

U.S. Department of Labor

Office of Federal Contract Compliance Programs



Technical Assistance Guide for Federal Supply and Service Contractors

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Technical Assistance Guide for Federal Supply and Service Contractors

This Technical Assistance Guide is designed to assist Federal contractors and subcontractors in complying with the Federal laws and regulations that prohibit Federal contractors from discriminating in employment, and require that they undertake affirmative action to ensure equal employment opportunity in their workforces. It is intended for Federal contractors who have non-construction contracts -- also known as **Supply and Service contractors**. This Technical Assistance Guide is also for subcontractors who furnish supplies or services that are necessary to perform a Federal contract. The obligations of Federal contractors and subcontractors who hold construction contracts differ in significant ways and are covered in a separate guide.

The contents of this guide have been designed to assist supply and service contractors and subcontractors in:

- Understanding their contractual obligation to comply with the Federal laws that place nondiscrimination and affirmative action responsibilities on Federal contractors and subcontractors;
- Understanding the role of the Office of Federal Contract Compliance Programs (OFCCP) in administering and enforcing these Federal equal employment opportunity laws;
- Developing written affirmative action programs required under OFCCP-administered laws; and
- Preparing for an OFCCP compliance evaluation.

This Technical Assistance Guide does not create new legal requirements or change current legal requirements. Instead, it reflects the views of OFCCP and is intended to serve as a basic resource document on OFCCP-administered laws. The legal requirements related to equal employment opportunity that apply to Federal supply and service contractors are contained in the statutes, executive orders, and regulations cited in the Guide. Every effort has been made to insure that the information contained in the Guide is accurate and up to date.



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Overview of OFCCP Mission and Program

The Office of Federal Contract Compliance Programs (OFCCP) administers and enforces three equal employment opportunity laws that apply to Federal contractors and subcontractors that supply goods and services to the Federal Government:

- ◆ Executive Order 11246, as amended (EO 11246);
- ◆ Section 503 of the Rehabilitation Act of 1973 as amended (Section 503); and
- ◆ The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

The OFCCP monitors compliance with these laws primarily through compliance evaluations, during which a compliance officer examines the contractor's affirmative action efforts and employment practices. The OFCCP also investigates complaints filed by individuals alleging employment discrimination on the basis of race, color, sex, religion, national origin, disability or status as a protected veteran.

The OFCCP encourages voluntary compliance and provides various kinds of technical assistance to aid contractors in their compliance efforts. The OFCCP maintains a National Office in Washington, DC, and six regional offices, each with several district offices, throughout the United States.

See Appendix F for the addresses and phone numbers of key OFCCP offices. For additional information about OFCCP you can access the agency's website at:

<http://www.dol.gov/esa/ofccp>.

OFCCP Responsibilities

The OFCCP carries out its enforcement responsibilities by:

- Offering technical assistance (such as this Guide) to Federal contractors and subcontractors to help them understand regulatory requirements and the compliance evaluation process;
- Conducting compliance evaluations and complaint investigations of Federal contractors' and subcontractors' personnel policies and practices;
- Forming linkage agreements between contractors and subcontractors and the Department of Labor's employment and training programs, outside organizations and recruitment sources to help employers identify and recruit qualified employees;
- Negotiating agreements, including formal Conciliation Agreements, with contractors and subcontractors found in violation of regulatory requirements;
- Monitoring contractors' and subcontractors' progress in fulfilling the terms of their conciliation agreements through periodic compliance reports;
- And, when necessary, recommending enforcement actions against non-compliant contractors and subcontractors to the Solicitor of Labor.



Overview of Laws Administered by OFCCP

The OFCCP is responsible for enforcing Federal laws and regulations that prohibit discrimination and require Federal contractors and subcontractors to take affirmative action to ensure that all individuals have an equal opportunity for employment without regard to race, color, religion, sex, national origin, disability or status as a protected veteran. The OFCCP is responsible for administering:

- ***Executive Order 11246, as amended***, which prohibits discrimination and requires affirmative action to ensure equal employment opportunity without regard to race, color, sex, religion and/or national origin; and the implementing regulations at ***41 CFR Parts 60-1 through 60-50***. Generally, all Federal contractors and subcontractors holding non-exempt contracts and subcontracts exceeding \$10,000 must comply with Executive Order 11246. Supply and service contractors that have 50 or more employees and a contract or subcontract of \$50,000 or more (i.e., the “50/50 threshold”) are required to develop and maintain a written Executive Order 11246 affirmative action program. The regulations implementing the Executive Order establish different affirmative action requirements for supply and service and construction contractors.
- ***Section 503 of the Rehabilitation Act of 1973, as amended, (Section 503)***, which prohibits discrimination and requires affirmative action in all personnel practices for qualified individuals with disabilities; and the implementing regulations at ***41 CFR Parts 60-741 and 60-742***. These requirements apply to contractors and subcontractors with a covered Federal contract or subcontract valued in excess of \$10,000. In addition, the regulations implementing Section 503 require that covered contractors and subcontractors with 50 or more employees and a Government contract or subcontract of \$50,000 or more, (i.e., the “50/50 threshold”) develop and maintain a written Section 503 affirmative action program.
- ***Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (VEVRAA)***, which prohibits discrimination and requires affirmative action in all personnel practices regarding covered veterans; and the implementing regulations at ***41 CFR Parts 60-250 and 60-300***. As amended, this statute is not limited to veterans from the Vietnam Era. VEVRAA now applies to disabled veterans, Armed Forces service medal veterans, recently separated veterans, and other protected veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized.
- For a Federal contractor or subcontractor with a contract or subcontract of \$25,000 or more entered into (and not since modified) **before December 1, 2003**, the implementing regulations are at ***41 CFR Part 60-250***. In addition to prohibiting discrimination, these regulations require that covered contractors and subcontractors with a 50 or more employees and a Government contract or subcontract of \$50,000 or more develop and maintain a written VEVRAA affirmative action program.



