executive Interview with...

Gary Bagwill, Vice President of Human Resources - Technology & Compensation Systems, QinetiQ North America

QinetiQ North America (QNA) was founded in 2004 -- the result of merging 15+ different acquisitions into a new company. A partner to government organizations -- predominantly to UK and US defense, intelligence, and security agencies -- QNA provides professional technical services in the aerospace, federal agencies, defense and security markets. WSR spoke with Gary Bagwill, Vice President of Human Resources - Technology & Compensation Systems, on the topic of HR compliance in the government contracting arena.

WSR: What are the main areas of HR compliance that QNA, as a government contractor, needs to be concerned about?

Bagwill: Government contractors are subject to many additional and special employment laws and regulations. In addition to the most common areas of HR compliance, such as EEO, AA, ADA, VETS-100, etc., as a government contractor, there many additional requirements to manage to comply with the required audits. That ensures the company appropriately tracks and accounts for labor charges for the services we provide. Here are a few to give you a flavor of HR compliance for government contractors:

Executive Order 11246 requires that government contractors have a written Affirmative Action Plan (AAP) that identifies those areas of the workforce that may reflect under-utilization. Government agencies have to meet specific goals that certain percentages of their business are given to small businesses, as well as female-owned, minority-owned, and other businesses. Based on a workforce analysis, specific actions may be established to reduce under-utilization in certain areas. We are required to maintain personnel and employment records for a period of two years from the date of the action, including things like job descriptions, job postings and advertisements, records of job offers, applications and resumes, interview notes, tests and test results, written employment policies and procedures, personnel files, etc.

Federal Acquisition Regulations (FAR) requires that government contractors adopt and regularly communicate business conduct and ethics practices, educate their employees on its provisions, and establish an internal control program for the timely discovery of improper conduct and ensure corrective measures are taken.

McNamara-O'Hara Service Contract Act (SCA) applies to every contract entered into by the United States which establishes the exact wage – down to the penny – for every type of service contractor based on experience level, job title, geography, etc. SCA employees are sometimes referred to as “Wage Determined” or WD, since their rate of pay and benefits are predetermined by the government. This is for specific types of positions in the services areas, but not for all types of service jobs. There is also a mandated fringe rate on top of the base hourly rate that covers other costs like benefits, vacation, and

holidays. Safety and health standards also apply for each position and are enforced by the Occupational Safety and Health Administration (OSHA). To meet these requirements, we have to maintain meticulous records on our employees for at least three years from completion of each contract, including name, address, social security number, work classification, wage rate, fringe benefits provided, daily and weekly compensation, hours worked, deductions, rebates, refunds, employees' length of service information, etc. The companies may pay the individuals more than the specified rates, but those additional costs would not be paid for by the government. Sometimes there can be challenges to find highly qualified candidate for positions, when the wages have a preset ceiling that is limited by the government reimbursement rates.

Davis Bacon Act (DBA) applies to federal contracts for the construction, alteration or repair of public buildings or works. Contractors under DBA must pay employees no less than the local prevailing wages and fringe benefits for equivalent work on similar projects in that location. This is similar in nature to the SCA program, but for a different type of work.

Walsh-Healey Public Contracts Act (PCA) establishes minimum wage, maximum hours, and health and safety standards for work involving the manufacturing or furnishing of materials, supplies, articles or equipment to the U.S. Government or the District of Columbia.

Copeland "Anti-Kickback" Act prohibits federal contractors involved in building construction or repair work from inducing employees to give up any compensation they are entitled to under their employment contract. Contractors are also required to submit weekly statements demonstrating their compliance with this act.

Executive Order 13201 requires federal contracts to include an employee notice clause requiring non-exempt government contractors to post notices informing employees of certain rights under federal law regarding union membership and the use of union fees.

Executive Order 12989 requires federal contractors to use the E-Verify system to electronically verify the employment eligibility of their employees.

