



Office of Federal Contract Compliance Programs



**The New Section 503 of the Rehabilitation
Act & VEVRAA Regulations**

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Section 503

Section 503 of the Rehabilitation Act prohibits employment discrimination on the basis of disability by Federal government contractors and subcontractors. Section 503 also requires that covered contractors take affirmative action to employ and advance in employment qualified individuals with disabilities.

VEVRAA

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), prohibits employment discrimination against protected veterans by covered Federal contractors and subcontractors, and requires that they take affirmative action to employ and advance in employment these veterans.

Effective Dates

- Effective on March 24, 2014
- Phased in compliance of Subpart C of each rule (AAP Requirements)
- “EEO is the Law” poster is currently being updated to reflect these changes.
- OFCCCP’s website: www.dol.gov/ofccp
- Help Desk: (800) 397 – 6251 / TTY (877) 889-5627

Why the Changes?

- Framework was unchanged since the 1970's.
- Unemployment rate of Individuals with Disabilities (IWDs) remains significantly high.
- To implement changes made by the ADA Amendments Act (ADAAA) of 2008.
- Many veterans face substantial obstacles in finding employment in the civilian workforce.
- Revisions are intended to enhance contractor accountability for compliance and ultimately increase employment opportunities.

Rescinded Regulation

Rescission of 41 CFR Part 60-250

- Section was now obsolete.
- Provision added to permit any “pre-JVA veteran” who would have been covered by Part 250 (but not by Part 300) to file discrimination and retaliation complaints.

Definitions

Disability (41 CFR 60-741.2)

New regulations revise definitions relating to “disability”: including “major life activities,” “major bodily functions,” “regarded as” having a disability and “substantially limits” in accordance with changes made by the ADAAA.

Definitions

Protected Veteran (41 CFR 60-300.2)

Any veteran protected by VEVRAA (each is defined separately in this section):

- Disabled Veteran
- Recently Separated Veteran
- Active Duty Wartime or Campaign Badge Veteran (replaces “Other Protected Veteran”)
- Armed Forces Service Medal Veteran
- Pre-JVA Veteran & Pre-JVA Disabled Veteran

Equal Opportunity Clause

Providing Notices to Applicants and Employees

41 CFR 60-300.5 & 41 CFR 60-741.5

- Contractor can satisfy its posting obligation electronically for employees with telework arrangements or for those who do not work at the contractor's physical location.
- If contractor uses electronic or internet-based application processes, an electronic notice of employee rights and contractor obligations must be "conspicuously stored with, or as part of, the electronic application."

Equal Opportunity Clause

Contractor Solicitations and Advertisements
41 CFR 60-300.5 & 41 CFR 60-741.5

New paragraph requires that contractors state, in job solicitations and advertisements, that it is an equal opportunity employer of protected veterans and individuals with disabilities.

Equal Opportunity Clause

Incorporating the EO Clause by Reference

41 CFR 60-300.5(d) & 41 CFR 60-741.5 (d)

Section 503: “This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.”

VEVRAA: “This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.”

Equal Opportunity Clause

Incorporating the EO Clause by Reference 41 CFR 60-300.5(d) & 41 CFR 60-741.5(d)

Contractors may combine the two EO "incorporation by reference" clauses provided that the combined clause is set in bold text and the prescribed content of both clauses is preserved. The following example provides one illustration of how this might be done:

“This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.”

Equal Opportunity Clause

Mandatory Job Listing

(41 CFR 60-300.5) (VEVRAA Only)

- Requires that contractors provide job listings “in a manner or format permitted by the appropriate employment service delivery system [ESDS].”
- Information Provided to State Employment Service: Contractors must provide additional information including status as a federal contractor, contact information, and its request for priority referrals.

Prohibitions

41 CFR 60-741.21

- Adds that reasonable accommodation need not be provided to individuals who only satisfy the “regarded as” prong of the disability definition. (a)(6)(v)
- Adds that use of qualification standards, employment tests, or other selection criteria that are “based on an individual’s uncorrected vision” are prohibited unless job-related and consistent with business necessity. (a)(7)(ii)
- Adds that reasonable accommodation extends to contractors’ use of electronic or online job application systems. Contractors’ must ensure that IWDs who cannot use the system have equal opportunity to apply and be considered for all jobs. (a)(6)(iii)

Self-Identification

41 CFR 60-300.42 & 41 CFR 60-741.42

- Section 503: self-identification must be done using the form published on the OFCCP website.
- VEVRAA: model invitations to self identify can be found in Appendix B of 41 CFR 60-300.
- Pre-offer: invitation to self-identify as an IWD (using OFCCP's form) and invitation to self-identify as a protected vet (under any category).
- Post-offer: invitation to self-identify as an IWD (using OFCCP's form) and invitation to self-identify as a protected vet (under a specific veteran category pursuant tot the most current VETS-100A form).
- Employees: invitation to self-identify as an IWD (using OFCCP's form) in first year and every five years thereafter. Must also give at least one documented reminder in intervening years.

Timing of Pre-Offer Inquiries

- Ask applicants to self-identify when applicants are asked for other demographic information under EO 11246.
- Harmonizes Section 503 and VEVRAA 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.

AAP Elements

Outreach and Recruitment

41 CFR 60-300.44(f) & 41 CFR 60-741.44(f)

- Requires outreach and recruitment; provides examples; and retains contractor flexibility.
- Requires documentation of activities and annual written assessment of the effectiveness of each of its activities.
- If totality of efforts not effective, must identify and implement alternative efforts.
- Retain these records for 3 years.

AAP Elements

Data Collection Analysis

41 CFR 60-300.44(k) & 41 CFR 741.44(k)

- Requires contractors to document and update annually:
 - Number of IWD/protected veteran applicants
 - Total number of applicants for all jobs
 - Total number of job openings and jobs filled
 - Number of IWD/protected veterans hired
 - Total number of applicants hired
- Maintain these records for 3 years.

Disability Utilization Goal

41 CFR 60-741.45 (Section 503 Only)

Establishes a nationwide 7% utilization goal for individuals with disabilities.

- Apply goal to each job group annually, except if 100 or fewer employees, may apply goal to entire workforce.
- If goal not met, determine if impediments to EEO exist; take steps to correct any identified problems.
- Failure to meet goal is NOT a violation & will NOT carry penalties.

Benchmarks

Contractors Must Set an Annual Hiring Benchmark 41 CFR 60-300.45 (VEVRAA Only)

- Is the benchmark a goal?
- Two methodologies for setting the benchmark:
 - National percentage of veterans in the civilian labor force.
- OR
- Establish an individual benchmark using five-factors identified in the revised regulations.
- 3 year recordkeeping requirement

Additional Information

OFCCP's Web Site: www.dol.gov/ofccp

- Frequently Asked Questions
- Fact Sheets
- Contractor Resources
- Side by Side Charts of VEVRAA and Section 503 Changes
- Webinar Slides and Recordings

Contact Information

- Help Desk: (800) 397-6251
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- Email: **ofccp-public@dol.gov**
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