

Goals, Benchmarks, Outreach & Accommodations: OFCCP'S New Regulations Under VEVRAA and the Rehabilitation Act

Matthew D. Davison

mdavison@bakerdonelson.com

David Harvey

dharvey@bakerdonelson.com

THE REGULATIONS

- Where can I find the new regulations?
- <https://www.federalregister.gov/index/2013/federal-contract-compliance-programs-office>
- Read the final regulations!
 - Read the Appendices.
- If really bored, read the Preamble and then the Economic Analyses.

VEVRAA OVERVIEW

- Rescinds 41 C.F.R. Part 60-250
- Establishes Hiring Benchmarks
- New Data Collections Requirements
- Revises Invitation to Self-Identify
- Clarifies Job Listing Requirement

SECTION 503 OVERVIEW

- Sets 7% Utilization Goal
- New Data Collection Requirements
- Revises Invitation to Self-Identify
- Incorporates ADAAA Revisions

NEW EEO CLAUSE

[41 C.F.R § 300.5(a)1. and 41 C.F.R. § 741.5(a)1.]

- (a) Government contracts. Each contracting agency and each contractor shall include the following equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract).
- WHEN?
 - When a new contract is entered into on or after March 24, 2014, or if a contractor “modifies”, “renews” or “extends” an existing covered federal subcontract on or after March 24, 2014 then and only then must a federal contractor install the new Section 503 and VEVRAA EEO clauses in its covered federal subcontracts.

**EXTERNAL CLAUSE TO SUBCONTRACTORS/VENDORS OF COMPANY'S
AFFIRMATIVE ACTION EFFORTS**

[41 C.F.R. § 60-300.5(a)1. and 41 C.F.R. § 60-741.5(a)1.]

The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

- **This contractor and subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

VEVRAA JOB LISTING REQUIREMENT

- “Listing” (not “posting”) Requirement with ESDS
 - **VEVRAA:** 41 C.F.R. 60-300.5(a)2.
 - No analogous listing requirement as to **503** regulations

- 1. All employment openings sought from the street for jobs lasting longer than three days and not involving an executive or senior management position
- 2. **NEW:** Contractor must send four pieces of background info to ESDS:
 - a. Background
 - Upon first listing
 - Not again until one or more of the 4 background pieces of information change

VEVRAA JOB LISTING REQUIREMENT (cont'd)

b. The 4 pieces

- 1) The company is a federal Contractor subject to VEVRAA;
- 2) The Contractor desires “priority referrals” of PVs;
- 3) The name and location of each hiring location in the state; and
- 4) The contact information for the hiring officer at each location, including the identity of any 3rd party search companies.

NOTE: What is a “priority referral”?

- 3. **NEW:** Listing must be in “manner and format” the local ESDS permits

NOTIFICATION TO THE ESDS OF JOB OPENINGS

[Company Letterhead]

State Employment Delivery Agency
Address

To Whom It May Concern:

[Company] is a federal contractor or subcontractor subject to the requirements of the Vietnam Era Veterans Readjustment Assistance Act (“VEVRAA”) of 1974, as amended (38 U.S.C. § 4212).

We request priority referrals of protected veterans for job openings at all [Company’s] locations within the state.

NOTIFICATION TO THE ESDS OF JOB OPENINGS (cont'd)

The following is the name and location of all [Company] hiring locations throughout the state and for which [Company] seeks to list available openings through your Agency, as well as the contact information for the hiring official at each of our hiring locations.

1. [Name of company's first hiring location]
Attn: [Name of hiring official at this location]
Address of hiring location in the state
Contact information (phone, e-mail, etc.) for hiring official at this location
2. [Name of company's second hiring location]
Attn: [Name of hiring official at this location]
Address of hiring location in the state
Contact information (phone, e-mail, etc.) for hiring official at this location

(Etc.)

NOTIFICATION TO THE ESDS OF JOB OPENINGS (cont'd)

We are also using [name of External Job Search Organization(s)] to assist us to hire individuals for available openings, as noted. The name and contact information for this organization is as follows:

1. [Name of External Job Search Organization]
Attn: [Name of Contact Individual with the external job search organization]

Types of jobs this organization will be sourcing:

- (example) Accountant
- (example) Laborers
- (example) Dispatchers
- (etc.)

