

Date: March 19, 2014

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HR/EEO 2014-01

To: Human Resources Officers  
EEO Directors

Supersedes in part: HR 2008-12  
References: HR/Personnel Records 2010-01

From: John Swarbrick  
Associate Vice Chancellor, Labor Relations

Subject: **Regulatory Changes Affecting Affirmative Action Programs for Protected Veterans and Individuals with a Disability**

**Overview**

**Audience:** Campus designees responsible for policies on recruitment, affirmative action, or employment nondiscrimination

**Action Items:** Implement changes to the campus affirmative action programs (AAPs) for protected veterans and individuals with a disability

**Affected Employee Groups/Units:** All CSU employees and job applicants for CSU employment

**Summary**

Effective **March 24, 2014**, changes in federal regulations will require each campus to take specific actions in its affirmative action programs for veterans and individuals with a disability, including:

- Invite job applicants to self-identify as a protected veteran or an individual with a disability before a job offer is made;
- Invite new hires to self-identify as a protected veteran or an individual with a disability before they start working
- Invite current employees to self-identify as an individual with a disability once on or before the start date of the campus's next AAP following March 24, 2014 and every five (5) years thereafter;
- Send current employees a reminder at least once between the 5-year disability self-identification invitations to remind employees they may update their disability status at any time
- Annually report the number of applicants and hires who self-identify as protected veterans or individuals with a disability;
- Apply an 7.2% benchmark for the employment of protected veterans and a 7% utilization goal for the employment of individuals with a disability;
- Engage in effective recruitment methods of protected veterans and individuals with a disability;
- Provide a written assessment of the effectiveness of recruitment methods used;
- Maintain documentation, as required by the regulations

Campus designees responsible for recruitment, employment nondiscrimination or affirmative action should review this Technical Letter for details.

**Distribution:**

CSU Chancellor  
CSU Presidents  
Executive Vice Chancellor and CAO  
Executive Vice Chancellor and CFO  
Vice Presidents, Administration

Associate Vice Presidents/Deans of Faculty  
ADA Coordinators  
Diversity Officers  
Discrimination/Harassment/Retaliation Administrators

## BACKGROUND

Pursuant to federal affirmative action laws and their implementing regulations governing federal contractors<sup>1</sup>, CSU campuses have been maintaining and annually updating several affirmative action programs (AAPs) designed to employ and advance in employment minorities, women, individuals with a disability and protected veterans.

On March 24, 2014, amended regulations enforced by the Office of Federal Contracts Compliance Program (OFCCP) will go into effect that will change the AAPs for protected veterans and individuals with a disability.<sup>2</sup> The changes and their impacts on campuses are discussed below.

## REGULATORY CHANGES

### I. Invitation to Self-Identify

#### A. Pre-offer Disability Self-identification for Applicants

In all recruitments campuses shall invite the applicants to self-identify whether they are an individual with a disability. Each campus shall extend this self-identification invitation:

- using the text provided by the OFCCP without alteration;
- to all applicants (as discussed below);
- before an offer is made

The disability self-identification form that the OFCCP provides may be accessed at: [http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary\\_Self-Identification\\_of\\_Disability\\_CC-305\\_SD\\_Edit1.24.14.pdf](http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary_Self-Identification_of_Disability_CC-305_SD_Edit1.24.14.pdf). Attachment A is a reproduced copy of the OFCCP disability self-identification form with a functionality that permits applicants to electronically submit the form by clicking on the "Submit Form" button. By clicking on "Submit Form," the applicant would send Attachment A to an email address that is to be designated by each campus. Campuses may use either the form available on the OFCCP website or Attachment A to solicit the disability status of applicants.

Each campus shall provide the form before the campus offers<sup>3</sup> the position to any applicant. The campus may choose to extend the invitation at the time an applicant submits his or her application or wait until later in the process. At a minimum, the invitation must be extended to all applicants, whose qualifications met the advertised, requisite qualifications of the vacant position, whether or not they met the preferred qualifications and whether or not they were invited for an interview.<sup>4</sup>

It is permissible to provide the form to applicants at the same time that the campus provides applicants the self-identification form(s) for race/ethnicity, gender and veteran status information. However, since the disability self-identification form cannot be altered, it cannot be combined with requests for other demographic information in one form. It must, therefore, remain a separate document from any other form.

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<sup>1</sup> Executive Order 11246, 41 CFR Parts 60-1 and 60-2 (prohibiting federal contractors from engaging in employment discrimination on the basis of race, color, national origin, religion, or sex and requiring federal contractors establishment of an affirmative action program for minorities and women); Section 503 of the Rehabilitation Act of 1973, as amended, 41 CFR 60-300 (prohibiting discrimination on the basis of a disability and requiring establishment of an affirmative action program for individuals with a disability); and the Vietnam-Era Veterans Readjustment Assistance Act of 1974, as amended, 41 CFR Part 60-741 (prohibiting discrimination on the basis of a protected veteran status and requiring establishment of an affirmative action program for protected veterans).

<sup>2</sup> The AAP for women and minorities is not affected by these regulatory changes.

<sup>3</sup> There was great concern among employers that implementing this requirement would put them in violation of the ADA's (Americans with Disabilities Act) prohibition against making inquiries regarding an applicant's disability status prior to an offer. In response, the OFCCP posted on its website a legal opinion letter authored by the EEOC (Equal Employment Opportunity Commission—the agency charged with enforcing the ADA), assuring employers that this self-invitation form is permissible under the ADA. The letter may be viewed at: [http://www.dol.gov/ofccp/regs/compliance/sec503/OLC\\_letter\\_to\\_OFCCP\\_8-8-2013\\_508c.pdf](http://www.dol.gov/ofccp/regs/compliance/sec503/OLC_letter_to_OFCCP_8-8-2013_508c.pdf).

<sup>4</sup> See HR 2007-11.

All self-identification forms must be separate or detachable from the application materials of an applicant so that no one involved in the screening of applications or in the selection decision has access to any protected status information (e.g., ethnicity/race, gender, disability or protected veteran status) of an applicant.

The form requests the applicant to provide his or her name. The OFCCP thought it necessary to solicit this information because it would enable employers to report the representation of individuals with a disability by job group, which is a requirement discussed below in Section III.

The form does not request applicants to specify what the disability is or to provide documentation of the disability. The fact that an applicant checked the box “Yes, I have a disability (or previously had a disability)” on this form is not, by itself, sufficient to give rise to the campus obligation to engage the applicant in an interactive process to determine a reasonable accommodation. For this campus obligation to arise, the campus must have known the applicant has a disability and that the disability is causing difficulties for the applicant in the application process. In general, the campus would only have knowledge of this information if the applicant informed the campus he or she needs a reasonable accommodation. Note, the self-identification form tells the applicant or employee to contact the employer if he or she needs a reasonable accommodation.<sup>5</sup> If an applicant or employee requests a reasonable accommodation, then the campus would need to engage in an interactive dialogue with the applicant to determine a reasonable accommodation. During this interactive process, the campus may, consistent with ADA, FEHA (the Fair Employment and Housing Act) and their implementing regulations<sup>6</sup>, request the applicant to provide documentation of the need for accommodation, if the disability is not obvious.