- For a Federal contractor or subcontractor with a contract or subcontract of \$100,000 or more entered into or modified **on or after December 1, 2003**, the implementing regulations are at **41 CFR Part 60-300**. In addition to prohibiting discrimination, these regulations require that covered contractors and subcontractors with a Government contract or subcontract of \$100,000 or more and 50 or more employees develop and maintain a written VEVRAA affirmative action program. Contractors or subcontractors with contracts entered into both prior to December 1, 2003 (and not since modified) and on or after December 1, 2003, are subject to both Parts 60-250 and 60-300.¹

Each of the three laws, the Executive Order, Section 503 and VEVRAA, prohibit retaliation because an individual has engaged in or may engage in any of the following: 1) filing a complaint; 2) assisting or participating in an investigation, compliance evaluation, hearing or any other activity related to EEO laws; opposing any act or practice of a contractor that is unlawful under the EEO laws; or exercising any other right protected by the EEO laws. See 41 CFR 60-1.32, 60-300.69, and 60-741.69.

OFCCP shares enforcement responsibilities with other Federal agencies in the administration of the following laws:

- ***Immigration Reform and Control Act of 1986 (IRCA)***, requires employers to keep certain records (I-9 forms) for the U.S. Citizenship and Immigration Services (USCIS) that verify their employees' eligibility to work in the U.S., (*i.e.*, proof of citizenship or authorization to work). For an electronic copy of the form see: <http://www.uscis.gov/files/form/I-9.pdf>.
- ***Title I of the Americans with Disabilities Act of 1990 (ADA), as amended***, prohibits employment discrimination by employers with 15 or more employees against qualified individuals on the basis of disability. The Equal Employment Opportunity Commission (EEOC) has primary authority for enforcing the ADA, but OFCCP is authorized to act as EEOC's agent in processing and investigating ADA complaints falling within the overlapping jurisdiction of Section 503 and Title I of the ADA. 41 CFR Part 60-742.
- ***Title VII of the Civil Rights Act of 1964, as amended***, prohibits employment discrimination on the basis of race, color, national origin, sex or religion. In many instances, employment discrimination claims against a Federal contractor or subcontractor can be brought under both Executive Order 11246 and Title VII. While EEOC has primary authority for enforcing Title VII, OFCCP is authorized to act as EEOC's agent in processing, investigating and resolving the Title VII component of complaints filed with OFCCP under Executive Order 11246 that allege discrimination of a systemic or class nature on the basis of race, color, national origin, sex or religion.

¹ These threshold and reporting changes result from the passage of the Jobs for Veterans Act (JVA), P.L. 107-288 (Nov. 7, 2002). JVA also modified the categories of covered veterans.



Frequently Asked Questions

Who is a Federal contractor?

A Federal contractor is any person who holds a "Government contract." The implementing regulations at 41 CFR 60-1.3 define "Government contract" as: *any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services..*

"Personal property" includes supplies and goods, as well as contracts for the use of real property such as lease agreements. "Nonpersonal services" includes utilities, construction, transportation, research, insurance, and fund depository. Typically, Government contracts are for the sale of supplies or services *to* the Government, but contracts to lease or buy *from* the Federal Government are covered as well.

Excluded from the definition of Government contract are employment agreements and federally assisted construction agreements. 41 CFR 60-1.3, 60-250.2(i), 60-300.2(i) and 60-741.2(i).

Who is a Federal subcontractor?

A Federal subcontractor is any person who holds a "subcontract," which the regulations define as any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and employee):

(1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more [Government]contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

41 CFR 60-1.3, 60-250.2(1), 60-300.2(1) and 60-741.2(1).



Who is a “supply and service” contractor and/or subcontractor?

The terms “supply and service contractor” and “supply and service subcontractor” are used by OFCCP to identify those contractors and subcontractors who hold Federal non-construction contracts or subcontracts as defined above. This Technical Assistance Guide applies only to **supply and service** contractors and subcontractors. Different rules and regulations apply to Federal **construction** contractors and subcontractors. For further information about their requirements, please consult OFCCP’s [Technical Assistance Guide for Federal Construction Contractors](#), or visit OFCCP’s web site at:
<http://www.dol.gov/esa/ofccp/TAGuides/ctaguide.htm>.

Which supply and service contractors and subcontractors are subject to OFCCP administered laws?

Executive Order 11246: A supply and service contractor or subcontractor is covered under Executive Order 11246 if it:

- ◆ Holds a Government supply and service contract or subcontract of over \$10,000; or
- ◆ Holds multiple Government supply and service contracts or subcontracts of less than \$10,000 that, when added together total more than \$10,000 within any 12 month period or can reasonably be expected to total more than \$10,000 during that time; or
- ◆ Holds a Government contract or subcontract for an indefinite quantity unless the amount to be ordered in any year under such contract will not exceed \$10,000; or
- ◆ Holds a Government bill of lading in any amount; or
- ◆ Serves as a depository of Federal funds in any amount; or
- ◆ Is an issuing and paying agent for U.S. savings bonds in any amount.



Section 503: A supply and service contractor or subcontractor is covered under Section 503 if it:

- ◆ Holds a Government supply and service contract or subcontract in excess of \$10,000; or
- ◆ Holds a Government contract or subcontract for an indefinite quantity unless the amount to be ordered in any year under such contract will not exceed \$10,000.

VEVRAA: A supply and service contractor or subcontractor is covered under VEVRAA if it:

- ◆ Holds a Government supply and service contract or subcontract of \$100,000 or more (or a current contract of \$25,000 or more entered into prior to December 1, 2003); or
- ◆ Holds a Government contract or subcontract for an indefinite quantity unless the amount to be ordered in any year under such contract will not exceed \$100,000 (or \$25,000 or more if the contract was entered into prior to December 1, 2003).

Are all supply and service contractors and subcontractors covered if their contracts meet the above specified dollar thresholds?

For the most part contracts meeting the specified dollar thresholds are covered, but there are a few exceptions. The regulations implementing Executive Order 11246, Section 503, and VEVRAA specify the following limitations on coverage:

Contracts involving work performed outside the United States -- Under Executive Order 11246, such contracts are exempt from coverage if the employees performing the work were not recruited within this country. Section 503 and VEVRAA apply only to “employment activities within the United States,” which includes actual employment within the United States and contractor decisions regarding applicants and employees recruited within the United States for transfer or employment abroad.

Contracts with State or local governments -- An agency, instrumentality or subdivision of a State or local government is not subject to the requirements of the EEO clauses unless



the specific agency, instrumentality or subdivision participates in work on or under the contract. State or local agencies participating in work on or under the contract may have limited AAP requirements as well. See: 41 CFR 60-1.5(b), 60-250.4(a)(4), 60-300.4(a)(4), and 60-741.4(a)(5).

