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Part III

Department of Labor
Office of Federal Contract Compliance Programs
41 CFR Part 60-741
Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities; Final Rule
(1) Filing a complaint;
(2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the affirmative action provisions of VEVRAA or any other Federal, state or local law requiring equal opportunity for protected veterans;
(3) Opposing any act or practice made unlawful by VEVRAA or its implementing regulations in this part or any other Federal, state or local law requiring equal opportunity for protected veterans;
(4) Exercising any other right protected by VEVRAA or any of its implementing regulations in this part.
(b) Review of personal processes.
The contractor shall ensure that its personal processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees who are known protected veterans for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The contractor shall ensure that when a protected veteran is considered for employment opportunities, the contractor relies only on that portion of the individual’s military record, including his or her discharge papers, relevant to the requirements of the opportunity in issue. The contractor shall ensure that its personnel processes do not stereotype protected veterans in a manner which limits their access to all jobs for which they are qualified. The contractor shall periodically review such processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes of development of new processes shall be included in any affirmative action programs required under this part. The contractor must design procedures that facilitate a review of the implementation of this requirement by the contractor and the Government (Appendix C of this part is an example of an appropriate set of procedures. The procedures in Appendix C are not required and contractors may develop other procedures appropriate to their circumstances.)
(c) Physical and mental qualifications. (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the periodic review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified disabled veterans, they are job-related for the position in question and are consistent with business necessity. (2) Whenever the contractor applies physical or mental qualification standards in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification standards tend to screen out qualified disabled veterans, the standards shall be related to the specific job or jobs for which the individual is being considered and consistent with business necessity. The contractor has the burden to demonstrate that it has complied with the requirements of this paragraph (c)(2).
(3) The contractor may use as a defense to an allegation of a violation of paragraph (c)(2) of this section that an individual poses a direct threat to the health or safety of the individual or others in the workplace. (See §600.2(g)(2) for direct threat.)(d) Reasonable accommodation to physical and mental limitations. As is provided in §300.21(f), as a matter of nondiscrimination, the contractor must make reasonable accommodation to the known physical or mental limitations of any otherwise qualified disabled veteran unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its business. As a matter of affirmative action, if an employee who is known to be a disabled veteran is having difficulty performing his or her job and it is reasonable to conclude that the problem is related to the protected status, the contractor shall confidentially notify the employee of the performance problem and inquire whether the problem is related to the employee’s disability; if the employee responds affirmatively, the contractor shall confidentially inform whether the employee is in need of a reasonable accommodation.
(e) Harassment. The contractor must develop and implement procedures to ensure that its employees are not harassed because of their status as a protected veteran.

(1) External dissemination of policy, outreach and positive recruitment.
(1) Required outreach efforts.
(1) The contractor shall undertake appropriate outreach and positive recruitment activities such as those listed in paragraph (f)(2) of this section that are reasonably designed to effectively recruit protected veterans. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraph (f)(2) of this section or that its activities will be limited to those listed. The scope of the contractor’s efforts shall depend upon all the circumstances, including the contractor’s size and resources and the extent to which existing employment practices are adequate.
(2) The contractor must send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part.
(2) Examples of outreach and recruitment activities. Below are examples of outreach and positive recruitment activities referred to in paragraph (f)(1) of this section. This is an illustrative list, and contractors may choose from these or other activities, as appropriate to their circumstances.
(i) Enlisting the assistance and support of the following persons and organizations in recruiting, and developing on-the-job training opportunities for veterans, in order to fulfill its commitment to provide meaningful employment opportunities for such veterans:
(A) The National Veterans’ Employment Representative in the local employment service office (i.e., the One-Stop) nearest the contractor’s establishment;
(B) The Department of Veterans Affairs Regional Office nearest the contractor’s establishment;
(C) The veterans’ counselors and coordinators (“Vet-Reps”) on college campuses;
(D) The service officers of the national veterans’ groups active in the area of the contractor’s establishment;
(E) Local veterans’ groups and veterans’ service centers near the contractor’s establishment;
(F) The Department of Defense Transition Assistance Program (TAP), or any subsequent program that, in whole or in part, replaces TAP; and
(G) Any organization listed in the Employer Resources section of the National Resource Directory (http://www.nationalresourcedirectory.gov), or any future service that replaces or complements it.
(ii) The contractor should also consider taking the actions listed below, as appropriate, to fulfill its commitment to provide meaningful employment opportunities to protected veterans:
(A) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Contractor facility tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company’s selection process, and recruiting literature should be an integral part of the briefing. At any
such briefing sessions, the company official in charge of the contractor’s affirmative action program should be in attendance when possible. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(B) The contractor’s recruitment efforts at all educational institutions should incorporate special efforts to reach students who are protected veterans.