Completion of the self-identification form is voluntary; an applicant’s refusal to self-identify does not have negative consequences. Although the OFCCP permits employers to visually identify someone as a person with a disability if the disability is known or obvious, campuses should not engage in visual identification since this practice may be offensive.<sup>7</sup>

## **B. Disability Self-Identification for Employees**

### **1. New Hires**

Before a new hire begins working, each campus shall use the OFCCP disability self-identification form ([http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary\\_Self-Identification\\_of\\_Disability\\_CC-305\\_SD\\_Edit1.24.14.pdf](http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary_Self-Identification_of_Disability_CC-305_SD_Edit1.24.14.pdf)) or Attachment A to request the new hire to disclose whether he or she is an individual with a disability.

### **2. Current Employees**

Either the OFCCP disability self-identification form or Attachment A shall also be used to solicit disability self-identification from current employees. Initially, the invitation shall be done once on or before the start date of the campus’s next AAP following March 24, 2014. Then, every five (5) years thereafter, the campus shall send this invitation to all employees who are on the campus payroll at the time the invitation is sent.

In addition, at least once between the five-year invitations, the campus shall remind its employees that they may voluntarily update their disability status at any time. Attachment B provides campuses with a sample reminder message. In the reminder message, the campus should instruct employees how they may update their information.

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<sup>5</sup> The form states under the heading “Reasonable Accommodation Notice”: “Please tell us if you require a reasonable accommodation to apply for a job or to perform your job.”

<sup>6</sup> Appendix to 29 CFR Part 1630-Interpretive Guidance on Title I of Americans with Disabilities Act, Section 1630.9; 2 CCR § 7294.0(c)(2), (d)(1), and (d)(5).

<sup>7</sup> See HR 2002-09, which similarly advises campuses not to engage in visual self-identification of employees’ race or ethnicity information for the same reason.

The employees' completion of the self-identification form is voluntary; refusal to self-identify does not have negative consequences. Although the OFCCP permits employers to visually identify someone as a person with a disability if the disability is known or obvious, campuses should not engage in visual identification since this practice may be offensive.

It bears repeating that an employee's checking the box "Yes, I have a disability (or previously had a disability)" on the self-identification form does not give rise to the campus obligation to engage the employee in a good-faith interactive discussion to identify a reasonable accommodation. Generally, the employee must inform the campus that he or she needs accommodation before the campus is mandated to begin this interactive process. However, under both state and federal laws, if the employer knows an employee has a disability, knows that the employee has difficulty performing his or her job, and it is reasonable to conclude that the disability may be related to the performance difficulty, then the employer may ask the employee if he or she needs a reasonable accommodation.<sup>8</sup>

### C. Pre-offer Veteran Self-Identification for Applicants

Similar to the pre-offer disability self-identification invitation, campuses are required to make a pre-offer request to applicants to disclose whether they are a "protected veteran." To the extent that previous Chancellor's Office guidance (HR 2008-12, Footnote 2; HR/Personnel Records 2010-01, pp. 4-5) instructs the campuses not to solicit veteran information from job applicants before an offer is made, that instruction is now superseded.

"Protected veteran" has a specific definition in the regulations that is different from the dictionary meaning of "veteran." "Protected veteran" is defined to comprise four specific classifications, each of which is also defined in the regulations. The four classifications of protected veterans are: (1) Disabled veteran; (2) Recently separated veteran; (3) Active Wartime or Campaign Badge veteran;<sup>9</sup> and (4) Armed Forces Service Medal veteran.

These protected veteran classifications shall be used by campuses in developing the affirmative action reports required by the OFCCP (See Sections II and III). To the extent that previous Chancellor's Office guidance (HR 2008-12) instructs the campuses to use veteran categories by other names in the campuses' affirmative action programs, that instruction is now superseded.

The OFCCP has provided sample language for employers to use to make this self-identification invitation. There is no choice for the applicant to decline to answer (as there is in the disability self-identification invitation form). However, the applicant can effectively refuse to answer by not answering the question or not submitting the form. Such refusal cannot be held by the employer against the person. The language does not request or require the applicant to submit any documentation of his or her veteran status such as DD Form 214.

The OFCCP sample form has been slightly modified. Attachment C solely requests veteran status information while Attachment D combines the request for veteran status with the request for other demographic information (that is, race/ethnicity and gender,<sup>10</sup> but not including disability since that has to be on a separate form). Campuses may

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<sup>8</sup> 41 CFR 60-741.44(d)(1); Questions and Answers: Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA) (<http://eeoc.gov/policy/docs/qanda-inquiries.html>); 2 CCR § 7294.1(d).

<sup>9</sup> "Active Wartime or Campaign Badge Veteran" is a new name for the classification of veterans that the OFCCP previously called "Other Protected Veteran." The definition of the classification remains the same; only the name changes. Note that the Veterans Employment & Training Services (VETS), the federal agency that requires federal contractors to annually submit the VETS-100A form, also uses these veteran classifications, but the VETS has not yet adopted the change in nomenclature as the OFCCP has adopted. This difference in the terminologies used by the OFCCP and the VETS may affect the VETS-100A report that is due to be submitted by campuses in September of this year. The Chancellor's Office will provide instructions regarding the VETS-100A report if and when the VETS publishes guidance.

<sup>10</sup> Attachment D combines selected verbiage from the OFCCP sample veteran self-identification invitation with language from a form that was developed by the Chancellor's Office four years ago for campuses to solicit ethnicity/race information—the Voluntary Self-Identification Form for Employment Applicants, Attachment E of HR/Personnel Records 2010-01. Attachment E of HR/Personnel Records 2010-01 remains valid and may continue to be used by campuses if they do not want to combine the request for race/ethnicity and gender information with the request for veteran information as Attachment D has done.

use Attachment C or Attachment D. If using Attachment C, keep in mind it only requests veteran information so you will need to use it in addition to other forms designed to solicit race/ethnicity and gender information. All self-identification forms must be separate or detachable from the application materials of an applicant so that no one involved in the recruitment has access to any protected status information of an applicant.

Both Attachments C and D can be electronically submitted by the applicant's clicking on the "Submit Form" button. The form would be sent to an email address that is to be designated by each campus. Except for inserting the campus logo or campus name, campuses may not alter either attachment without first consulting with Equal Opportunity & Whistleblower Compliance at the Chancellor's Office.

## **D. Veteran Self-Identification Invitation for Employees**

### **1. New Hires**

Before a new hire begins working, the campus shall invite the new hire to self-identify whether he or she is a protected veteran. This would be the second time a new hire receives the invitation since he or she will have already received the first invitation before he or she receives the job offer.