Contracts with religious entities or religiously affiliated educational institutions – Religious corporations, associations, or affiliated colleges, universities or other educational institutions may hire employees of a particular religion without violating Executive Order 11246. See: 41 CFR 60-1.5(a)(5).

Contracts involving work on a near an Indian reservation - Contractors are permitted to extend a preference in employment to Indians for work performed on a near an Indian reservation without violating Executive Order 11246. See: 41 CFR 60-1.5(a)(7).

In addition, the Deputy Assistant Secretary (DAS) for OFCCP may grant exemptions for specific contracts or categories of contracts when the DAS determines that “special circumstances” in the national interest so require. In appropriate circumstances, exemptions also may be granted by the DAS for facilities not connected with the Government contract. 41 CFR 60-1.5, 60-250.4, 60-300.4 and 60-741.4. For additional information regarding contracts and coverage, contact the local OFCCP office.

Are the EEO and affirmative action obligations of the supply and service contractor specified in the contract documents?

Yes. Equal employment opportunity and affirmative action are integral elements of the contractor's agreement with the Government. Executive Order 11246, Section 503, and VEVRAA require that every non-exempt Government contract and subcontract include Equal Employment Opportunity (EEO) clauses that specify the nondiscrimination and affirmative action obligations each contractor or subcontractor assumes as a condition of its Government contract or subcontract.

The EEO clause published at 41 CFR 60-1.4(a) specifies the obligations and duties imposed under Executive Order 11246. The EEO clauses found at 41 CFR 60-250.5, 60-300.5 and 60-741.5, contain the obligations imposed under VEVRAA and Section 503, respectively.



The EEO clauses may be included in the Government contract expressly, or incorporated by reference. Further, by operation of law, the clauses are deemed to be a part of every non-exempt Government contract and subcontract, even if they are not directly written into or incorporated by reference in the contract documents.

Additionally, covered contractors and subcontractors must comply with these laws and regulations at all work sites. For example, a company with a supply and service contract in California must not only comply with OFCCP requirements at the California facility where the service or product is being performed or manufactured, but must also comply with the OFCCP requirements at all of the company's facilities throughout the United States. In other words, one contract covers all of a contractor's facilities.

What is an affirmative action program?

An affirmative action program (AAP) is a management plan for ensuring equal employment opportunity. An AAP sets forth the policies, practices, and procedures that the contractor will implement to ensure that all qualified applicants and employees are receiving equal opportunity in recruitment, selection, advancement, and other benefits and privileges of employment. An AAP is developed by the contractor (with technical assistance from OFCCP if requested) and assists the contractor in self-auditing of its workforce and employment activities. It is kept on file and implemented by the contractor; and it is submitted to OFCCP, if OFCCP requests it for the purpose of conducting a compliance evaluation. Written AAPs are required under each of the three OFCCP-administered laws.

Which contractors/subcontractors must develop AAPs?

If you are a contractor/subcontractor with 50 or more employees and

- ◆ Hold a non-exempt Government contract or subcontract of \$50,000 or more; or
- ◆ Hold Government bills of lading of \$50,000 or more, or that could reasonably be expected to total \$50,000 or more in a year; or
- ◆ Serve as a depository of Federal funds in any amount; or
- ◆ Is an issuing and paying agent for U.S. savings bonds in any amount;



You are required to develop and maintain an **Executive Order AAP**.

If you are a contractor/subcontractor has 50 or more employees and

- ◆ Hold a non-exempt Government contract or subcontract of \$50,000 or more;

You are required to develop and maintain a **Section 503 AAP**.

If you are a contractor/subcontractor has 50 or more employees and

- ◆ Hold a non-exempt Government contract or subcontract of \$100,000 or more; or
- ◆ Hold a non-exempt Government contract that was entered into **before December 2003**, and not since modified, of \$50,000 or more;

You are required to develop and maintain a **VEVRAA AAP**.

You are required to develop and maintain the appropriate AAPs for each of your establishments, and to update them annually. If you are a new Government contractor subject to the AAP requirement, you must develop the prescribed AAPs within 120 days from the start of the contract or subcontract.

Must I prepare a separate AAP for each law?

No. You have several options for preparing the AAPs prescribed by the regulations. You may:

1. Develop a separate document for each law, (*i.e.*, an Executive Order AAP; a Section 503 AAP and a VEVRAA AAP); or
2. Develop a single document that addresses the requirements of all the laws you are subject to; or
3. Develop two documents -- an Executive Order 11246 AAP and a second AAP that addresses Section 503 and, if applicable, VEVRAA.

Many contractors find option #3 the most convenient, as the AAP elements of Section 503 and VEVRAA are similar to each other.



What is an "establishment"?

The regulations require that a contractor develop an AAP for each establishment (41 CFR 60-1.40(a), 60-2.1 (b), 60-250.40 (b), 60-300.40 (b), and 60-741.40 (b)). OFCCP defines an establishment as a facility or unit that produces goods or services, such as a factory, office, store or mine. In most instances, the unit is a physically separate facility at a single location.

Do I have to prepare separate AAPs for each establishment?

Usually separate AAPs are required for each establishment. In appropriate circumstances, an establishment may include several facilities located at two or more sites, so long as the facilities are in the same labor market or recruiting area. The determination as to whether it is appropriate to group facilities in one AAP is made on a case-by-case basis. If you have questions regarding whether or not multiple establishments may be covered in a single AAP, you should contact your local OFCCP office.

If a contractor wishes to establish an AAP other than by establishment, the contractor may reach an agreement with OFCCP to develop and use AAPs that are based on functional or business units. For additional information on agreements to use functional AAPs see OFCCP's March 21, 2002, directive regarding Functional Affirmative Action Programs available online at <http://www.dol.gov/esa/ofccp/regs/compliance/directives/dirindex.htm>.

Note: In the following sections of the Technical Assistance Guide, the term "contract" generally refers to both a contract *and subcontract*; the term "subcontract" is not used unless it is necessary to the context. Similarly, the term "contractor" refers to both contractors *and subcontractors*, unless specified otherwise.