(C) An effort should be made to participate in work-study programs with Department of Veterans Affairs rehabilitation facilities which specialize in training or educating disabled veterans.

(D) Protected veterans should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(E) The contractor should take any other positive steps it deems necessary to attract qualified protected veterans not currently in the workforce who have requisite skills and can be recruited through affirmative action measures. These persons may be located through the local chapters of organizations of and for any of the classifications of protected veterans.

(F) The contractor, in making hiring decisions, should consider applicants who are known protected veterans for all available positions for which they may be qualified when the position(s) applied for is unavailable.

(G) The contractor should consider listing its job openings with the National Resource Directory’s Veterans Job Bank, or any future service that replaces or complements it.

(3) Assessment of external outreach and recruitment efforts. The contractor shall, on an annual basis, review the outreach and recruitment efforts it has taken over the previous twelve months to evaluate their effectiveness in identifying and recruiting qualified protected veterans. The contractor shall document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the contractor’s conclusion as to whether each effort was effective. Among these criteria shall be the data collected pursuant to paragraph (k) of this section for the current year and the two most recent previous years. The contractor’s conclusion as to the effectiveness of its outreach efforts must be reasonable as determined by OFCCP in light of these regulations. If the contractor’s conclusion is that the totality of its efforts were not effective in identifying and recruiting qualified protected veterans, it shall identify and implement alternative efforts listed in paragraphs (f)(1) or (f)(2) of this section in order to fulfill its obligations.

(4) Recordkeeping obligation. The contractor shall document all activities it undertakes to comply with the obligations of this section, and retain these documents for a period of three (3) years.

 Internal dissemination of policy.

(1) A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor’s efforts, the contractor shall develop the internal procedures listed in paragraph (g)(2) of this section for communication of its obligation to engage in affirmative action efforts to employ and advance in employment qualified protected veterans. It is not contemplated that the contractor’s activities will be limited to those listed. These procedures shall be designed to foster understanding, acceptance and support among the contractor’s executive, management, supervisory and other employees and to encourage such persons to take the necessary actions to aid the contractor in meeting this obligation.

(2) The contractor shall implement and disseminate this policy internally as follows:

(i) Include it in the contractor’s policy manual or otherwise make the policy available to employees;

(ii) If the contractor is party to a collective bargaining agreement, it shall notify union officials and/or employee representatives to inform them of the contractor’s policy, and request their cooperation;

(iii) The contractor is encouraged to additionally implement and disseminate this policy internally as follows:

(a) Inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for protected veterans;

(b) Publicize it in the company newspaper, magazine, annual report and other media;

(c) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer’s support for the affirmative action policy;

(d) Discuss the policy thoroughly in both employee orientation and management programs;

(e) When employees are featured in employee handbooks or similar publications for employees, include disabled veterans.

(b) Audit and reporting system. (1) The contractor shall design and implement an audit and reporting system that will:

(i) Measure the effectiveness of the contractor’s affirmative action program;

(ii) Indicate any need for remedial action;

(iii) Determine the degree to which the contractor’s objectives have been attained;

(iv) Determine whether known protected veterans have had the opportunity to participate in all company sponsored educational, training, recreational and social activities;

(v) Measure the contractor’s compliance with the affirmative action program’s specific obligations; and

(vi) Document the actions taken to comply with the obligations of paragraphs (i) through (v) above, and retain these documents as employment records subject to the recordkeeping requirements of 55.800.

(2) Where the affirmative action program is found to be deficient, the contractor shall undertake necessary action to bring the program into compliance.

(i) Responsibility for implementation. An official of the contractor shall be assigned responsibility for implementation of the contractor’s affirmative action activities under this part. His or her identity should appear on all internal and external communications regarding the company’s affirmative action program. This official shall be given necessary senior management support and staff to manage the implementation of this program.

(j) Training. All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes shall be trained to ensure that the commitments in the contractor’s affirmative action program are implemented.