If any of our contact information changes, we will notify you of these changes simultaneously with our next listing to your agency.

Sincerely,

[Company Contact]

ADVERTISING TAGLINES

[41 C.F.R. § 60-300.5(a)12 and 41 C.F.R. § 60-741.5(a)7]

A. POSSIBLE TAGLINE TO INCLUDE IN ELECTRONIC SOLICITATIONS AND ADVERTISEMENTS

[Company] is an equal opportunity employer. All qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age, status as a protected veteran, among other things, or status as a qualified individual with disability.

Or, alternative paragraph for print media

B. POSSIBLE PRINT MEDIA TAGLINE **EEO Employer/Vet/Disability**

POSTING OF RIGHTS

- A. Posting of Rights for Protected Veterans and Individuals with Disabilities (The “EEO is the Law” Poster)
- **VEVRAA:** 41 C.F.R. 60-300.5(a)9
 - **503:** 41 C.F.R. 60-741.5(a)4
1. Notices shall state the rights of applicants and employees, as well as the contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants
 2. **No OFCCP-required form yet available**
 - Notices to be in a form “prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer.”

POSTING OF RIGHTS (cont'd)

3. Remote employees

- Electronic format acceptable provided:
 - Contractor provides computers to EE to access the posting, or
 - Contractor has “actual knowledge” EE may otherwise be able to access the electronic notice
- Contractor must use electronic posting if Contractor uses electronic application process

POSTING OF RIGHTS (cont'd)

- B.** Notice of availability of AAPs to Applicants/Employees
- **VEVRAA:** 41 C.F.R. 60-300.41
 - **503:** 41 C.F.R. 60-741.41
 - 1. Full AAP (absent the data metrics, 60-300.44(k) & 60-741.44(k)) shall be made available (copy not required) “upon request” to employee/applicant
 - 2. Contractor may provide electronic access to AAP if requestor is able to access the electronic version

**NOTICE TO APPLICANTS AND EMPLOYEES OF AVAILABILITY OF AAP FOR
PROTECTED VETERANS AND FOR INDIVIDUALS WITH A DISABILITY
[41 C.F.R. § 60-300.41 and 41 C.F.R. § 60-741.41]**

[Company] is a covered federal contractor or subcontractor subject to the requirements of the Vietnam Era Veterans Readjustment Assistance Act (VEVRAA), as amended, and Section 503 of the Rehabilitation Act of 1973, as amended. As such, [Company] is bound by the terms of VEVRAA and Section 503, and shall not discriminate against individuals with disabilities, and is committed to take affirmative action to employ and advance in employment protected veterans and individuals with disabilities.

[Company] maintains an Affirmative Action Plan for the purpose of proactively seeking employment and advancement in employment of qualified protected veterans and individuals with disabilities. As an individual interested in employment with [Company], or as one of [Company]'s valued employees, [Company] welcomes the opportunity to make its employees and applicants more aware of the [Company]'s obligations and affirmative efforts. Upon request, [Company] will make accessible to you its Affirmative Action Plan for protected veterans and individuals with a disability. If you are interested,

**NOTICE TO APPLICANTS AND EMPLOYEES OF AVAILABILITY OF AAP FOR
PROTECTED VETERANS AND FOR INDIVIDUALS WITH A DISABILITY
[41 C.F.R. § 60-300.41 and 41 C.F.R. § 60-741.41]**

please submit a written request to [HR Representative] during the HR Offices operating hours (9 a.m. to 5 p.m.), and we can schedule a time for you to review the Affirmative Action Plan. [Alternatively, a copy of [Company]'s Affirmative Action Plan is available electronically on [Company]'s intranet site at _____.] For remote employees not physically located at the facility, they may access the Affirmative Action Plan through the intranet site location identified above, or may request a copy of the Affirmative Action Plan for review and return should no internet access be available.

