

OFCCP REVISED VEVRAA AND 503 REGULATIONS

Part II

Data Collection and Analysis, Hiring Benchmarks and Utilization Goals

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Today's Objectives

- Continue to review changes in regulations for remaining sections; and
- Provide guidance on compliance obligations as of first AAP after March 24, 2014 and for subsequent AAP updates.

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Today's Agenda

- Data collection and analysis obligations for Veterans and IWD;
 - Including revisions in Invitation to Self-Identify
- Hiring Benchmarks for Veterans and implementation tips; and
- Utilization Goals for IWD and implementation tips.

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Veterans and IWD Regulations

- OFCCP published revised regulations in the Federal Register September 24, 2013 effective March 24, 2014; and
- Two major AAP regulations:
 - Veterans 41 CFR 60-300 (VEVRAA)
 - www.dol.gov/ofccp/regs/compliance/vevraa.htm
 - Individuals with Disabilities (IWD) 41 CFR 60-741 (Section 503)
 - www.dol.gov/ofccp/regs/compliance/section503.htm

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Veterans and IWD Regulations

Subpart	Title	Comply on 3/24/2014	Comply with 1st AAP Update	Comply with subsequent AAP Updates
A	Preliminary Matters, EO Clause	Yes – ESDS Listing (Vet), Rights Notice, EOE tag line, EO clause		
B	Discrimination Prohibited	(minimal changes)		
C	Affirmative Action Program		Yes (most)	Yes
D	General Enforcement	(minimal changes)		
E	Ancillary Matters	Yes -3 year record retention, OFCCP access		

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Subpart C - Major Sections

Section	Title	Changes?
300.40/741.40	Applicability of AAP requirement	AAP to be “reviewed and updated annually by the official designated per .44(i)”
300.41/741.41	Availability of AAP	Contractor does not have to make available data metrics
300.42/741.42	Invitation to Self-Identify	<u>Extensive changes</u> (covered in Part 2 of Webinar)
300.43/741.43	Affirmative action policy	Similar
300.44/741.44	Required contents of affirmative action programs	<u>Extensive changes</u>
300.45 (Vet)	Veterans: Hiring Benchmarks	<u>NEW</u> (8 % of hires)- Part 2
741.45 (IWD)	IWD: Utilization Goals	<u>NEW</u> (7% by Job Group)- Part 2
741.46 (IWD)	Voluntary AAP for disabled emps	<u>NEW</u>
741.47 (IWD)	Sheltered workshops	Similar

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Subpart C

Invitation to Self-Identify

- IWD (60-741.42)
 - Pre-offer: must use OFCCP's mandatory form;
 - Post-offer: must use OFCCP's mandatory form;
 - Sufficient to ask during on-boarding process
 - Employees: must use OFCCP's mandatory form; and
 - Must provide and invite employees to self-id during first AAP year following March 24, 2014
 - then again invite every five years
 - Must remind between these invitations
 - Cannot combine with other forms; if replicate, certain specifications required.
- Veterans (60-300.42)
 - Pre-offer: can use own form or OFCCP's pre-offer form in Appendix B;
 - Single response category is "protected veterans"
 - Post-offer: can use own form or OFCCP's post-offer form in Appendix B; and
 - Sufficient to ask during on-boarding process
 - Must invite identification of specific category(ies) of protected veteran
 - Can combine with other forms.

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Invitation to Self-Identify

-300.42 and -741.42

- How many forms?
 - Two or three different self-identify (survey) forms
 - Race/ethnicity and gender;
 - Veterans (can combine with race/ethnicity/gender); and
 - Individuals with Disabilities (must keep separate).
- When to ask pre-offer?
 - Harmonize with internet applicant rules
 - Could ask
 - at beginning;
 - for applicants passing “basic qualifications”; and
 - after you know who are “internet applicants”.
- Where to store self-id responses?
 - Regulations require keeping self-id information confidential;
 - Maintain in data analysis file with limited access (not hiring managers, general HR or recruiters); and
 - Maintain for three years.