The OFCCP has provided employers a sample invitation. Notably, there is no choice for the new hire to decline to answer (as there is in the disability self-identification invitation form). However, he or she can effectively refuse to answer by not answering the question or not submitting the form. A person's refusal to self-identify cannot adversely affect the person's employment.

The OFCCP's sample invitation invites employees who need an accommodation for a disability to inform the employer of this need. This presumably would be done outside of the form, as the form does not provide a check box or space for the employee to indicate that he or she needs an accommodation. See Section I.B.2 for the discussion regarding when the campus obligation arises to begin a discussion with an employee about accommodation.

Attachment E is the template form campuses shall use to solicit a new hire's protected veteran status. Attachment E replaces Attachment A of HR 2008-12. Attachment E has been developed to conform to federal regulations. Except for inserting the campus logo or campus name, campuses may not alter any part of the form without first consulting with Equal Opportunity & Whistleblower Compliance at the Chancellor's Office. Unfortunately, campuses cannot attempt to achieve efficiency by combining this invitation with the disability self-identification invitation since the disability self-identification invitation is an official OFCCP form that must be used as-is without alteration. This means that campuses may provide a new hire with Attachment A (the disability self-identification form) and Attachment E (the protected veteran self-identification form) at the same time, but they need to be separate forms.

### **2. Current Employees**

In contrast to the disability self-identification, the OFCCP regulations do not require employers to survey the veteran status of current employees.<sup>11</sup>

## **E. Recordkeeping**

Campuses shall keep the disability and veteran self-identification information of employees:

- For four (4) years from the date of the record;<sup>12</sup>
- Confidential (not in the employee's personnel file); and

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<sup>11</sup> Presumably, this is because the information has already been collected via an annual report called the VETS-100A, which employers annually submit to the Veterans Employment and Training Services. See Technical Letter HR/EEO 2013-02.

<sup>12</sup> This 4-year retention conforms to the CSU records retention schedule (<http://www.calstate.edu/recordsretention/>). In following the CSU retention schedule, campuses will have complied with the 2-year retention requirement of the OFCCP at 41 CFR 60-300.80(a) and 41 CFR 60-741. 80(a).

- In a data analysis file (not in the employee's medical file) that would enable the campus to run the reports discussed in Sections II and III below

The disability and veteran self-identification information of applicants shall be kept:

- For two (2) years from the date of the record;
- Confidential (no one involved in screening the applications or selecting the hire can access this information); and
- In a data analysis file (not in the recruitment file) that would enable the campus to run the reports discussed in Sections II and III below

Information regarding the medical conditions of or reasonable accommodations for employees shall be kept:

- For five (5) years after the employee's separation from CSU;<sup>13</sup>
- In a separate medical file and treated as a confidential medical record. Such information may be shared only under one of three exceptions below:
  - Supervisors and managers may be informed regarding an employee's work restrictions or other accommodations;
  - First aid and safety personnel may be informed when and to the extent appropriate, if the employee's condition might require emergency treatment;
  - Government officials responsible for enforcing the ADA or OFCCP regulations may be informed

Information regarding the medical conditions of or reasonable accommodations for applicants shall be kept:

- For two (2) years from the date of the record, in compliance with OFCCP regulations;
- As a confidential medical record (not in the recruitment file and on one involved in screening the applications or selecting the hire can access this information), except that government officials responsible for enforcing the ADA or OFCCP regulations may be granted access.

Campuses shall follow the retention schedule specified above, unless a claim, litigation, or audit involving the record is initiated during the retention period. In such cases, the record must be maintained until the completion of the action.

## **II. Applicants and Hires Reports**

Per OFCCP regulations, campuses shall use the information obtained through self-identification to compile two annual reports: one on individuals with a disability and the other on protected veterans. The two reports are alike in terms of the numbers or counts that must be shown. The terminology is the same in both reports; thus, definitions of terms are provided once in the discussion below. It is important to understand the terminology and numbers that are required to be reported since campuses will need to provide accurate counts to their AAP vendor for preparation of the reports.

The report on individuals with a disability is a required component of the AAP for individuals with a disability. It must appear in that AAP in a section titled "Data Collection Analysis." Likewise, the report on protected veterans must appear in a section of the same title in the AAP for protected veterans. Campuses should contact their AAP vendor to verify that systems are in place to enable the production of the reports.

### **A. Applicants and Hires Report — Individuals with a Disability**

With respect to individuals with a disability, the annual report must show the counts for the following activities that occurred in the preceding AAP year:

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<sup>13</sup> This 5-year retention conforms to CSU records retention schedule (<http://www.calstate.edu/recordsretention/>). In following the CSU retention schedule, campuses will have complied with the 2-year retention requirement of the OFCCP at 41 CFR 60-300.80(a) and 41 CFR 60-741. 80(a).

- Total number of job openings—“job opening” refers to the number of individual positions advertised as open in a job vacancy announcement or requisition. For example, if one vacancy announcement or requisition includes 5 open positions, report this as 5 job openings.
- Total number of jobs filled—refers to all jobs filled either through a competitive process or a non-competitive process, including hires, promotions, transfers, and reassignments.
- Total number of applicants for all jobs—“applicants” refers to individuals who apply to a particular vacant position (which excludes unsolicited resumes). At a minimum, this includes applicants who met the advertised, requisite qualifications of the vacant position, whether or not they met the preferred qualifications and whether or not they were invited for an interview.
- Total number of applicants who self-identify as individuals with a disability
- Total number of hires—“hires” refers to the filling of a vacancy through a competitive process, which includes hires of outside candidates and promotions of internal candidates, where the internal candidates have to compete against other individuals for the position.
- Total number of hires who self-identify as individuals with a disability

#### **B. Applicants and Hires Report — Protected Veterans**

With respect to protected veterans, the annual report must show the counts for the following activities that occurred in the preceding AAP year:

- Total number of job openings
- Total number of jobs filled
- Total number of applicants for all jobs
- Total number of applicants who self-identify as protected veterans
- Total number of hires
- Total number of hires who self-identify as protected veterans

#### **C. Recordkeeping**

As previously stated, these reports are required AAP components. Campuses shall maintain each report in its respective AAP in a section titled “Data Collection Analysis.” Note the OFCCP requires employers to make the AAP for individuals with a disability and the AAP for protected veterans available for viewing by any employee or applicant upon request. However, the OFCCP excepts from this requirement the applicants and hires reports.

Per the regulations, campuses shall keep the applicants and hires reports for three (3) years from the date of the reports. Note, however, that OFCCP regulations only require keeping the AAP for two (2) years. To comply with both of these requirements, campuses may either pull the applicants and hires reports from the AAPs that are three years old prior to discarding the AAPs or maintain the AAPs intact for three (3) years.