VEVRAA INVITATION TO SELF-IDENTIFY

- Final Rule eliminates the separate inquiry regarding disabled vet status
- **Pre-offer:** invitation to self-identify as a protected vet
- **Post-offer:** invitation to self-identify specific veteran category(ies) that the contractor is required to report to VETS on
- Model invitations are in Appendix B

PRE-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM

[41 C.F.R. § 60-300.42]

-
- [Company] is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U.S.C. 4212 ("VEVRAA"), which requires Government contractors to take affirmative action to employ and advance in employment: (1) disabled veterans; (2) recently separated veterans; (3) active duty wartime or campaign badge veterans; and (4) Armed Forces service medal veterans. These classifications are defined as follows:
 - (1) A "disabled veteran" is one of the following:
 - a. A veteran of the U.S. military, ground, naval or air force who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
 - b. A person who was discharged or released from active duty because of a service-connected disability.
 - (2) A "recently separated veteran" means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval, or air service.
 - (3) An "active duty wartime or campaign badge veteran" means a veteran who served on active duty in the U.S. military, ground, naval or air service during a war, or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.
 - (4) An "Armed Forces service medal veteran" means a veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Services service medal was awarded pursuant to Executive Order 12985.

PRE-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM

[41 C.F.R. § 60-300.42] (cont'd)

- If you believe you are a member of any of the categories of protected veterans listed above, please indicate by checking the appropriate box below. As a Government contractor subject to VEVRAA, we request this information to measure the effectiveness of the outreach and positive recruitment efforts we undertake pursuant to VEVRAA. Your decision to provide the relevant information is purely voluntary on your part, and refusal to provide such information will not subject you to any adverse treatment. The information will not be used in a manner inconsistent with VEVRAA, as amended.
- The information will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if you have a condition that might require emergency treatment; and (iii) Government officials engaged in enforcing laws administered by the Office of Federal Contract Compliance Programs, or enforcing the Americans with Disabilities Act, may be informed.
- I IDENTIFY AS ONE OR MORE OF THE CLASSIFICATIONS OF PROTECTED VETERAN STATUS LISTED ABOVE
- I AM NOT A PROTECTED VETERAN
- I DECLINE TO SELF IDENTIFY

• _____
• Date

• _____
Signature

• _____
Print Name

POST-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM [41 C.F.R. § 60-300.42]

- As a Government contractor subject to VEVRAA, we are required to submit a report to the United States Department of Labor each year identifying the number of our employees belonging to each specified "protected veteran" category. "Protected veteran" categories are identified in the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U.S.C. 4212 ("VEVRAA"), which requires Government contractors to take affirmative action to employ and advance in employment: (1) disabled veterans; (2) recently separated veterans; (3) active duty wartime or campaign badge veterans; and (4) Armed Forces service medal veterans. These classifications are defined as follows:
 - (1) A "disabled veteran" is one of the following:
 - a. A veteran of the U.S. military, ground, naval or air force who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
 - b. A person who was discharged or released from active duty because of a service-connected disability.

POST-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM

[41 C.F.R. § 60-300.42] (cont'd)

- (2) A "recently separated veteran" means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval, or air service.
- (3) An "active duty wartime or campaign badge veteran" means a veteran who served on active duty in the U.S. military, ground, naval or air service during a war, or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.
- (4) An "Armed Forces service medal veteran" means a veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Services service medal was awarded pursuant to Executive Order 12985.
- If you believe you belong to any of the categories of protected veterans listed above, please indicate by checking the appropriate box below.
- I BELONG TO THE FOLLOWING CLASSIFICATIONS OF PROTECTED VETERANS
(CHOOSE ALL THAT APPLY):
- DISABLED VETERAN

POST-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM [41 C.F.R. § 60-300.42] (cont'd)

- RECENTLY SEPARATED VETERAN
- ACTIVE WARTIME OR CAMPAIGN BADGE VETERAN
- ARMED FORCES SERVICE MEDAL VETERAN
- I am a protected veteran, but I choose not to self-identify the classifications to which I belong.
- I am NOT a protected veteran
- I decline to self identify
- If you are a disabled veteran it would assist us if you tell us whether there are any accommodations we could make that would enable you to perform the essential functions of the job, including special equipment, changes in the physical layout of the job, changes in the way the job is customarily performed, provision of personal assistance services or other accommodations. This information will assist us in making reasonable accommodations for your disability.
- The submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information provided will be used only in ways that are not inconsistent with VEVRAA, as amended.