Office of Federal Contract Compliance Programs (OFCCP) monitors compliance with many of these programs. The OFCCP is like the EEOC for the government contract community. Our plans can be audited at any time to make sure we are compensating people appropriately, terminating people correctly, and in general not being discriminatory in our practices. Penalties for non-compliance can include fines, suspension, and even permanent debarring from receiving federal contracts.

Defense Contract Audit Agency (DCAA) is the agency that regulates all government contractors regarding policies, practices, financials, contract provisions, etc. They can come into any government contractor and audit the books at any time to verify compliance with bill rates, hours worked, expense reimbursements, etc. If you are not in compliance with the requirements then you can be barred from doing business, required to repay monies for services charges, and you could lose your contracts. This is an area of great attention on focus for government contractors.

WSR: What happens if a contractor violates the SCA?

Bagwill: If any Department of Defense contractor doesn't follow the SCA guidelines to the "T", the Government has an obligation to ensure employees are compensated appropriately under the approved guidelines. For example, if a company charges US\$200 per hour for a contractor with a bachelor's degree and 10 years of experience., and the DCAA does an audit and finds out that the person has only an Associate's Degree with 6 years of experience, the company could be hit with a large fine. They would be guilty of fraudulently charging the government for this individual's service, when in fact they don't have the qualifications.

They can also terminate your contract entirely, holding the government contractor liable for all costs incurred and services billed since the beginning of the contract. They can even bar the contractor from future government contracts for a period of three years. Clearly the risk of non-compliance is significant. Some large defense contractors have DCAA auditors residing in their offices on a full-time basis, continually auditing contracts on a weekly basis to reduce their risk of non-compliance.

WSR: What is the role of a Human Capital Management System (HCMS) and Talent Management System (TMS) in government contract compliance?

Bagwill: We are currently implementing Workday's HCM and Talent Management application to store all pertinent information on our workforce, covering personal demographics and employment information skills, competencies, work experiences, including fully automated professional resumes on all of our employees. Having all workforce information consolidated in one system, with sophisticated search and drill-down reporting capabilities, should give us considerable competitive advantage in finding the right talent for the right job in an intuitive and speedy manner.

Compensation is one specific area where Workday will support our compliance efforts, by helping us adhere to OFCCP requirements regarding job titles, pay grades, and ranges, to ensure that we are rewarding people appropriately and within SCA guidelines.

Recruiting is another area where our talent system (iCIMS) will help ensure that we are meeting the minimum qualifications for the job, such as job title, years of experience, certifications, security clearance requirements, etc.

Developing Talent Pools is another key area where our Workday system will help us in finding qualified workers that meet the requirements for specific contracts, and then generating resumes from worker profiles that we can include in proposals, supporting our business development team.

WSR: How can HR technology help manage the labor certification and worker qualifications aspects of your business?

Bagwill: Automated tools help by taking some of the administrative burden off of HR so we can focus on our people and our customers. Previously, we had to triangulate vital compliance-related information across three different systems (iCIMS Recruiting, Deltek Payroll, and Sharepoint) in order to validate our compliance with DCAA requirements. With our new Workday system and the ability to integrate information, we should be able to track and validate employees' education, qualifications, prior experience, pay scales in a single place. This will bring greater data quality and reducing our risk of any non-compliance situation.

WSR: How can HR be a strategic partner to the business and simultaneously support both compliance and strategic business development?

Government contracting is a people business and HR has plenty of opportunity of to be a strategic partner. It's a very competitive business arena because other government contractors can come in, under-bid you, and take over the entire contract, including your people and your revenue. We need to have the top talent to retain, nurture and grow our business. This leads to maintaining strong customer relationships, so that contracts get extended and the revenue streams keep flowing.

Another key area where we partner with our business development teams is in finding and securing the right talent (both current employees and new recruits) who have the right skills, work experiences, certifications, to be included in proposals for new contracts. The customer is always looks to the best service for their money with the outstanding performers.

HR can also support business development efforts not only by ensuring that employee's qualifications and certifications are up to date, but by proactively working with employees to broaden their competencies and experience, thereby increasing their value to the organization.