### **III. Utilization Goal and Hiring Benchmark**

#### **A. Utilization Goal – Individuals with a Disability**

Each employer is required to analyze the representation of individuals with a disability in its workforce on an annual basis and strive to reach a goal of seven percent (7%) for the employment of individuals with a disability. The 7%,

called the “utilization goal,” is set by the OFCCP and it applies to each job group.<sup>14</sup> The OFCCP regulations state the 7% utilization goal “is not a . . . quota which must be met, nor is it to be considered either a ceiling or a floor for the employment of particular groups.”<sup>15</sup> The fact that an employer does not reach the 7% utilization goal in one or more job groups “does not constitute either a finding or admission of discrimination.”<sup>16</sup>

Each employer is required to compile a report called the Utilization Analysis. The Utilization Analysis is a comparison between the representation of individuals with a disability who are working for the employer (i.e., the internal representation) and the 7% utilization goal. This comparison must be performed by the employer for each job group.

If the internal representation is less<sup>17</sup> than the 7% utilization goal in any job group, the employer is required to assess the effectiveness of its outreach and recruitment efforts and review its employment processes to ensure there is no impediment to the employment of individuals with a disability.

The Utilization Analysis is not listed in the regulations under the heading “Required contents of affirmative action programs” so it is a standalone report, not a part of the written AAP. This has practical significance because the regulations require employers to make all parts of its AAP available to employees and applicants for viewing upon request, except for the hires and applicants report discussed in Section II. As a standalone report that is not part of the written AAP, the Utilization Analysis, like the applicants and hires report, does not have to be made available for viewing by employees and applicants upon request.

Pursuant to the regulations, campuses shall gather data necessary to conduct the Utilization Analysis. In this first year of implementation, each campus shall obtain the number of employees who have a disability through the one-time survey that the campus shall conduct per Section I.B.2. In subsequent years, the number derived from the one-time survey will need to be adjusted due to new hires, terminations or other personnel changes, as well as changes in employees’ self-identification, that occur during the previous year (recall that the regulations allow employees to update their disability status at any time).

Once the number of individuals with a disability in each job group is known, the campus would divide that number by the total number of employees in the job group to convert this number into a percentage. The result is the internal representation of individuals with a disability in the job group expressed as a percentage. The campus shall use this internal representation to compare with the 7% utilization goal. This shall be done for all job groups. Campuses should contact their affirmative action program vendor to verify that systems are in place to enable the production of the Utilization Analysis when campuses deliver the requisite data to the vendor.

If the Utilization Analysis reveals that the internal representation of individuals with a disability is less than the 7% utilization goal, the campus shall take steps to assess the effectiveness of its recruitment efforts (see Section IV.B) and review its employment processes to ensure there is no discrimination with respect to individuals with a disability (see next paragraph).

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<sup>14</sup> A job group is a grouping of jobs that the employer has formed based on the similarity of the jobs in compensation, duties, and promotional opportunity. The job groups serve as the unit of analysis for such reports as the Job Group Analysis, Comparison of Incumbency to Availability, and Placement Goals, which are required components of an AAP for women and minorities. The job groups used in the Utilization Analysis in the AAP for individuals with a disability shall be the exact job groups used in the AAP for women and minorities.

<sup>15</sup> 41 CFR 60-741.45.

<sup>16</sup> 41 CFR 60-741.45(h).

<sup>17</sup> Under the OFCCP regulations, employers may choose one of several methods to determine whether the representation of individuals with a disability is “less than” the 7% goal. These methods include the any difference rule (any difference between the 7% goal and the percentage of individuals with a disability), the one-person rule (the number of individuals with a disability is at least one whole person lower than the 7% goal), the 80 percent rule (the representation of individuals with a disability is less than 80 percent of the 7% goal) and the two standard deviation rule (the difference between the representation of individuals with a disability and the 7% goal is statistically significant). Any of these methods is acceptable to the OFCCP so long as employers uniformly apply this method. Thus, campuses should uniformly apply whatever method they select to both the written AAP for minorities and women and the written AAP for individuals with a disability and protected veterans.

It has been a requirement under existing regulations that employers review their employment processes to ensure there is no barrier to the employment of individuals with a disability and protected veterans and then to describe the activities they undertake in this review and any modifications to processes they instituted. The description of these activities have had to appear in a required component of the campus's written AAPs for individuals with a disability and protected veterans called "Review of Personnel Processes." Under the amended regulations, when the Underutilization Analysis reveals that internal representation of individuals with a disability at the campus is lower than the 7% utilization goal, the campus must assess its outreach efforts and review its employment processes. Due to this renewed emphasis on the review of employment processes, campuses are provided an excerpt of the regulations describing the types of employment processes employers should review (Attachment F) as a guide to conducting a review.

## **B. Hiring Benchmark – Protected Veterans**

The OFCCP regulations require employers to annually set a "hiring benchmark," which is "a quantifiable method by which the contractor can measure its progress toward achieving equal employment opportunity for protected veterans."<sup>18</sup> The employer may set its own hiring benchmark after taking into account a number of specified factors. Alternatively, the employer may choose to adopt a benchmark that equals the national percentage of veterans in the civilian labor force. This number is published and updated annually at: <http://www.dol-esa.gov/errd/VEVRAA.jsp>. For the current year, this benchmark is 7.2%.

The regulations do not require employers to compile a report that compares the hiring benchmark against the employer's internal representation of protected veterans. (This is in contrast to the requirement to conduct a Utilization Analysis for individuals with a disability). The only requirement is for the employer to document what its hiring benchmark is once the employer has decided which hiring benchmark to use.

Employers are not expected to achieve the benchmark and "will not be . . . found to be in violation of the . . . regulations for failing to meet the benchmark."<sup>19</sup> The regulations do not prescribe actions the employer must take if the benchmark is not achieved. In fact, the "benchmark is to be established annually regardless of the contractor's utilization of . . . protected veterans."<sup>20</sup>

In the regulations, the provision regarding the hiring benchmark does not fall under the heading "Required contents of affirmative action programs." As a standalone report that is not part of the written AAP, the hiring benchmark and related documentation do not have to be made available to employees and applicants for viewing upon request.

Per the regulations, campuses may choose to set their own hiring benchmark after due consideration of specific factors or campuses may adopt the 7.2% benchmark set by the OFCCP. Campuses are strongly encouraged to adopt the 7.2% hiring benchmark published by the OFCCP. Each campus shall document the benchmark it uses.

## **C. Recordkeeping**

Per the regulations, campuses shall maintain the Utilization Analysis for two (2) years and the Hiring Benchmark for three (3) years.

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<sup>18</sup> 41 CFR 60-300.45(a).

<sup>19</sup> "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)" Federal Register, Volume 78, No. 185, p.58639.

<sup>20</sup> Ditto.