POST-OFFER PROTECTED VETERAN SELF-IDENTIFICATION FORM

[41 C.F.R. § 60-300.42] (cont'd)

- The information you submit will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if you have a condition that might require emergency treatment; and (iii) Government officials engaged in enforcing laws administered by the Office of Federal Contract Compliance Programs, or enforcing the Americans with Disabilities Act, may be informed.
- This Company abides by the requirements of 41 CFR 60-300.5(a). This regulation requires affirmative action by covered contractors to employ and advance in employment qualified protected veterans.

• _____
• Date

Signature

• _____
Print Name

VETS-100/100A NPRM

- February 24, 2014
- Veterans' Employment and Training Service ("VETS") issued Notice of Proposed Rulemaking ("NPRM")
 - Rescind references to 61-250 (pre-JVA regulations)
 - Conform to OFCCP's definitions of "protected veterans"
 - Will be known as VETS-4212 Report
 - Will report by September 30 each year only the aggregate number of protected veterans
- Comments due by April 25, 2014

SECTION 503 INVITATION TO SELF-IDENTIFY

- **Pre-offer:** invitation to self-identify as an IWD
- **Post-offer:** invitation to self-identify as an IWD
- **Employees:** invitation to all employees in first year, and every five years thereafter; at least one reminder in intervening years
- **ALL INVITATIONS USE FORM
POSTED ON OFCCP WEB SITE**

SECTION 503 TECHNICAL REQUIREMENTS

- Paper form from OFCCP
- Contractors own electronically fillable form if it includes:
 - *OMB Control Number, Expiration Date;*
 - *Identical Text in Identical Order as OFCCP Form;*
 - *At least 11 Pitch, San Serif Form (footnote and burden statement may be 10 pitch).*

Individual with Disability Self-Identification Form

[41 C.F.R. § 60-741.42]

Voluntary Self-Identification of Disability

Form CC-305
OMB Control Number 1250-0005
Expires 1/31/2017
Page 1 of 2

Why are you being asked to complete this form?

Because we do business with the government, we must reach out to, hire, and provide equal opportunity to qualified people with disabilities.¹ To help us measure how well we are doing, we are asking you to tell us if you have a disability or if you ever had a disability. Completing this form is voluntary, but we hope that you will choose to fill it out. If you are applying for a job, any answer you give will be kept private and will not be used against you in any way.

If you already work for us, your answer will not be used against you in any way. Because a person may become disabled at any time, we are required to ask all of our employees to update their information every five years. You may voluntarily self-identify as having a disability on this form without fear of any punishment because you did not identify as having a disability earlier.

How do I know if I have a disability?

You are considered to have a disability if you have a physical or mental impairment or medical condition that substantially limits a major life activity, or if you have a history or record of such an impairment or medical condition.

Disabilities include, but are not limited to:

• Blindness	• Autism	• Bipolar disorder	• Post-traumatic stress disorder (PTSD)
• Deafness	• Cerebral palsy	• Major depression	• Obsessive compulsive disorder
• Cancer	• HIV/AIDS	• Multiple sclerosis (MS)	• Impairments requiring the use of a wheelchair
• Diabetes	• Schizophrenia	• Missing limbs or partially missing limbs	• Intellectual disability (previously called mental retardation)
• Epilepsy	• Muscular dystrophy		

Please check one of the boxes below:

YES, I HAVE A DISABILITY (or previously had a disability)

NO, I DON'T HAVE A DISABILITY

I DON'T WISH TO ANSWER

Your Name

Today's Date

Individual with Disability Self-Identification Form [41 C.F.R. § 60-741.42]

Voluntary Self-Identification of Disability

Form CC-305
OMB Control Number 1250-0005
Expires 1/31/2017
Page 2 of 2

Reasonable Accommodation Notice

Federal law requires employers to provide reasonable accommodation to qualified individuals with disabilities. Please tell us if you require a reasonable accommodation to apply for a job or to perform your job. Examples of reasonable accommodation include making a change to the application process or work procedures, providing documents in an alternate format, using a sign language interpreter, or using specialized equipment.

¹ Section 503 of the Rehabilitation Act of 1973, as amended. For more information about this form or the equal employment obligations of Federal contractors, visit the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) website at www.dol.gov/ofccp.

PUBLIC BURDEN STATEMENT: According to the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. This survey should take about 5 minutes to complete.