Overview of Supply and Service Contractor Responsibilities

Covered Federal supply and service contractors are prohibited from engaging in employment discrimination and are required to take affirmative action to ensure that applicants (including Internet applicants) and employees are treated without regard to race, color, religion, sex, national origin, disability, or status as a protected veteran. All personnel activities are covered by these requirements, including but not limited to:

- Hiring;
- Rates of pay or other compensation;
- Fringe benefits;
- Promotions;
- Upgrades;
- Recruitment;
- Training;
- Transfers;
- Layoffs;
- Terminations;
- Returns from layoff; and
- Demotions

Other requirements include:

- ◆ In all solicitations or advertisements for employees contractors must state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, disability, or status as a protected veteran.
- ◆ Contractors must provide notice of its commitment as an Equal Employment Opportunity employer to each labor union or other worker representative, with which it has a collective bargaining agreement or contract.
- ◆ Contractors are required to post the OFCCP approved EEO Poster to notify their applicants and employees of the protections afforded to them by the laws OFCCP enforces. The EEO Poster must be posted in conspicuous places used by employees and applicants, such as break rooms, locker rooms, and on bulletin boards where workplace notices are usually posted. The EEO poster is available at no cost at <http://www.dol.gov/esa/ofccp/regs/compliance/posters/ofccpost.htm>
- ◆ The contractor must furnish all information and reports required by the laws administered by OFCCP and requested by the contracting agency or the Department of Labor, and must permit access to books, records and accounts for the purpose of investigating to see if the contractor is complying with its contractual requirement to ensure that applicants and employees are treated without regard to race, color, religion, sex, national origin, disability, or status as a protected veteran.
- ◆ The contractor must comply with personnel record retention requirements, which are published at 41 CFR 60-1.12, 60-250.80, 60-300.80 and 60-741.80. Recordkeeping



requirements specific to Internet applicants are discussed in guidance materials located at <http://www.dol.gov/esa/ofccp/regs/compliance/faqs/iappfaqs.htm#Q1RKa>

- ◆ The contractor must comply with the Uniform Guidelines on Employee Selection Procedures, which are published at 41 CFR Part 60-3.
- ◆ The contractor must provide necessary reasonable accommodations to qualified individuals with disabilities and disabled veterans.
- ◆ The contractor must comply with the Guidelines on Discrimination because of Religion or National Origin, which are published at 41 CFR Part 60-50.

Depending on the size of the supply and service contractor and the type of relationship it has with the Federal Government, certain covered supply and service contractors may have additional responsibilities, such as the following:

- ◆ Developing and maintaining a written **Executive Order 11246 AAP**
- ◆ Developing and maintaining a written **Section 503 AAP**
- ◆ Developing and maintaining a written **VEVRAA AAP**
- ◆ Completing and submitting the annual EEO report, Standard Form 100 (also known as the “EEO-1 Report”)
- ◆ Completing and submitting the Federal Contractor Veterans' Employment Report using Form VETS 100 or VETS 100A, as appropriate.

Executive Order 11246 Affirmative Action Program Elements

The objectives of the Executive Order 11246 Affirmative Action Program (Executive Order AAP) are to:

- **Identify** areas in the workforce that are deficient in the utilization of women and/or minorities, and
- **Undertake appropriate action** to correct the deficiencies and achieve prompt and full utilization of minorities and women at all levels and all segments of the workforce.

The regulations implementing Executive Order 11246 prescribe the required elements of an AAP, and specify what must be included in a written AAP. Provided in the following pages are descriptions of the required elements and references to the corresponding section in the Sample AAP at Appendix A. The descriptions of compliance actions are intended to illustrate possible compliance activities but should not be viewed as contractor performance mandates. You are encouraged to "personalize" your AAP to depict actions you have taken to comply with the letter and spirit of the regulatory EEO requirements, and to describe innovative strategies you have employed to enhance the success of your Program.

Contractors and subcontractors are required to:

1. Construct an **organizational profile** of the company's workforce using an "organizational display" or "workforce analysis" that provides detailed data reflecting staffing patterns within the establishment.
2. Perform a **job group analysis** that combines jobs at the establishment with similar content, wage rates, and opportunities to form job groups and facilitates the comparison of the representation of minorities and women in the company's workforce with the estimated availability of minorities and women qualified for employment.
3. Perform a **utilization analysis** that includes the placement of the contractor's employees into the job groups, the determination of the availability for employment of minorities and women for the job groups, and a comparison of their incumbency in the job groups to their availability.
4. Establish **placement goals** to serve as reasonably attainable objectives and to measure progress toward achieving equal employment opportunity.
5. **Designate responsibility** to direct, manage, and ensure the implementation of their affirmative action program.
6. **Identify problem areas** by organizational unit and job group.
7. Develop and execute **action-oriented programs** designed to eliminate problems and to accomplish stated goals and objectives.



8. Design and implement an **internal audit and reporting system** to measure the effectiveness of the total affirmative action program.
9. Maintain the analyses and **support data** used to evaluate and identify problem areas.

Note: The following guidance is intended to explain, but not add to or modify, the requirements contained in 41 CFR Part 60.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #1**

Contractors and subcontractors must construct an **organizational profile** of their workforce using either an “organizational display” or “workforce analysis” that provides detailed data reflecting staffing patterns within the establishment. [41 CFR 60-2.11]

An organizational profile is a depiction of the staffing pattern within an establishment. The profile displays data that will assist the company in identifying where in the company’s workforce women or minorities are underrepresented or concentrated. The contractor must use either an “organizational display” or “workforce analysis” as its organizational profile. Each is described below, and the Sample AAP reference is provided:

Organizational Display – *An illustration is provided in Appendix A at page 3.*

An organizational display is a detailed chart of the contractor’s organizational structure. For each company organizational unit, the organizational display must indicate the following:

- the name of the unit, and the job title, race and gender of the unit supervisor
- the total number of male and female incumbents and the total number of male and female incumbents in each of the following groups: Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives².