#### **IV. Outreach Efforts, Documentation, and Assessment of Effectiveness of Outreach**

##### **A. Outreach Efforts**

Under the existing regulations governing the AAP for protected veterans, employers have been required to advertise job openings<sup>21</sup> with the State of California through the local office of the Employment Development Department (EDD)<sup>22</sup> in attempts to seek qualified applicants who are protected veterans. The amended regulations retain this job listing requirement, but clarify that employers must provide EDD with specific information in order to ensure proper documentation of the employers' outreach efforts and that employers must provide the information about the job openings in a manner and format acceptable to EDD.

Consistent with the amended regulations, each campus shall inform the local EDD office of the following information when the campus lists its first job opening on or after March 24, 2014 (the effective date of this particular requirement):

- The campus is a federal contractor
- The campus would like to receive priority referrals of protected veterans
- The name and address of the campus
- The contact information for a manager at the campus who can verify the information in the job listings

In addition, campuses shall provide specifics regarding their job openings in a format that is acceptable to EDD.

Besides listing with the local EDD office, employers have been required to make other good-faith efforts to increase the number of qualified applicants who have a disability or are protected veterans. Engaging in wider outreach efforts that yield measurable results is the emphasis of the amended regulations. Therefore, campuses shall engage in outreach and recruitment activities designed to effectively recruit individuals with a disability and protected veterans, such as those listed in the OFCCP regulations (Attachment G).<sup>23</sup> Note campuses are not required to undertake all the activities listed. The OFCCP will consider the employer's size, resources and the extent to which existing employment practices are adequate in determining whether the employer has made good-faith outreach efforts.<sup>24</sup>

The OFCCP website has the Employment Resources Referral Directory, which is a searchable database of nonprofit organizations that may be helpful referral sources of qualified workers with a disability, veterans, women, and members of minority groups. Campuses are strongly encouraged to consult this resource and make contact with some of these organizations as part of the campus's outreach efforts. The website is at: <http://www.dol-esa.gov/errd/index.html>.

##### **B. Assessment of Effectiveness of Outreach Efforts**

The amended regulations require employers to assess the effectiveness of their outreach efforts using specific criteria, make a conclusion as to whether the outreach efforts were effective, and adopt alternative strategies if the

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<sup>21</sup> Per the regulations, employers are required to list all job openings, except: (1) executive and senior management positions; (2) positions lasting three days or less; and (3) positions that are open only to internal candidates. "Executive and senior management position" means: a position compensated on a salary basis at not less than \$455 per week (\$23,660 per year); whose primary duty is management of the company or a subdivision (e.g., a department); who regularly directs at least two employees; and who has the authority to hire or fire. 41 CFR 60-300.5(a).

<sup>22</sup> Campuses may be familiar with CalJOBS, which is the EDD's online job and resume system.

<sup>23</sup> 41 CFR 300.44(f)(2) and 41 CFR 60-741.44(f)(2).

<sup>24</sup> 41 CFR 300.44(f)(1)(i); 41 CFR 741.44(f)(1)(i).

existing efforts were not effective. The regulations are silent as to what must or should be deemed by the employer to be effective or ineffective, stating only that “[t]he contractor’s conclusion as to the effectiveness of its outreach efforts must be reasonable as determined by the OFCCP in light of these regulations.”<sup>25</sup>

Per the amended regulations, each campus shall use the Utilization Analysis (see Section III.A) and the applicants and hires report (see Section II.A) for the last three (3) years<sup>26</sup> to assess the effectiveness of the campus’s outreach efforts toward individuals with a disability. After conducting the assessment, the campus shall draw a conclusion whether its outreach efforts have been effective or not, keeping in mind the OFCCP’s admonition to be “reasonable.” Both the assessment and the conclusion shall be made in writing and shall appear in the campus’s annual AAP for individuals with a disability in a section titled “External Dissemination of Policy, Outreach and Positive Recruitment.” Campuses should contact their AAP vendor to ensure the AAP has this section. The narrative analysis, however, likely would have to be supplied by the campus as the campus has the results of the quantitative comparisons and headcounts of applicants and hires.

With regard to the AAP for protected veterans, the OFCCP regulations clearly require employers to use the applicants and hires reports (see Section II) for the last three (3) years<sup>27</sup> to assess the effectiveness of their recruitment efforts toward protected veterans. Although the regulations are silent, the OFCCP has given strong indications that employers should compare the 7.2% hiring benchmark against the actual percentage of protected veterans hired company-wide during the prior AAP cycle and use that as a tool to evaluate the effectiveness of their outreach efforts toward protected veterans.<sup>28</sup> Accordingly, campuses shall use the applicants and hires report to assess their recruitment efforts. In addition, campuses are strongly encouraged to also compare the campus-wide<sup>29</sup> percentage of protected veterans hired during the prior AAP cycle against the 7.2% hiring benchmark in this assessment. Both the assessment and the conclusion shall be made in writing and shall appear in the campus’s annual AAP for protected veterans in a section titled “External Dissemination of Policy, Outreach and Positive Recruitment.”

If the campus’s assessment of its outreach efforts leads to the conclusion that the efforts were not effective in recruiting qualified individuals with a disability or protected veterans, the campus shall implement alternative outreach efforts.

### **C. Documentation and Recordkeeping**

Pursuant to the regulations, campuses shall document their outreach efforts and maintain such documents for three (3) years.

Proper documentation of outreach efforts should not only show what activities the campus has taken and when, but documentation should also aid the campus’s assessment of the effectiveness of outreach efforts. To do so, each campus should design a method that enables the campus to identify which applicant was referred by what organization.

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<sup>25</sup> 41 CFR 60-300.44(f)(3) and 41 CFR 60-741.44(f)(3).

<sup>26</sup> Since this year is the first time campuses are required to gather these data, campuses will only have three years’ worth of data by 2017.

<sup>27</sup> Ditto.

<sup>28</sup> The preamble to the regulations states, “To be sure, OFCCP would expect that as part of its annual recruitment and outreach assessment, the contractor would assess why it did not meet the benchmark and adjust its recruitment efforts for the following year based on what it has learned.” “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)” Federal Register, Volume 78, No. 185, p.58638.

<sup>29</sup> This figure is the percentage of protected veterans in the campus’s entire workforce. It is not broken down into job groups as is done in the Utilization Analysis of the internal representation of individuals with a disability.

