OFCCP REVISED VEVRAA AND 503 REGULATIONS

Part II Data Collection and Analysis, Hiring Benchmarks and Utilization Goals



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.



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.



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



Veterans and IWD Regulations

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



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	Extensive changes (covered in Part 2 of Webinar)
300.43/741.43	Affirmative action policy	Similar
300.44/741.44	Required contents of affirmative action programs	Extensive changes
300.45 (Vet)	Veterans: Hiring Benchmarks	<u>NEW</u> (8 % of hires)- Part 2
741.45 (IWD)	IWD: Utilization Goals	NEW (7% by Job Group)- Part 2
741.46 (IWD)	Voluntary AAP for disabled emps	<u>NEW</u>
741.47 (IWD)	Sheltered workshops	Similar



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.



Subpart C **Invitation to Self-Identify**

OFCCP's final selfidentification form for IWDs

Ellen Shong & Associates, LLC



Voluntary Self-Identification of Disability

Form CC-305 OMB Control Number 1250-0005

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

Disabilities include, but are not limited to:

- Blindness Autism

- dystrophy
- Diabetes Schizophrenia Missing limbs or
 - partially missing limbs

Ripolar disorder

- · Post-traumatic stress disorder (PTSD) · Obsessive compulsive disorder
- Multiple sclerosis (MS) Impairments requiring the use of a wheelchair · Intellectual disability (previously called mental
 - retardation)

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

Voluntary Self-Identification of Disability

Form CC-305 OMB Control Number 1250-0005

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.

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

Subpart C 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.



Subpart C 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.



Subpart C 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"



Subpart C 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.



Subpart C 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.



Subpart C Benchmarks for Hiring

Total No. of Hires	Protected	Percentage of Protected Veteran Hires	Protected
45	4	8.9%	8%



Subpart C 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.



Subpart C 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.



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%



Thank you for attending today's webinar!

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