Workforce Analysis – *An example is provided in Appendix A at pages 4-8.*

A workforce analysis is a listing of each job title ranked from the lowest paid to the highest paid within each department or similar organizational unit, including departmental or unit supervision. The information in the workforce analysis is derived from payroll records, organizational charts and collective bargaining agreements. Contractors are required to record four categories of data: information by job title, wage rate or salary range, department or organizational unit and lines of progression. An acceptable workforce analysis is one that contains the following:

- **Job Title.** Each job title must show the total number of employees, the total number of male and female employees, the total number of male and female employees in each of

² OFCCP's regulations regarding the race, ethnicity, and job categories to be used by contractors have not changed to reflect the categories for race, ethnicity, and job categories required for the EEO-1 Report. However, OFCCP will accept AAPs and supporting records that reflect the race, ethnicity, and job categories outlined in either 41 CFR Part 60-2 or the EEO-1 Report. For more information, see OFCCP’s Directive regarding the use of race and ethnic categories available online at <http://www.dol.gov/esa/ofccp/regs/compliance/directives/dirindex.htm>



the following groups: Blacks, Hispanics, Asians/Pacific Islanders, and American Indians/Alaskan Natives. All job titles must be listed in a workforce analysis as they appear in applicable collective bargaining agreements. All positions at your establishment must be included, even those positions where the incumbent was hired by a higher level establishment (your corporate office, for example), and was included for goal-setting purposes in a corporate or mid-level AAP. If an employee is included in a different AAP, other than the AAP at the establishment in question, the organizational profile and job group analysis should be annotated to indicate in which AAP the employee is included.

- *Wage Rate or Salary Range.* The wage rate or salary range data must be given for each job title. Titles must be listed in wage rate or range order within department or other similar organizational units. Contractors may maintain coded wage or salary information in the workforce data; however, the code key must be provided for OFCCP review. Contractors must use consistent codes across department/unit lines, (e.g., a job with a salary code "57" in Department A, must pay the same as one coded "57" in Department B).
- *Organizational Unit.* Organizational units used in workforce analyses should be identifiable and must reflect the contractor's actual organizational structure.
- *Lines of Progression.* Lines of progression or usual promotional sequences must show the order of jobs in the line through which an employee moves from entry level to the top of the line, e.g., journeyman level. Lines of progression or promotional sequences may be identified from collective bargaining agreements, as well as from organizational charts.

Constructing an organizational profile provides a picture of employment patterns at your establishment. It is useful for identifying areas where women and/or minorities are concentrated and where they are underrepresented or absent. It may indicate where there are potential problem areas and possible discrimination or inadequate affirmative action. The term "concentration" means that minority groups and/or women are found in a particular unit (job area) of a contractor's workforce in numbers substantially greater than would be expected in terms of their overall representation in the contractor's workforce, or in a relevant unit of that workforce. The term "underrepresentation" means the opposite, i.e., minority groups and/or women are found in a particular unit of a contractor's workforce in numbers substantially fewer than would be expected in terms of their overall representation in the contractor's workforce or relevant unit of that workforce.

For example, when a manufacturing contractor with three entry-level positions in its Fabrication and Packaging Department constructs an organizational profile, it reveals that the General Laborer position has 8 male and no female incumbents; the Fabrication Machine Operator position has 15 male and 85 female incumbents; and the Packaging Machine Operator position has 8 male and 4 female incumbents. All three entry level positions require no previous work experience, but the General Laborer and Packaging Machine Operator positions start at \$7.50 per hour, while the Fabrication Machine Operator position starts at only \$7.00 per



hour. In a Department that is 74% female, one would expect to find substantial numbers of women employed in all three jobs. However, the data show that women hold 85% of "lower-paying" Fabricator Machine Operator positions, but only 20% of the "higher-paying" General Labor and Packaging Operator jobs. There are no women employed as General Laborers, and only one third of the Packaging Machine Operators are women. Therefore, the organizational profile has revealed a potential problem in that women are concentrated in the lower paying entry-level position, and underrepresented in the General Laborer and Packaging Machine Operator positions.

In the above example, it is possible that the employment pattern is the result of nondiscriminatory factors. The existence of a concentration or underrepresentation does not always mean that discrimination has occurred; it is only an indicator that further investigation is warranted.

Consequently, the contractor should conduct an analysis of its personnel practices and procedures to see why this concentration or potential discrimination has occurred, by asking questions such as:

- ✓ Were women intentionally or unintentionally “channeled” into the lower paying position? To answer this question the contractor may wish to conduct interviews of all personnel involved in the applicant/hiring process, including those involved in giving out and receiving applications, interviewers, first line supervisors and the selecting officials. Particular attention should also be given to interviewing women who were hired into the concentrated entry-level position to inquire if they were informed about the availability of other entry-level positions during the time of hiring.
- ✓ Were women advised of the differences in starting salaries at the time of application? To answer this question the contractor may wish to conduct interviews of male and female employees, to ensure that all employees were given the same information about entry-level opportunities prior to and at the time of hire.
- ✓ Do the job descriptions of the positions accurately reflect the duties involved? To answer this question the contractor may wish to review the job descriptions with incumbent employees and/or with first line supervisors, to ensure that the descriptions are accurate.

Depending on the results of its analysis, the contractor may need to take corrective action to remedy the effects of discrimination against women; and to take actions to ensure that in the future all qualified applicants have an equal opportunity to compete for the higher paying entry-level positions.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #2**

Contractors and subcontractors are required to perform a **job group analysis** by combining jobs at the establishment with similar content, wage rates, and opportunities to form job groups. [41 CFR 60-2.12]

The **job group analysis** is the first step in the contractor's comparison of the representation of minorities and women in its workforce with the estimated availability of minorities and women qualified to be employed. You must sort the various jobs at your establishment into job groups. A job group is a collection of jobs in an organization with similar job content (field of work and/or skill level), similar promotional opportunities and similar compensation. The job groups must be developed to fit the unique characteristics of each organizational unit, taking into account the size, type and complexity of the work performed. *An example is provided in Appendix A at pages 9-10.*

Jobs within a job group usually reflect similar duties, skill levels and compensation. In determining which jobs to gather together for job groups, consider the following:

- ✓ You may find the Dictionary of Occupational Titles, your collective bargaining agreement, and/or position descriptions helpful in determining which jobs have similar content.
- ✓ Salaried and hourly jobs are generally not grouped together.
- ✓ Overtime exempt and non-exempt jobs are generally not grouped together.
- ✓ Employees covered under different unions are generally not grouped together.
- ✓ Smaller contractors (fewer than 150 employees) may use the job group categories found on the EEO-1 (Standard Form 100) Report as job groups:³
 - ◆ Executive/Senior Level Officials and Managers, and First/Mid Level Officials and Managers
 - ◆ Professionals
 - ◆ Technicians
 - ◆ Sales Workers
 - ◆ Administrative Support Workers
 - ◆ Crafts Workers
 - ◆ Operatives
 - ◆ Laborers and Helpers
 - ◆ Service Worker

³ As previously noted, OFCCP's regulations do not reflect the job categories used on the current EEO-1 Report. OFCCP will accept job groups that reflect the EEO-1 job categories in either the current EEO-1 Report or the regulation at 41 CFR 60-2.12(e), which refers to the job categories on a previous version of the EEO-1 Report. For convenience, this Technical Assistance Guide will use "EEO-1 categories" to refer to both sets of categories.