Examples of information that should be maintained include:

- The organizations and persons within each organization with whom the campus has made contact in an effort to increase the number of applicants who have a disability or are protected veterans
- The specific actions taken by the campus in reaching out to each organization and dates of such actions
- The number of applicants referred by each organization who self-identify as individuals with a disability or protected veterans. (This number should be maintained on an annual basis corresponding with the campus's AAP year/cycle)
- The number of hires referred by each organization who self-identify as individuals with a disability or protected veterans. (This number should be maintained on an annual basis corresponding with the campus's AAP year/cycle)

#### V. Other Requirements

In addition to the aforementioned requirements, campuses shall ensure their compliance with the following items, some of which are new while others are re-emphasized in the amended regulations:

- The equal opportunity policy statement that has been a part of the campus's AAPs shall indicate the campus president's support for the AAPs. Campuses are reminded that this policy statement must be posted at locations on campus where it would be visible to employees and job applicants.
- The OFCCP's "Equal Employment Opportunity is the Law" notice and its supplement, which have been posted at physical locations on campus where they would be visible to employees and job applicants, shall be made available to job applicants in electronic format, if the campus uses an online application process. This may be done in any way that ensures that every applicant has the opportunity to view the poster during the application process, such as by displaying a prominent link to the poster, along with a brief explanation of what the link connects to, as part of their electronic application.

Likewise, the campus shall make an electronic copy of the notice and its supplement available to employees who telework or work at remote sites. This may be done by either posting these notices on the campus website or emailing the notices to the employees. The notice and its supplement are available at:  
<http://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf>  
[http://www.dol.gov/ofccp/regs/compliance/posters/pdf/Supplement\\_English.pdf](http://www.dol.gov/ofccp/regs/compliance/posters/pdf/Supplement_English.pdf)

- The equal opportunity employer tagline appearing in all job advertisements placed by the campus shall include "disability" and "vet" among the list of factors on which employment decisions shall not be based. Attachment H provides sample wordings for campuses' use.

#### IMPLEMENTATION DATES

Attachment I summarizes the changes discussed in this Technical Letter and the date on which each change must be implemented. For most of the changes, the date of implementation is the start date of the campus's next AAP following March 24, 2014. Since the AAP cycle or year varies among campuses, some campuses will have a shorter timeframe to implement the regulatory changes than others. For those campuses that have a relatively shorter timeframe for implementation, please note the following language, which is posted on the OFCCP website:

**OFCCP understands that the first AAP is a transitional one for contractors.** Therefore, a contractor will **NOT** be found in violation of the new Subpart C [i.e., the self-identification invitation, Utilization Goal, Utilization Analysis, and Hiring Benchmark requirements], so long as it can demonstrate that it has acted reasonably, in light of its particular circumstances. (emphasis in original)

## RESOURCES

Attachment J is a chart summarizing the recordkeeping obligation with respect to the required reports discussed in this Technical Letter.

The FAQs issued by the OFCCP regarding changes in the affirmative action program for individuals with a disability is available at: [http://www.dol.gov/ofccp/regs/compliance/faqs/503\\_faq.htm](http://www.dol.gov/ofccp/regs/compliance/faqs/503_faq.htm).

The FAQs issued by the OFCCP regarding changes in the affirmative action program for protected veterans is available at: [http://www.dol.gov/ofccp/regs/compliance/faqs/VEVRAA\\_faq.htm](http://www.dol.gov/ofccp/regs/compliance/faqs/VEVRAA_faq.htm).

## CMS PROCESSING INSTRUCTIONS

This Technical Letter has impact on the current baseline. CSU has participated in the Oracle/PeopleSoft focus groups regarding these regulatory changes and has provided input and confirmed the delivered changes should meet CSU requirements. Below is the status of the upcoming system updates/changes:

- **Workforce Administration:** Oracle has scheduled delivery in early April and has identified that HR bundle 24 will be the prerequisite. CMS central staff will coordinate campus testing and advise when the update is available for baseline inclusion. These regulatory changes affect campus affirmative action reporting and are based on the campus AAP cycle. Sonoma, Maritime and Chico, whose AAP cycles begin in April and May, respectively, will be the first campuses affected. It is anticipated that the necessary changes will be in place to support campus reporting requirements.
  - **Military status:** changes to the translate values will be delivered by Oracle and included in CMS baseline. A total of 8 (eight) values will be used for CSU:
    1. Recently Separated Veteran (R)
    2. Active Duty/Campaign Badge Vet (4)
    3. Armed Forces Service Medal Vet (A)
    4. Not a Protected Veteran (Z)
    5. Not a Veteran (X)
    6. Service Medal & Active Duty (O)
    7. Not indicated (1)
    8. Protected, Not Classified (D)
- **Recruiting:** Similar to Workforce Administration, CSU has been in discussions with Oracle, provided input, and confirmed the delivered changes should meet CSU requirements. Oracle has scheduled delivery in early August. (As this date approaches, additional information will be provided in a CMS communication.)

**Campus workaround:** it was confirmed that campuses can provide manual copies of the self-identification forms or email them directly to applicants and have them returned while they await the baseline update anticipated in August. Copies of the forms to be used by the campuses are included in this Technical Letter. For ease of use and consistency, these forms have been designed to appear as similar as possible to the layout that will be delivered by Oracle/PeopleSoft.
- **PPT Form:** Item 125 (Disability Veteran Status) will be disabled/blank on the Personnel Payroll Transaction (PPT) form going forward. This form is used by Payroll to key employment information into the Personnel/Payroll Information Management System (PIMS). All future reporting on veteran status information should be generated from baseline (Oracle/PeopleSoft).
- **VETS 100 reporting:** There is potential impact to baseline given that the Military Status codes will be changing. Additional information will be provided when/if updated regulations are issued, e.g., information will be included in the annual VETS 100A technical letter.

Please direct questions regarding this technical letter to Ellen Bui, (562) 951-4427, [ebui@calstate.edu](mailto:ebui@calstate.edu). CMS baseline questions should be directed to Tammy Hines, (562) 951-4418, [tthines@calstate.edu](mailto:tthines@calstate.edu).

Forms and resources provided as attachments to this Technical letter are available on the Human Resources Management's Web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

Attachment A	Voluntary Self-Identification of Disability
Attachment B	Sample Reminder to Employees Regarding Disability Self-Identification
Attachment C	Veteran Self-Identification Form for Employment Applicants
Attachment D	Voluntary Self-Identification Form for Employment Applicants
Attachment E	Veteran Self-Identification Form for Employees
Attachment F	Regulation regarding Review of Employment Processes
Attachment G	Regulation regarding Outreach and Recruitment
Attachment H	Sample EOE Taglines
Attachment I	Implementation Schedule of Regulatory Changes
Attachment J	Recordkeeping Schedule

JS/eb

# Voluntary Self-Identification of Disability

Form CC-305  
OMB Control Number 1250-0005  
Expires 1/31/2017  
Page 1 of 2

## 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<sup>1</sup>. 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
- Autism
- Bipolar disorder
- Post-traumatic stress disorder (PTSD)
- Deafness
- Cerebral palsy
- Major depression
- Obsessive compulsive disorder
- Cancer
- HIV/AIDS
- Multiple sclerosis (MS)
- Impairments requiring the use of a wheelchair
- Diabetes
- Schizophrenia
- Missing limbs or partially missing limbs
- Intellectual disability (previously called mental retardation)
- Epilepsy
- Muscular dystrophy

### **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  
Expires 1/31/2017  
Page 2 of 2

## 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.

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<sup>1</sup> 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](http://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.