SECTION 503 TECHNICAL REQUIREMENTS

- Contractor must maintain pre-offer and post-offer inquiry responses in separate “Data Analysis File.”
 - Not in Employee’s personnel file
 - Not your “ADA/503 medical file”

TIMING OF INVITATION TO SELF-IDENTIFY

- Ask applicants to self-identify when applicants are asked for other demographic information under EO 11246
- Harmonizes VEVRAA and Section 503 with the EO 11246 Internet Applicant Rule
- “Basic qualification” screens may not screen out on the basis of disability unless job-related and consistent with business necessity

HOW TO COMPLY

- Ensure paper application package includes VEVRAA and Section 503 invitation to self-identify
- Modify web-based application systems to include VEVRAA and Section 503 invitation to self-identify
- Develop process to invite all employees to self-identify as an IWD

POLICY STATEMENT

[41 C.F.R. § 60-300.44(a); 41 C.F.R. 60-741.44(a)]

- Contractor must affirm its commitment to take affirmative action to employ and advance in employment protected veterans and qualified individuals with disabilities.
- The contractor must include an equal opportunity policy statement in its VEVRAA/503 AAP.
- The policy statement must indicate that the top U.S. Executive of the contractor (e.g. CEO, Chief of the U.S. Division of a foreign company) supports the contractor's AAP.

**INTERNAL POLICY STATEMENT FOR BULLETIN BOARDS AND
INCLUSION IN AAP/EEO POLICY STATEMENT
[41 C.F.R. § 60-300.44(a) and 41 C.F.R. § 60-741.44(a)]**

It has been and shall continue to be both the official policy and the commitment of [name of Company], including all its divisions (hereinafter referred to as “The Company”) to further equal employment opportunities for all persons, among others, regardless of race, religion, color, national origin, sex, age, status as a protected veteran or status as a qualified individual with a disability. The Company’s EEO policy, as well as its affirmative action obligations, includes the full and complete support of The Company, including its Chief Executive Officer.

REVIEW OF PERSONNEL PROCESSES

[41 C.F.R. 60-300.44(b) & 41 C.F.R. 60-741.44(b)]

- **VEVRAA:** 41 C.F.R. 60-300.44(b) and Appendix C
- **503:** 41 C.F.R. 60-741.44(b) (no Appendix C analog)
 - “The Contractor shall periodically review such processes and make any necessary modifications to ensure that these obligations are carried out.”
- Suggestions (not required):
 - Document the vacancies, promotions and training for which the Contractor considered the individual.
 - Document the articulated legitimate non-discriminatory reasons for each vacancy, promotion or training for which the Contractor rejected the applicant.
 - Describe and document all accommodations undertaken, if any.

EXAMPLE OF EVALUATION OF PERSONNEL PROCESSES

[41 C.F.R. § 60-300.44(b) and 41 C.F.R. § 60-741.44(b)]

Contractor Action	Regulation Requirement	Compliance (Y/N)/Last Date Reviewed	Remedial/ Follow-up Actions Necessary (If Any)
Review of physical and mental qualifications	<ul style="list-style-type: none"> • Undertake periodic review, meaning here at [Company] that we review _____ • Provided reasonable accommodation, as needed • Render all qualification requirements job-related and business necessity 	Yes (Last reviewed on 3/24/14)	
Reasonable Accommodation	Document processed accommodation requests	Yes (Last reviewed on 3/24/14)	
Anti-Harassment Procedures	Develop and implement anti-harassment procedures	Yes (Last reviewed on 3/24/14)	
External Dissemination of Policies	Undertake appropriate outreach	Yes (Last reviewed on 3/24/14)	
Internal Dissemination of Policy	Develop and implement internal procedures	Yes (Last reviewed on 3/24/14)	

EXAMPLE OF EVALUATION OF PERSONNEL PROCESSES
[41 C.F.R. § 60-300.44(b) and 41 C.F.R. § 60-741.44(b)]

Contractor Action	Regulation Requirement	Compliance (Y/N)/Last Date Reviewed	Remedial/ Follow-up Actions Necessary (If Any)
Audit and Reporting System	Design and implement audit and reporting system	Yes (Last reviewed on 3/24/14)	
Responsibility to Implement Affirmative Action Activities	Responsible person contact info identified on communications	Yes (Last reviewed on 3/24/14)	
Training	Undertake training	Yes (Last reviewed on 3/24/14)	
Data Collection	Data metrics collected and calculated	Yes (Last reviewed on 3/24/14)	

REASONABLE ACCOMMODATION

[41 C.F.R. 60-741.44(d)]

- Obligation to provide reasonable accommodation is a matter of nondiscrimination (60-741.21(a)(6)).
- If an IWD is having performance problems that may be related to the disability, contractor is required to ask if an accommodation is needed.
- Written reasonable accommodation procedures are not required, but are a best practice.
- See Appendices A & B.