- ✓ Contractors with sufficiently large numbers of employees in the above categories may have job groups consisting of subgroups of the above categories. For example, the Officials and Managers category may be subdivided into job groups entitled "Upper Management", "Middle Management", and "First-Line Supervisors"; or the Professionals category may be subdivided into job disciplines such as "Engineers" and "Accountants".
- ✓ Job groups generally do not contain jobs from more than one of the above "EEO-1" categories.

OFCCP's Federal Contract Compliance Manual (FCCM) has more detailed guidance on the formation of job groups at <http://www.dol.gov/esa/ofccp/regs/compliance/fccm/ofcpch2.htm#2G02>.

EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #3

Contractors and subcontractors are required to perform a utilization analysis that includes the placement of the contractor's employees into the job groups, the determination of the availability for employment of minorities and women, and a comparison of their incumbency in the job groups to their availability. [41 CFR 60-2.13 – 60-2.15]

The **utilization analysis** is a series of separate but interrelated analyses used to identify whether minorities or women are being employed at a rate that would be expected based upon their availability for employment. The utilization analysis includes the placement of incumbents into job groups, the determination of the availability for employment of minorities and women, and a comparison of their incumbency in the job groups to their availability. You must undertake the utilization analysis in order to identify whether there is underutilization of minorities or women in any of the job groups; and, if there is, to establish placement goals designed to cure the underutilization. Your AAP will be used to record progress toward meeting these goals. *An example is provided in Appendix A at pages 11-13.*

Placement of incumbents in job groups (41 CFR 60-2.13)

Having combined the job titles for the **job group analysis**, you must separately state the percentage of minorities and the percentage of women you employ in each job group.

Determining availability (41 CFR 60-2.14)

After individual jobs have been aggregated into job groups, the next step is to determine the availability of women and minorities for those job groups. **Availability** is a percentage estimate of the women and minorities who have the skills required to perform the jobs within the job groups. To determine the availability percentages, contractors are required to consider two factors. These factors reflect availability outside the contractor's workforce (such as people in the immediate labor area or reasonable recruitment areas), and availability inside the contractor's own workforce (such as people who are qualified and available via transfer, promotion, or training). Contractors typically rely on Census data, state employment service data, and college graduation data in developing their external availability factors, and on their own workforce numbers for developing internal availability factors.

Both factors must be considered, but contractors may weight each of the two factors according to each factor's relevance to the job group in question. A "zero" weight is possible depending on the factor and the job group in question. For example, with job groups involving professionals such as engineers or accountants, contractors generally



give little or no weight to factors such as population data or overall workforce data. Contractors must calculate percentages for both factors as described below.

- 1) *Percentage of minorities or women with requisite skills in the reasonable recruitment area.* (refer to 41 CFR 60-2.14(c)(1)) This factor generally carries significant weight for complex or high level positions. The “reasonable recruitment area” represents the area from which the contractor usually seeks or reasonably could seek workers for a particular job group, and will vary depending on the types of jobs in the job group. For example, it may coincide with the immediate labor area for unskilled entry-level positions, or it may cover a larger area (state, region or nation) for managerial or professional positions. Generally speaking, the more complex a job or the higher the position in the organizational structure it occupies, the broader the recruitment area becomes. Contractors must use the most current and discrete statistical data available. Data sources for this factor may include Census data, state employment service data, and graduation data from applicable training institutions.

- 2) *Percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization.* (refer to 41 CFR 60-2.14(c)(2)) This is the percentage of minorities and women who are in feeder job groups and who are (at the start of the AAP year) or who will become (during the AAP year) promotable or transferable from those job groups into the job group under consideration. Data sources for this factor will reflect the contractor’s own workforce numbers.

Comparing incumbency to availability (41 CFR 60-2.15)

After a contractor has formulated job groups and has determined the minority and female availability percentages for each job group, you must compare the actual utilization of minorities and women in each job group with their estimated availability, and identify those job groups where women and/or minorities the percentage of minorities or women employed is less than would reasonably be expected given their availability.

The term “underutilization” is used to refer to the presence of fewer minorities or women in a particular job group than would reasonably be expected given their availability. Contractors use a number of methods to determine whether their actual representation rates are lower than would reasonably be expected. Some contractors declare underutilization when there is any difference between the availability percentage and the utilization percentage, while some conclude that underutilization exists when the number of minority or female incumbents is at least one whole person lower than the number predicted by the availability percentages. Other contractors use an “80 percent” rule of thumb and declare underutilization only when the actual representation is less than 80 percent of availability (which is the expected representation). Still others use a “two standard deviation” rule and test whether the



difference between the actual and expected representation is statistically significant.
Any reasonable method, uniformly applied, is acceptable to OFCCP.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #4**

When the percentage of minorities or women in a job group is less than would be reasonably expected given their availability, contractors are required to establish placement goals, which also serve as reasonably attainable objectives and to measure progress toward achieving equal employment opportunity. [41 CFR 60-2.16]

In performing the **utilization analysis** just described contractors may have some job groups where there is underutilization. Regardless of the method employed to make this determination, in those job groups where underutilization is identified the contractor must establish a placement goal for minorities and/or females into that job group. **Placement goals** are generally established as a percentage of the annual placement rate, (e.g., a goal of hiring women for 25 percent of the vacancies in the job group), and are used to measure progress toward achieving equal employment opportunity. The placement goal established must be at least equal to the availability percentage for women and/or minorities, as applicable, for the underutilized job group. Contractors may establish higher goals if they desire. Although a contractor is required to make good faith efforts to meet its goals, the goals are not quotas and no sanctions are imposed solely for failure to meet them. *An example is provided in Appendix A at page 13.*