(k) Data collection analysis. The contractor shall document the following computations or comparisons pertaining to applicants and hires on an annual basis and maintain them for a period of three (3) years:

(i) The number of applicants who self-identified as protected veterans pursuant to § 50-300.42(a), or who are otherwise known as protected veterans;

(ii) The total number of job openings and total number of jobs filled;

(iii) The total number of applicants for all jobs;

(iv) The number of protected veterans who were selected for employment and in the employee population;
Part II

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Parts 60–250 and 60–300
Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans; Final Rule
accommodation obligations under section 503 and this part. Such procedures help ensure that applicants and employees are informed as to how to request a reasonable accommodation and are aware of how such a request will be processed by the contractor. They also help ensure that the contractor's supervisors and managers know what to do should they receive a request for reasonable accommodation, and that all requests for accommodation are processed swiftly, within a reasonable period of time. The development and use of written reasonable accommodation procedures is not required by this part, and it is not a violation of this part for a contractor to have or use such procedures. However, Appendix B of this part provides guidance to contractors that choose to develop and use written reasonable accommodation procedures.

(c) Harassment. The contractor must develop and implement procedures to ensure that its employees are not harassed on the basis of disability.

(f) External dissemination of policy, outreach, and positive recruitment—(1) Required outreach efforts. (i) The contractor shall undertake appropriate outreach and positive recruitment activities such as those listed in paragraph (f)(2) of this section that are reasonably designed to effectively recruit qualified individuals with disabilities. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraph (f)(2) of this section or that its activities will be limited to those listed. The scope of the contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(ii) The contractor must send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part.

(2) Examples of outreach and recruitment activities. Below are examples of outreach and positive recruitment activities referred to in paragraph (f)(1) of this section.

(i) Enlisting the assistance and support of the following persons and organizations in recruiting, and developing on-the-job training opportunities for individuals with disabilities, in order to fulfill its commitment to provide equal employment opportunity for such individuals:

(A) The State Vocational Rehabilitation Service Agency (SVRA), State mental health agency, or State developmental disability agency in the area of the contractor's establishment;
(B) The Employment One-Stop Career Center (One-Stop) or American Job Center nearest the contractor's establishment;
(C) The Department of Veterans Affairs Regional Office nearest the contractor's establishment (www.va.gov);
(D) Entities funded by the Department of Labor that provide recruitment or training services for individuals with disabilities, such as the services currently provided through the Employer Assistance and Resource Network (EARN) (www.earnworks.com);
(E) Local Employment Network (EN) organizations (other than the contractor, if the contractor is an EN) listed in the Social Security Administration's Ticket to Work Employment Network Directory (www.yourtickettowork.com/endid);
(F) Local disability groups, organizations, or Centers for Independent Living (CIL) near the contractor's establishment;
(G) Placement or career offices of educational institutions that specialize in the placement of individuals with disabilities; and
(H) Private recruitment sources, such as professional organizations or employment services that specialize in the placement of individuals with disabilities.

(ii) The contractor shall also consider taking the actions listed below to fulfill its commitment to provide equal employment opportunities to individuals with disabilities:

(A) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Contractor facility tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruitment literature should be an integral part of the briefing. At any such briefing sessions, the company official in charge of the contractor's affirmative action program should be in attendance when possible. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(B) The contractor's recruitment efforts at all educational institutions should incorporate special efforts to reach students who are individuals with disabilities.

(C) An effort should be made to participate in work-study programs for students, trainees, or interns with disabilities. Such programs may be found through outreach to State and local schools and universities, and through EARN.

(D) Individuals with disabilities should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(E) The contractor should take any other positive steps it deems necessary to attract individuals with disabilities not currently in the workforce who have requisite skills and can be recruited through affirmative action measures. These individuals may be located through State and local agencies supported by the U.S. Department of Education's Rehabilitation Services Administration (RSA) (http://rsa.ed.gov/), local Ticket-to-Work Employment Networks, or local chapters of groups or organizations that provide services for individuals with disabilities.

(F) The contractor, in making hiring decisions, should consider applicants who are known to have disabilities for all available positions for which they may be qualified when the position(s) applied for is unavailable.

(3) Assessment of external outreach and recruitment efforts. The contractor shall, on an annual basis, review the outreach and recruitment efforts it has taken over the previous twelve months to evaluate their effectiveness in identifying and recruiting qualified individuals with disabilities. The contractor shall document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the contractor's conclusion as to whether each effort was effective. Among these criteria shall be the data collected pursuant to paragraph (k) of this section for the current year and the two most recent previous years. The contractor's conclusion as to the effectiveness of its outreach efforts must be reasonable as determined by OFCCP in light of these regulations. If the contractor concludes the totality of its efforts were not effective in identifying and recruiting qualified individuals with disabilities, it shall identify and implement alternative efforts listed in paragraphs (f)(2) or (f)(3) of this section in order to fulfill its obligations.

(g) Recordkeeping obligation. The contractor shall document all activities it undertakes to comply with the obligations of this section, and retain these documents for a period of three (3) years.

(i) A strong outreach program will be ineffective without adequate internal...