REASONABLE ACCOMMODATION [41 C.F.R. 60-300.44(d)]

- As a matter of nondiscrimination, contractor must provide reasonable accommodation to otherwise qualified disabled veterans absent undue hardship.
- If an employee who is a known disabled veteran is having performance difficulties that may be related to the disability the contractor must:
 - *Confidentially inform the employee of the performance problem;*
 - *Inquire if the problem is related to the disability; and*
 - *If so, confidentially inquire whether the employee needs accommodation.*

OUTREACH AND POSITIVE RECRUITMENT

[41 C.F.R. 60-741.44(f)]

- Contractors must engage in outreach and recruitment of Individuals with Disabilities.
- Contractors must conduct an annual self-assessment outreach and recruitment efforts and document such assessment.
- Contractors are required to document all outreach and recruitment activities and retain these records for three (3) years.

OUTREACH AND POSITIVE RECRUITMENT

[41 C.F.R. 60-300.44(f)]

- Contractors are required to engage in outreach and recruitment activities that are “reasonably designed to effectively recruit protected veterans.”
- Contractors must conduct an annual review of these efforts to evaluate their effectiveness.
- Contractors are required to document all outreach and recruitment activities, and their annual review of these activities, and retain these records for three (3) years.

Evaluation of Outreach and Recruitment Efforts **[41 C.F.R. § 60-300.44(f)(3) and 41 C.F.R. § 60-741.44(f)(3)]**

(Suggested) Criteria to Evaluate Outreach/Recruitment Activity

1. Did the activity attract qualified applicants with disabilities and/or protected veterans?
2. Did the activity result in the hiring of qualified individuals with disabilities and/or protected veterans?
3. Did the activity expand Contractor's outreach to individuals with disabilities and/or protected veterans?
4. Did the activity increase Contractor's ability to include individuals with disabilities and/or protected veterans in its workforce?

Example of Evaluation of Outreach and Recruitment Efforts [41 C.F.R. § 60-300.44(f)(3) and 41 C.F.R. § 60-741.44(f)(3)]

Outreach/Recruitment Activity	Date of Activity	Description of Activity	Evaluation	Conclusion
Job Fair at VA Hospital	6/1/14	Recruitment and application drive at VA Hospital.	X individuals expressed interest, Y qualified individuals submitted application, Z number of conditional offers of employment provided	Good source pool for us. Continue.
Annual meeting with State Vocational Rehabilitation Service Agency	7/12/14	Briefed Agency with Contractor's outreach and recruitment efforts for individuals with disabilities.	Agency representatives will conduct briefings with HR staff regarding reasonable accommodations and analysis of job duties. Agency will post job openings for Contractor beginning in 2015.	Useful meeting. Continue.
Event at local Community College	10/15/14	Conducted outreach event to attract students with disabilities and ROTC members.	Insufficient student attendees at event. College failed to advertise event as specializing in seeking disabled individuals and protected veterans. Consider other educational institutions for recruitment	Not a good source pool for us. Discontinue

EXTERNAL DISTRIBUTION OF POLICY

[41 C.F.R. 60-300.44 (f)(1)(ii) & 41 C.F.R. 60-741.44 (f)(1)(ii)]

- Contractors must send written notification of company policy related to its affirmative action efforts to all subcontractors and request their cooperation.
- Contractors are required to document that they have satisfied this written notification requirement.

Notice to subcontractors, vendors, and supplier (outreach and recruitment)

[Sent annually]

To: All Subcontractors, Subcontracting Vendors, Suppliers

From: President and CEO, the Company

RE: Notice of Company policy related to affirmative action efforts and request for appropriate action by subcontractors, vendors, and suppliers

It is the policy of Company, Inc. (the Company) not to discriminate against any employee or applicant for employment on the basis of sex, race, color, religion, national origin, age, disability, or status as a protected veteran. It is also the policy of the Company to take affirmative action to employ and to advance in employment, all persons regardless of their sex, race, color, national origin, disability, or status as a protected veteran and to base all employment decisions only on valid job requirements.