## **Sample Reminder to Employees Regarding Disability Self-Identification**

The CSU is subject to federal equal employment opportunity and affirmative action regulations, which require us 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. Because a person may become disabled at any time, you may voluntarily self-identify at any time during your employment with us. To do so, [instruct employee what to do].

You may voluntarily self-identify as having a disability without fear of any negative consequences because you did not identify as having a disability earlier. Self-identification is voluntary, but we hope that you will choose to complete the process. Neither your self-identification nor your refusal to self-identify will adversely affect your employment.

Note: Your self-identification is used for aggregate reporting purposes only. If you have a disability and need accommodation, please contact the Human Resources or Faculty Affairs Office to begin an interactive discussion to identify a reasonable accommodation.

Protected Veteran.

**Definition**

This employer is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U. S. C. 4212 (VEVRAA), which requires Government contractors to 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 reemployed 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.

**Self Identification**

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
  - Disabled veteran
  - Recently separated veteran      Date of discharge  mm/dd/yyyy
  - Active wartime or campaign badge veteran
  - Armed forces service medal veteran
- I am a protected veteran, but I choose not to self-identify the classification to which I belong
- I am not a protected veteran
- I am not a veteran

**Applicant's Name** (Last, First, Middle Initial)

**Job/Position Number**

Clear Form

Print Form

Submit Form

It is CSU policy to provide equal employment opportunity and to advance in employment all qualified individuals without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, gender identity, gender expression, age (over 40), sexual orientation, or protected veteran status.

The CSU is interested in monitoring the effectiveness of our recruitment efforts and the diversity of our workforce. This form has been developed to assist us in these efforts and in collecting data that is required by University policies and State and Federal laws, including Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, and Section 503 of the Rehabilitation Act of 1973, as amended.

This form, and any data submitted on the form, will be kept separate from your personnel file and will not be accessible by anyone involved with making recommendations or decisions regarding your employment. While your reply will be most helpful to us in reporting accurate data, completing this form is entirely voluntary; refusal to complete the form will not adversely affect your employment.

If you have a disability and need accommodation, please contact the Human Resources or Faculty Affairs Office to begin an interactive discussion to identify and provide you a reasonable accommodation.

**Ethnicity.** Are you Hispanic or Latino? (A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.)

- Yes       No

**Race.** Regardless of your answer to the above question, you may select one or more of the following categories that apply to you:

CATEGORY	DEFINITION OF CATEGORY
<input type="checkbox"/> <b>American Indian or Alaska Native</b>	A person having origins in any of the original peoples of North and South America (including Central America) who maintains cultural identification through tribal affiliation or community attachment.
<input type="checkbox"/> <b>Asian</b> <input type="checkbox"/> Asian Indian <input type="checkbox"/> Cambodian <input type="checkbox"/> Chinese <input type="checkbox"/> Filipino <input type="checkbox"/> Japanese <input type="checkbox"/> Korean <input type="checkbox"/> Laotian <input type="checkbox"/> Vietnamese <input type="checkbox"/> Other Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
<input type="checkbox"/> <b>Black or African American</b>	A person having origins in any of the black racial groups of Africa.
<input type="checkbox"/> <b>Native Hawaiian or Other Pacific Islander</b> <input type="checkbox"/> Guamanian <input type="checkbox"/> Hawaiian <input type="checkbox"/> Samoan <input type="checkbox"/> Other Native Hawaiian or Other Pacific Islander	A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
<input type="checkbox"/> <b>White</b>	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

**Gender.** Please select one of the following:

- Male       Female

**Protected Veterans.**

**Definition**

This employer is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U. S. C. 4212 (VEVRAA), which requires Government contractors to 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 reemployed 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.

**Self Identification**

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
  - Disabled veteran
  - Recently separated veteran      Date of discharge  mm/dd/yyyy
  - Active wartime or campaign badge veteran
  - Armed forces service medal veteran
- I am a protected veteran, but I choose not to self-identify the classification to which I belong
- I am not a protected veteran
- I am not a veteran

**Applicant's Name** (Last, First, Middle Initial)

**Job/Position Number**

Clear Form

Print Form

Submit Form

**Protected Veterans.**

**Definition**

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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 retire pay, would be entitle 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 reemployed 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.

**Self Identification**

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
  - Disabled veteran
  - Recently separated veteran      Date of discharge
  - Active wartime or campaign badge veteran      mm/dd/yyyy
  - Armed forces service medal veteran
- I am a protected veteran, but I choose not to self-identify the classification to which I belong
- I am not a protected veteran
- I am not a veteran

**Reasonable Accommodation Notice.**

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 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.

**Employee's Name** (Last, First, Middle Initial)

**Employee ID**



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Part III

Department of Labor

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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; or
- (4) Exercising any other right protected by VEVRAA or its implementing regulations in this part.

**(b) Review of personnel processes.**

The contractor shall ensure that its personnel 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 or 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 § 60-300.2(g) defining direct threat.) (d) *Reasonable accommodation to physical and mental limitations.* As is provided in § 60-300.21(f), as a matter of nondiscrimination the contractor must make reasonable accommodation to the known physical or mental limitations of an 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 significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, 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 inquire 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.

(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 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.

(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. 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 Local 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, might replace 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



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Part II

## Department of Labor

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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

discrimination in violation of section 503 or this part.

**§ 60–741.43 Affirmative action policy.**

Under the affirmative action obligations imposed by the act, contractors shall not discriminate because of physical or mental disability and shall take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level. Such action shall apply to all employment activities set forth in § 60–741.20.

**§ 60–741.44 Required contents of affirmative action programs.**

Acceptable affirmative action programs shall contain, but not necessarily be limited to the following elements:

(a) *Policy statement.* The contractor shall include an equal opportunity policy statement in its affirmative action program, and shall post the policy statement on company bulletin boards. The contractor must ensure that applicants and employees with disabilities are provided the notice in a form that is accessible and understandable to the individual with a disability (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). The policy statement shall indicate the top United States executive's (such as the Chief Executive Officer or the President of the United States Division of a foreign company) support for the contractor's affirmative action program, provide for an audit and reporting system (see paragraph (h) of this section) and assign overall responsibility for the implementation of affirmative action activities required under this part (see paragraph (i) of this section). Additionally, the policy shall state, among other things that the contractor will: recruit, hire, train, and promote persons in all job titles, and ensure that all other personnel actions are administered without regard to disability; and ensure that all employment decisions are based only on valid job requirements. The policy shall state that employees and applicants shall not be subjected to harassment, intimidation, threats, coercion, or discrimination because they have engaged in or may engage in any of the following activities:

- (1) Filing a complaint;
- (2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of section 503 or any other Federal, State, or local law

requiring equal opportunity for individuals with disabilities;

(3) Opposing any act or practice made unlawful by section 503 or its implementing regulations in this part, or any other Federal, State or local law requiring equal opportunity for individuals with disabilities; or

(4) Exercising any other right protected by section 503 or its implementing regulations in this part.