The following factors explain the difference between permissible goals, on the one hand, and unlawful preferences, on the other:

- ◆ The goals component of the AAP is not designed to be, nor may it properly or lawfully be interpreted as, permitting unlawful preferential treatment and quotas with respect to persons of any race, color, religion, sex, or national origin.
- ◆ Goals are neither quotas, set-asides, nor a device to achieve proportional representation or equal results. Rather, the goal-setting process is used to target and measure the effectiveness of affirmative action efforts to eradicate and prevent barriers to equal employment opportunity.
- ◆ Goals under Executive Order 11246, as amended, do not require that any specific position be filled by a person of a particular gender, race, or ethnicity. Instead, the requirement is that contractors engage in outreach and other efforts to broaden the pool of qualified candidates to include minorities and women.
- ◆ The use of goals is consistent with principles of merit, because goals do not require an employer to hire a person who does not have the qualifications needed to perform the job successfully, hire an unqualified person in preference to another applicant who is qualified, or hire a less qualified person in preference to a more qualified person.
- ◆ Goals may not be treated as a ceiling or a floor for the employment of members of particular groups.



- ◆ A contractor's compliance is measured by whether it has made good faith efforts to meet its goals. The failure to meet goals, by itself, is not a violation of the Executive Order.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #5**

Contractors and subcontractors must designate a specific person(s) to direct, manage and ensure the implementation of their affirmative action program. [41 CFR 60-2.17(a)]

As part of the affirmative action program, a contractor/subcontractor must designate someone to direct or manage its affirmative action program, and include in the written AAP a statement that identifies that person or persons, along with a description of their duties. Ultimately, the head of the company is responsible for the implementation of the company's AAP. However, he or she will probably designate a management official at each facility or establishment to serve as the "affirmative action officer," with the responsibility for carrying out the contractor's AAP implementation and EEO commitments. *A sample statement is provided in Appendix A at pages 14-15.*

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #6**

Contractors and subcontractors must identify problem areas by organizational unit and job group. [41 CFR 60-2.17(b)]

As part of the affirmative action program, a contractor/subcontractor must perform an in-depth analysis of its total employment process to identify any problem areas. *An example is provided in Appendix A at page 16.*

Specifically, you must evaluate:

- ✓ The composition of the workforce, by organizational unit and job group, and by minority group and sex, to determine whether there are utilization disparities;
- ✓ All personnel activity, including applicant flow, hires, terminations, promotions, and other personnel actions to determine whether there are selection disparities;
- ✓ Compensation systems to determine whether there are gender-, race-, or ethnicity-based disparities;
- ✓ Personnel procedures, including selection, recruitment, referral, and other procedures to determine whether they result in disparities in the employment or advancement of minorities or women; and
- ✓ Any other areas that might affect the success of the affirmative action program, (e.g., seniority practices, conduct of company sponsored social events, apprenticeship program practices, workforce environment, and compliance with posting and union notification requirements).

To aid in identifying any problem areas by organizational unit and job group, contractors may find it useful to: 1) perform an analysis, such as the Impact Ratio Analysis (IRA), that measures how the contractor's own employment processes affect minorities and women; and 2) use the Job Area Acceptance Range (JAAR) analysis to identify any areas of minority or female concentration and underrepresentation. OFCCP's FCCM contains instructions on how to perform the IRA and JAAR analyses located at <http://www.dol.gov/esa/ofccp/regs/compliance/fccm/ofcpch2.htm#2O> and <http://www.dol.gov/esa/ofccp/regs/compliance/fccm/ofcpch2.htm#2G02>.

The AAP must list the problem areas identified and the actions or programs that will be implemented to correct them.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #7**

Contractors and subcontractors must develop and execute action-oriented programs designed to eliminate identified problems and to accomplish stated goals and objectives. [41 CFR 60-2.17(c)]

The content of this section of the AAP depends upon the nature of the problems identified through the contractor's in-depth analyses of personnel practices, policies, and procedures. Once problem areas have been identified, a contractor must develop and implement a program to eliminate those problems. Action-oriented programs should be specific and result-oriented to accomplish the aims for which they are created. "Specific" means describing what action(s) is to be taken, who is responsible for performing the action(s), and when the action(s) will be accomplished. "Result-oriented" means that proper execution of the program will likely lead to an increase in minority and/or female participation in the department, job group, training program, or other identified problem area. The action-oriented programs must be sufficient enough that if successfully implemented, their objective will be achieved. These programs must be described in the AAP. Examples of the types of programs and initiatives that contractors have found effective in addressing specific problems include mentoring partnerships, adopting schools, providing trainers and equipment to teach specific skills at vocational or technical schools, and internship programs with minority colleges and universities. *An example is provided in Appendix A at pages 17-18.*

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #8**

Contractors and subcontractors must design and implement an internal audit and reporting system to measure the effectiveness of their total affirmative action program. [41 CFR 60-2.17(d)]

An acceptable internal audit and reporting system is one that allows the contractor to measure the effectiveness of its total program. *An example is provided in Appendix A at pages 19-20.*

An internal audit and reporting system should include:

- ✓ Monitoring progress toward stated goals – conducted by job group;
- ✓ Analyzing employment activity – hires, promotions, terminations and other activity by job group, job title, and, where appropriate, organizational unit;
- ✓ Analyzing the compensation program – such analyses may be useful in determining if there are patterns of discrimination in the workforce. Contractors/subcontractors should analyze salaries, wages and other forms of compensation that are part of an employee's compensation package, (*i.e.*, stock options, bonuses, car allowances, etc.). Additional guidance regarding compensation analysis is located at <http://www.dol.gov/esa/ofccp/regs/compliance/faqs/comstrds.htm>;
- ✓ Reviewing the accessibility of online or electronic application systems to applicants and employees with disabilities and ensuring that needed reasonable accommodations can be easily requested and are readily provided when requested, unless to do so would result in undue hardship to the company. Additional guidance regarding accessibility of online applications systems is located at <http://www.dol.gov/esa/ofccp/regs/compliance/faqs/dir281faqs.htm>;
- ✓ Requiring routine and periodic reports on the status of corporate or unit goal attainment;
- ✓ Discussing these reports with managerial officials; and
- ✓ Recommending actions to improve progress to top management.