In light of the Company's policy and your position as a subcontractor, vendor, or supplier to the Company, I request appropriate action on your part to honor the Company's policies of nondiscrimination and affirmative action. We are asking your assistance and cooperation in actively recruiting and referring applicants for all jobs without regard to race, color, religion, sex, age, national origin, disability, and status as a protected veteran.

Because of our commitment as an equal opportunity employer, our continued dealings with any subcontractor, vendor, or supplier depend on its compliance with this policy.

Kindly advise all counselors in your office of this policy.

Kindly acknowledge your cooperation in these matters by initialing and dating one copy of this letter and returning it to our office.

Very truly yours,

President and CEO

Confirmed: _____

Date: _____

INTERNAL DISTRIBUTION OF POLICY

[41 C.F.R. 60-300.44(g) & 41 C.F.R. 60-741.44(g)]

- Contractors are required to incorporate its Affirmative Action policy in its policy manual, or make it otherwise available to employees.

AUDIT AND REPORTING SYSTEM

[41 C.F.R. 60-300.44(h) & 41 C.F.R. 60-741.44(h)]

- Contractors are required to design a self-audit and internal reporting system that will:
 - *Measure the effectiveness of the AAP;*
 - *Indicate any need for remedial action;*
 - *Determine the degree to which the contractor's objective have been reached;*
 - *Determine whether IWDs have had the opportunity to participate in company sponsored educational, training, recreational, and social activities:*

AUDIT AND REPORTING SYSTEM

[41 C.F.R. 60-300.44(h) & 41 C.F.R. 60-741.44(h)]

- *Determine whether known protected veterans have had opportunity to participate in all company sponsored educational, training, recreational, and social activities; and*
- *Measure the contractor's compliance with the AAP's specific obligations.*
- Contractors must document all actions taken to comply with audit and reporting requirements and retain such documentation as employment records.

VEVRAA DATA COLLECTION

[41 C.F.R. 60-300.44(k)]

- Requires contractors to document and update annually:
 - *Number of protected veteran applicants;*
 - *Total number of applicants for all jobs;*
 - *Total number of job openings and jobs filled;*
 - *Number of protected veterans hired;*
 - *Total number of applicants hired*
- **Maintain these computations for three (3) years**

EXAMPLE OF DATA COLLECTION TABLE FOR PROTECTED VETERANS [41 C.F.R. § 60-300.44(k)]

	2014	2015	2016
Total number of job openings in AAP year in establishment	38	38	44
Total number of “Applicants” to the establishment¹	210	176	255
Total number/% of “Applicants” who self-identified as a protected veteran	11 of 210 (5%)	12 of 176 (7%)	19 of 255 (7%)
Total number of jobs filled	38	37	44
Total number of “Applicants” hired	38	37	43
Total number/% of protected veterans hired	4 of 38 = 11%	3 of 37 = 8%	6 of 44 = 14%
¹ Applicants constitute individuals who: (1) expressed interest and maintained such interest through Company’s decision to provide offer of employment; (2) in an available position for which the individual met all minimum qualifications; and (3) whom the Company considered for an offer of employment.			

SECTION 503 DATA COLLECTION

[41 C.F.R. 60-741.44(k)]

- Requires contractors to document and update annually:
 - *Number of IWD applicants;*
 - *Total number of applicants for all jobs;*
 - *Total number of job openings and jobs filled;*
 - *Number of IWDs hired;*
 - *Total number of applicants hired.*
- **Maintain these computations for three (3) years**

EXAMPLE OF DATA COLLECTION INDIVIDUALS WITH DISABILITIES [41 C.F.R. § 60-741.44(k)]

	2014	2015	2016
Total number of job openings in Job Group X	14	19	22
Total number of “Applicants”¹	48	82	175
Total number/% of “Applicants” who self-identified as an individual with a disability	7 of 48 (15%)	5 of 82 (16%)	5 of 175 (3%)
Total number of jobs filled	14	18	22
Total number of “Applicants” hired	14	18	21
Total number/% of “Applicants” with disabilities hired	1 of 14 (7%)	3 of 18 (17%)	3 of 21 (14%)

¹ Applicants constitute individuals who: (1) expressed interest and maintained such interest through Company’s decision to provide offer of employment; (2) in an available position for which the individual met all minimum qualifications; and (3) whom the Company considered for an offer of employment.