**(b) *Review of personnel processes.***

The contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees with known disabilities for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The contractor shall ensure that its personnel processes do not stereotype individuals with disabilities in a manner which limits their access to all jobs for which they are qualified. In addition, the contractor shall ensure that applicants and employees with disabilities have equal access to its personnel processes, including those implemented through information and communication technologies. The contractor is required to provide necessary reasonable accommodation to ensure applicants and employees with disabilities receive equal opportunity in the operation of personnel processes. The contractor is also encouraged to make its information and communication technologies accessible, even absent a specific request for reasonable accommodation.<sup>3</sup> 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 or 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

<sup>3</sup> Contractors are encouraged to make their information and communication technology accessible. There are a variety of resources that may assist contractors in assessing and ensuring the accessibility of its information and communication technology. These include the Web Content Accessibility Guidelines (WCAG 2.0) of the World Wide Web Consortium Web Accessibility Initiative, online at [www.w3.org/WAI/intro/wcag.php](http://www.w3.org/WAI/intro/wcag.php), and the regulations implementing the accessibility requirements for Federal agencies prescribed in section 508 of the Rehabilitation Act. Information on section 508 may be found online at <http://www.section508.gov/index.cfm>. This Web site also provides information about various State accessibility requirements and initiatives.

requirement by the contractor and the Government.

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified individuals with disabilities, 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 individuals on the basis of disability, 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 shall have the burden to demonstrate that it has complied with the requirements of this paragraph (c).

(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 § 60–741.2(e) defining direct threat.)

(d) *Reasonable accommodation to physical and mental limitations.* (1) As is provided in § 60–741.21(a)(6), as a matter of nondiscrimination, the contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability 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 with a known disability is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, 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 inquire whether the employee is in need of a reasonable accommodation.

(2) *Reasonable accommodation procedures.* The development and use of written procedures for processing requests for reasonable accommodation is a best practice that may assist the contractor in meeting its reasonable



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Part III

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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; or

(4) Exercising any other right protected by VEVRAA or its implementing regulations in this part.

(b) *Review of personnel processes.* The contractor shall ensure that its personnel 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 or 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 § 60–300.2(g) defining direct threat.) (d) *Reasonable accommodation to physical and mental limitations.* As is provided in § 60–300.21(f) as a matter of nondiscrimination the contractor must make reasonable accommodation to the known physical or mental limitations of an 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 significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, 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 inquire 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.

(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 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.

(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. 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 Local 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, might replace 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 work force 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 concludes 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.

(g) *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;

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

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

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

(iii) 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;

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

(v) When employees are featured in employee handbooks or similar

publications for employees, include disabled veterans.

(h) *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 § 60-300.80.

(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:

(1) The number of applicants who self-identified as protected veterans pursuant to § 60-300.42(a), or who are otherwise known as protected veterans;

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

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

(4) The number of protected veteran applicants hired; and



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Part II

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Office of Federal Contract Compliance Programs

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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 not 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.

(e) *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](http://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](http://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/endir](http://www.yourtickettowork.com/endir));

(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 placement services that specialize in the placement of individuals with disabilities.

(ii) The contractor should 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 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 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 work force 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)(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.

**(g) Internal dissemination of policy.**

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

## Sample EOE Taglines

### Sample #1

[Campus] is an Affirmative Action/Equal Opportunity Employer. We consider qualified applicants for employment without regard to race, religion, color, national origin, ancestry, age, sex, gender, gender identity, gender expression, sexual orientation, genetic information, medical condition, disability, marital status, or protected veteran status.

### Sample #2

EOE/Minorities/Females/Vet/Disability

### Sample #3

EOE/M/F/Vet/Disability

## Implementation Schedule of Regulatory Changes

Action Required by Regulatory Changes	Implementation Date
Sending disability self-identification invitations to applicants, new hires and existing employees	The start date of the campus's next AAP following March 24, 2014 (For example, if your campus's AAP cycle begins on January 1 and ends on December 31, the implementation date for the self-id invitations is January 1, 2015. If your campus's AAP cycle begins on April 1 and ends on March 31, the implementation date is April 1, 2014.)
Sending veteran self-identification invitations to applicants and new hires	The start date of the campus's next AAP following March 24, 2014
Compiling Applicants and Hires Report for the AAP for individuals with a disability (IWDs)	The start date of the campus's next AAP following March 24, 2014
Compiling Applicants and Hires Report for the AAP for protected veterans (PVs)	The start date of the campus's next AAP following March 24, 2014
Using the Utilization Goal & compiling the Utilization Analysis for the AAP for IWDs	The start date of the campus's next AAP following March 24, 2014
Establishing and documenting the Hiring Benchmark for the AAP for PVs	The start date of the campus's next AAP following March 24, 2014
Engaging in outreach efforts to increase employment of IWDs and PVs & maintain documentation of these efforts	March 24, 2014
Making written assessment of effectiveness of outreach efforts & conclusion as to effectiveness	The start date of the campus's next AAP following March 24, 2014
Communicating specific information to the local EDD office	The date the campus first lists a job opening with EDD following March 24, 2014
Making an electronic copy of the "Equal Employment Opportunity is the Law" notice and its supplement available to job applicants (if the campus uses an online application process) and employees who telecommute or work at remote sites	March 24, 2014
Including "disability" and "protected veteran" in EEO tagline of all job advertisements	March 24, 2014

## Recordkeeping Schedule

Records to maintain	Retention period
Applicants' self-identification information	2 years from the date of the record
Employees' self-identification information	4 years from the date of the record
Reasonable accommodation for applicants	2 years from the date of the record
Reasonable accommodation for employees	5 years after the employee's separation from CSU
AAP for individuals with a disability (except the Data Collection Analysis section, which contains the Applicants and Hires report, and the External Dissemination of Policy Outreach and Positive Recruitment section, which contains the campus's written assessment of outreach efforts)  AAP for protected veterans (except the Data Collection Analysis section and the Dissemination of Policy Outreach and Positive Recruitment section)	2 years from the ending date of the AAP
Applicants and Hires report	3 years from the date of report
Utilization Analysis (of individuals with a disability)	2 years from the date of report
Hiring Benchmark (for protected veterans)	3 years from the date of documentation
Documentation of outreach efforts (including job postings with EDD)  Written assessment of outreach efforts	3 years from the date of documentation

**CAVEAT: IF, DURING THE SPECIFIED RETENTION PERIOD, A CLAIM, LITIGATION, OR AUDIT ARISES INVOLVING ANY OF THE RECORDS MENTIONED ABOVE, THEN THE RECORD MUST BE MAINTAINED UNTIL THE COMPLETION OF THE ACTION.**