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Data collection analysis

- For Veterans and IWD (60-300.44 (k) and 60-741.44 (k))
 - Must collect certain counts of applicants and hires;
 - Relies on the Self-Id responses;
 - Collect and analyze on an annual basis;
 - Use to assess (mandatory) effectiveness of outreach; and
 - Maintain data, calculations and comparisons for three years.

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Data collection analysis

	Title	Notes
Veterans/IWD	Total number of applicants for all jobs	
Veterans/IWD	Total number of job openings	
Veterans/IWD	Total number of jobs filled	
Veterans/IWD	Total number of applicants hired	
Veterans	Number of applicants who are “protected veterans”	Pre-offer Self-identified or “known”
Veterans	Number of “protected veteran” applicants hired	Post-offer Self-identified or “known”
IWD	Number of applicants who are individuals with disabilities	Pre-offer Self-identified or “known”
IWD	Number of applicants with disabilities hired	Post-offer Self-identified or “known”

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Data collection analysis

- Since use of Self-Identify form begins with the first AAP year beginning March 24, 2014 or later;
 - Data will not be available to conduct .44(f)(3) or .44(k) analysis until after the plan year concludes in 2015 or, in some cases, 2016.
 - Example
 - For example, AAP year is January 1st, 2014 to December 31, 2014;
 - Contractor begins collecting data with self-identify forms January 1, 2015 (i.e., first AAP year that begins following March 24, 2014); and
 - First data analysis under .44(f)(3) and .44(k) conducted following conclusion of AAP year, December 31, 2015.

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Benchmarks for Hiring Vets

(-300.45)

- Set annual hiring benchmark goal for just “**protected veterans**”;
 - Two options for setting goal:
 - National percentage posted by OFCCP: 8%
 - Contractor calculated using five specific factors
 - Apply goal to entire workforce (or by Job Group or EEO-1 category, if preferred)
 - Not rigid and inflexible quota; quotas forbidden; and
 - Not to be considered ceiling or floor for employment.
- No rules for conducting utilization analysis/Failure to meet goal is not a violation; and
- Maintain records for three years.

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Benchmarks for Hiring

Total No. of Hires	No. of Protected Veteran Hires	Percentage of Protected Veteran Hires	Hiring Goal for Protected Veterans
45	4	8.9%	8%

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Utilization Goal for IWD

(-741.45)

- **Must set an annual utilization goal for individuals with disabilities;**
 - Not rigid and inflexible quota; quotas forbidden; and
 - Not to be considered ceiling or floor for employment.
- Must use 7% for goal (to be updated by OFCCP periodically);
- Annually evaluate by Job Group (contractors with 100 or fewer employees optionally by entire workforce); and
 - Compare percentage of IWD employees in a Job Group to the goal
- No rules specifying requirements for how utilization analysis is to be conducted.

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Utilization Goal for IWD (-741.45)

- Identification of Problem Areas;
 - If percentage of IWDs is less than utilization goal,
 - Must take steps to determine whether and where impediments to EEO exist
 - Must
 - assess its personnel processes;
 - Assess effectiveness of its outreach and recruitment efforts;
 - Results of AAP audit; and
 - Any other areas that might affect success of AAP.
- Action-oriented programs; and
 - Must develop and execute action-oriented program designed to correct any identified problem areas; and
 - Action-oriented program may include modification to personnel processes, alternative or additional outreach/recruitment efforts or other actions designed to correct problems.
- Failure to meet goal does not constitute finding or admission of discrimination.

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Subpart C Utilization Goal

Job Group	No. of Employees	No. of IWD Employees	Percentage of IWD Employees	Utilization Goal
Management	5	0	0%	7%
Software Engineers	30	2	6.7%	7%
Administrative Professionals	10	2	20%	7%
Clerical Support	18	1	5.6%	7%

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Thank you for attending today's webinar!

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