WHEN TO COMPLY

- These data collection requirements should be fully implemented at the next Affirmative Action Program update after the March 24, 2014 effective date.

BENCHMARKS FOR HIRING

[41 C.F.R. 60-300.45]

- Contractors are required to set a hiring benchmark on an annual basis by:
 - *Using the national percentage of in the civilian labor force, which will be published and updated annually on the OFCCP website (currently 8%); or*
 - *Establishing a benchmark using five factors outlined in 41 C.F.R. 60-300.45(2).*

BENCHMARKS FOR HIRING

[41 C.F.R. 60-300.45](cont'd)

- If contractors establish a benchmark using the five-factor approach, they must document consideration of each factor and retain such records for three (3) years.
- Contractors must apply the benchmark to each establishment.

SAMPLE BENCHMARK ANALYSIS

[41 C.F.R. § 60-300.45]

	2014	2015	2016
Total number of jobs filled	38	37	44
Total number of “Applicants” hired	38	37	43
Total number/% of protected veterans hired	4 of 38 = 11%	3 of 37 = 8%	6 of 44 = 14%

¹ Applicants constitute individuals who: (1) expressed interest and maintained such interest through Company’s decision to provide offer of employment; (2) in an available position for which the individual met all minimum qualifications; and (3) whom the Company considered for an offer of employment.

UTILIZATION ANALYSIS [41 C.F.R. 60-741.45]

- Contractors are required to conduct a utilization analysis annually
- Compare the representation of IWDs in each job group established for utilization analysis under Executive Order 11246 to the 7% utilization goal
- Contractors with 100 or fewer employees may apply the goal to the workforce as a whole
- Requires contractors to identify whether there are any problem areas and, if so, develop and execute action-oriented programs.

UTILIZATION ANALYSIS

[41 C.F.R. 60-741.45]

A. Sample Utilization Analysis.

Category and Job Group Number	Total in Job Group	Total IWDs	Utilization Percentage
125 employees			
Officials and Managers Job Group: 1	10	1	10%
Professionals Job Group: 2	20	1	5%
Sales Workers Job Group: 4	42	3	7.14%
Workforce Number			
75 employees	Total Employees	Total IWDs	Utilization Percentage
Workforce	75	5	6.67%

TRANSITIONAL VEVRAA & SECTION 503 AAP

- Contractors can delay compliance with the AAP requirements of Subpart C until their first AAP is due following the March 24, 2014 effective date.
- The first AAP that contractors will develop after the effective date is considered a transitional AAP.

TRANSITIONAL VEVRAA & SECTION 503 AAP REQUIREMENTS

- The Transitional AAP must:
 - *Comply with all existing obligations;*
 - *Address everything that that contractor has done to come into compliance with new requirements that take effect on March 24, 2014; and*
 - *To the extent that the contractor has not achieved full compliance with new requirements, discuss steps that the contractor has to take to come into compliance.*

RECOMMENDED ACTIONS

- Before their next AAP cycle, contractors are strongly encouraged to:
 - *Invite applicants to self-identify pre- and post- offer using the approved OFCCP form;*
 - *Invite applicants to self-identify pre- and post- offer using new VEVRAA forms;*
 - *Conduct initial self-id survey of employees (503);*
 - *Implement documentation procedures for:*
 - outreach and recruitment efforts
 - self-audit and reporting systems;

RECOMMENDED ACTIONS (cont'd)

- Conduct documented assessment of outreach and recruitment efforts and implement procedures to conduct such assessment annually;
- Train employees engaged in key personnel activities;
- Conduct data analysis related to applicants and hires;

RECOMMENDED ACTIONS (cont'd)

- Draft an EO policy statement showing top executive support for AAP;
- Ensure applicants and employees have equal access to contractor's personnel processes; and
- Conduct annual workforce assessment, apply utilization goal, identify any problem areas, and develop action-oriented programs.
- Establish a hiring benchmark and apply it to the workforce in each establishment.

QUESTIONS?