OFCCP Compliance Frequently Asked Questions

Many of these questions, with answers, come directly from the Department of Labor’s OFCCP website. Refer to their website for more information.

What do I need to do shortly after 24 March 2014?

- Invite applicants to voluntarily self-identify, in a separate confidential manner, as being a protected veteran at the pre-offer stage and as belonging to one or more of the specific categories of protected veteran the contractor is required to report pursuant to 41 CFR 61-300 (§ 60-741.42) and Individuals with a Disability (IWD)
- Include an EO policy statement in the AAP that shows top executive support for their AAPs (§ 60-300.44(a))
- Update EEO statement included in purchase orders
- Assess and document the effectiveness of outreach and recruitment efforts annually (§ 60-300.44(f)(3))
- Ensure that outreach and recruitment efforts are documented and retained (§ 60-300.44(f)(4))
- Document actions taken to comply with the audit and reporting system obligations (§60-300.44(h))
- Train employees engaged in key personnel activities (§60-300.44(j))
- Conduct data analysis by calculating data related to applicants and hires (§ 60-300.44(k))
- Establish, document and begin applying an annual hiring benchmark for your campus (§ 60-300.45)
- Update AA policy in handbook and ensure union officials are notified each year
- Update job postings to include a tagline welcoming IWDs and Veterans to apply (It is no longer sufficient to use abbreviations such as M/F/ V/D)
- Ensure postings with the local employment service delivery system are in the format acceptable to the state, make sure postings indicate the company is a Federal contractor, ensure contact information is up-to-date, and develop a process for updates when the contact changes
- Train HR, AAO, CDO, ADA Coordinator, and managers on what to do when a reasonable accommodation is requested
- Ensure compliance with the Internet Applicant definition, and make sure the applicant tracking system will allow Veteran and IWDs data to be included as confidential information separate from the application
- Provide an email or phone number as an alternative to online application systems. Set up a process to ensure the phone or email is monitored at least once a quarter.

When and to whom should I distribute Self-identification forms?

Pre-Offer Requirements

- Request separate and confidential self-identification of race, gender, and protected veteran status only. You must provide the definitions of the protected veteran categories but not require the applicant to identify the specific category.
- Request separate and confidential self-identification of a person with a disability, using the mandatory OFCCP form.
- See Appendix for forms

Post-Offer Requirements

- Request separate and confidential self-identification of race, gender, and specific protected veteran category.
- Request separate and confidential self-identification of a person with a disability, using the mandatory OFCCP form.
To comply with Section 503, you will also need to survey your employees on the following schedule:

- 1st year – we suggest that you do this at your first AAP update after 3/24/14
- Every five years
- In the interim, you must send out a reminder of the employee’s ability to change their status to an individual with a disability, as appropriate.
- Even though not required, you can survey your employees on a more regular basis.

What do you do with the self identification form?

All self-identification forms must be kept confidential and separate from the personnel or medical file. Ensure that your campus has a procedure to address requests for accommodations. All requests should be handled on a case-by-case basis. The request for reasonable accommodation should include the name of the persons who are responsible for reviewing and determining the response to the request.

Do I need to modify my request for reasonable accommodation forms?

Yes. You should include the name and contact information of the person responsible for processing the requests for accommodations. You should also include this statement on your employment opportunity page of your website.

At the pre-offer stage, an individual states that he/she is not disabled. At the post-offer stage, the same individual states that he/she is disabled. Can I modify the original self-identification to show that the individual is disabled?

If the individual confirms that he/she was disabled at the time of the pre-offer, yes. If not, no.

Once I have entered the self-identification information into my HR system, can I destroy the document?

No, the documents should be kept pursuant to our SUNY Record Retention and Disposition policy, Document Number 6609. However, if you make a digital copy pursuant to your policy, you may destroy the original. Pursuant to 41 CFR 60-300.44(k) and § 60-741.44(f)(4) and (k)., the records (whether paper or electronic) must be maintained for 3 years.

Do the new regulations affect the selection Process?

Yes. VEVRAA and Section 503 prohibit contractors from using qualification standards and selection criteria that screen out or tend to screen out an individual with a disability or protected veteran unless the contractor can show that the standard is job-related and consistent with business necessity. Contractors may not use selection criteria that relate to the essential function of the job to exclude a disabled veteran or an individual with a disability if the person can satisfy the criteria with a reasonable accommodation.

Do the new regulations affect the AAP?

Yes and please do the following for the first AAP following 24 March 2014:

- Develop a process to solicit IWDs and Veteran information pre-offer, using the form OFCCP will provide
- Begin to track the number of job openings - currently defined as the number of individual positions advertised as open in a job announcement or requisition, even if they are not filled during the AAP year
- Survey your workforce to determine IWDs currently employed, using the form OFCCP will provide
- After the first year of tracking, report metrics as part of the IWDs and Veterans AA plan
• After the first year of tracking, report on Veteran hiring benchmark by plan (currently 8%) and IWDs utilization by job group within plan (currently 7%), if such is chosen by the campus.
• See page 6 of this guide.
• Re-survey workforce every five years for IWD status, and schedule a reminder to be sent to all employees that IWDs status can change at least once in between surveys
• Send out separate written notice of AA policy to all subcontractors and vendors each year
• Determine a process for reviewing outreach efforts to establish effectiveness each year
• Retain outreach and benchmark records for three years

What new elements should be included in the first AAP under the new VEVRAA regulations, that is, after the effective date?

Your first AAP under the new regulations should address all elements of Subpart C. Ideally, a contractor’s first AAP under the new rules should include, as best as possible, all of the elements of Subpart C, including:

• Evidence that the contractor is complying with the requirements to invite voluntary self-identification per § 60-300.42;
• The inclusion of an equal opportunity policy statement per § 60-300.44(a);
• A review of the contractor’s personnel processes per § 60-300.44(b);
• A schedule for the review of all physical and mental job qualification standards and evidence that such review adheres to that schedule per § 60-300.44(c);
• Information relating to the procedures developed and implemented ensuring that employees are not harassed because of their protected veteran status per § 60-300.44(e);
• A review and assessment of the contractor’s outreach and recruitment efforts per § 60-300.44(f);
• Documentation of all activities taken to comply with the obligations of § 60-300.44 per § 60-300.44(f)(4);
• Documentation that the contractor has implemented and disseminated its commitment to affirmative action to employ and advance in employment qualified protected veterans per § 60-300.44(g);
• Evidence that the contractor has designed and implemented an audit and reporting system per § 60-300.44(h);
• Identification of the individual assigned responsibility for the implementation of the contractor’s AAP and evidence of compliance with § 60-300.44(i);
• Data collection pursuant to § 60-300.44(k);
• Documentation that it established and applied an annual hiring benchmark per § 60-300.45.

For each element required in affirmative action plans, the contractor’s first AAP should:

• Address everything that the contractor has done to comply with the elements that are not new;
• Address everything that the contractor has done to come into compliance with the new provisions that took effect on March 24, 2014; and
• To the extent that the contractor is not yet in full compliance with the new provisions, discuss the steps that it plans to take to come into compliance.

See:


For forms: see below

• Section 503: use the new OFCCP Form. The Self-Identification form is available on the OFCCP website, on the page specifically devoted to the new regulations of Section 503, and also in the appendix to this document.
• VEVRAA Form: refer to the following section of this document, where a form is included
OFCCP Compliance Checklist Appendix - Applicable Forms

1. Invitation to Self-Identify for Veterans

2. Self-Identification of Disability Form
Invitation to Self-Identify for Veterans

Why are you being asked to complete this form?

Because we do business with the government, we must reach out to current employees, new hires and applicants, and 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:

- A “disabled veteran” is one of the following:
  - a veteran of the U.S. military, ground, naval or air service 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
  - a person who was discharged or released from active duty because of a service-connected disability.
- 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.
- 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.
- 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 Forces service medal was awarded pursuant to Executive Order 12985.

Protected veterans may have additional rights under USERRA - the Uniformed Services Employment and Reemployment Rights Act. In particular, if you were absent from employment in order to perform service in the uniformed service, you may be entitled to be re-employed by your employer in the position you would have obtained with reasonable certainty if not for the absence due to service. For more information, call the U.S. Department of Labor’s Veterans Employment and Training Service (VETS), toll-free, at 1-866-4-USA-DOL.

To help us measure how well we are doing, we are asking you to tell us if you are an individual as defined above. 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.

APPLICANT

If you believe you belong to 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 in order to measure the effectiveness of the outreach and positive recruitment efforts we undertake pursuant to VEVRAA.

[ ] I IDENTIFY AS ONE OR MORE OF THE CLASSIFICATIONS OF PROTECTED VETERAN LISTED ABOVE

[ ] I AM NOT A PROTECTED VETERAN
NEW HIRE/CURRENT EMPLOYEE

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 based on your circumstances at this time, regardless of whether you identified as having a disability earlier.

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

[ ] 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.

If you are a disabled veteran it would assist us if you tell us whether there are 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.

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 the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.

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.
Self-Identification of Disability Form

Voluntary Self-Identification of Disability

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. 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
- Deafness
- Cancer
- Diabetes
- Epilepsy
- Autism
- Cerebral palsy
- HIV/AIDS
- Schizophrenia
- Muscular dystrophy
- Bipolar disorder
- Major depression
- Multiple sclerosis (MS)
- Missing limbs or partially missing limbs
- Post-traumatic stress disorder (PTSD)
- Obsessive compulsive disorder
- 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

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.