An AAP should contain a narrative description of every aspect of the internal audit and reporting system. The description should specify the frequency of reports and audits and state that corrective actions, if necessary, will be taken as problems are revealed. The description should also designate the contractor officials responsible for taking corrective actions. Lastly, contractors and subcontractors should indicate how and when program results and effectiveness will be reviewed with all levels of management in the company.

**EXECUTIVE ORDER 11246
AFFIRMATIVE ACTION PROGRAM
ELEMENT #9**

Contractors and subcontractors are required to maintain the analyses and support data used to evaluate and identify problem areas. [41 CFR 60-2.17(b)(2) and Part 60-3]

Support Data includes data and information reflecting personnel activity including, but not limited to, applicant flow, hires, terminations, promotions, and other personnel actions that have been used by the contractor to determine whether there are selection disparities. Support data also includes information that indicates the impact of tests and other selection procedures on employment opportunities. *Examples are provided in Appendix A at pages 21-29.*

As previously noted, OFCCP will accept AAPs and supporting records that reflect the race, ethnicity, and job categories outlined in either 41 CFR Part 60-2 or the EEO-1 Report. Contractors electing to use the EEO-1 Report categories will not be expected to produce analyses of the impact of employee selection procedures on groups comprised of individuals identified as belonging to more than one race; but contractors may be asked for other employment records they may have relating to such individuals. Such records may include any information regarding the reallocation of individuals identified as belonging to more than one race into single race categories. Additional guidance regarding the use of race/ethnicity data is located at http://www.dol.gov/esa/ofccp/regs/compliance/EEO1_Interim_Guidance.htm.

Section 503 and VEVRAA Affirmative Action Program Elements

Section 503 and its implementing regulations require that contractors with 50 or more employees and a non-exempt Government contract of \$50,000 or more must prepare a written AAP for individuals with disabilities. VEVRAA and its implementing regulations require that a written affirmative action program for covered veterans must be prepared by contractors with 50 or more employees and a non-exempt Government contract of \$100,000 (\$50,000 for a contract entered into before December 1, 2003, and subject to the Part 250 regulations). Provided in the following pages are descriptions of the required AAP program elements and references to the corresponding sections in the Sample AAP at Appendix B.

Affirmative action programs that are required under Section 503 and VEVRAA do not require numerical placement goals. However, like the Executive Order AAP, the focus of the Section 503 and VEVRAA AAPs is on taking affirmative action to establish a work environment free from barriers to equal employment opportunities, and to recruit, train, and promote qualified individuals protected under these laws.

The prescribed AAPs for individuals with disabilities and protected veterans may be developed separately or combined. Many contractors prepare a combined VEVRAA and Section 503 written AAP because the elements that must be included in each are similar. The required elements of the VEVRAA and Section 503 written AAP are described below, with a brief explanation of actions a contractor might take to comply with the element. Any descriptions of compliance actions are intended to illustrate possible compliance activities but should not be viewed as contractor performance mandates. Contractors are encouraged to "personalize" their affirmative action program to depict actions they have taken (or plan to take) to comply with the letter and spirit of the regulatory EEO requirements, and to describe innovative strategies they have employed to enhance the success of their respective programs.

Contractors and subcontractors are required to:

1. Develop an equal employment opportunity policy statement.
2. Review their personnel processes.
3. Conduct a review of physical and mental job qualifications.
4. Make reasonable accommodations to the known physical and mental limitations of otherwise qualified individuals or veterans with disabilities.
5. Develop and implement procedures to prevent harassment.
6. Disseminate their EEO policy externally and perform outreach and positive recruitment.
7. Disseminate their EEO policy internally.
8. Design and implement an audit and reporting system.

9. Designate a management official to direct and assume the responsibility for ensuring the implementation of their affirmative action program.
10. Train their personnel to ensure that EEO and affirmative action program commitments are implemented.

Note: The following guidance is intended to explain, but not add to or modify, the requirements contained in 41 CFR Parts 60-250, 60-300 and 60-741.

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #1**

Contractors and subcontractors must develop an equal employment opportunity policy statement. [41 CFR 60-250.44(a), 60-300.44(a) and 41 CFR 60-741.44(a)]

Covered contractors and subcontractors are required to:

1. Adopt a policy of equal employment opportunity; and
2. Include a statement of that policy in their written affirmative action program(s).

The contractor's equal employment opportunity policy (EEO) statement should be signed by the top establishment official, dated, and updated annually. The policy statement should also identify the EEO coordinator by name, job title, location, and telephone number. Contractors must reaffirm their equal employment opportunity policies annually. The policy statement should include at least the following:

- ✓ A statement that the contractor hires, recruits, trains, and promotes without discrimination on the basis of disability or status as a protected veteran;
- ✓ A statement indicating the top establishment official's support for the EEO policy;
- ✓ A statement providing for an audit and reporting system;
- ✓ A statement that the contractor bases all employment decisions only on valid job requirements; and
- ✓ A statement that employees and applicants will not be subject to harassment, intimidation, threats, coercion, or retaliation because they have engaged or may engage in filing a complaint; assisting in a review, investigation, or hearing related to any Federal, state, or local law requiring EEO for individuals with disabilities or protected veterans; opposing any act deemed unlawful by any of the above referenced laws; or exercising any other right under Section 503 or VEVRAA.

In addition to having the EEO statement in the VEVRAA and Section 503 AAP, this policy statement should be posted on company bulletin boards and communicated to all employees and applicants. *A sample policy statement is provided in Appendix B page 1.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #2**

Contractors and subcontractors must review their personnel processes. [41 CFR 60-250.44(b), 41 CFR 60-300.44(b), and 41 CFR 60-741.44(b)]

Contractors must review personnel practices to ensure that the qualifications of known protected veterans or individuals with disabilities are given proper consideration for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available.

- ◆ Individual personnel actions (including pre-employment testing) should also be carefully documented. Contractors should be able to provide records of every opening for which a known individual with a disability or protected veteran had been considered. Personnel records or employment application forms should identify the specific job opening. If a worker or an applicant who is an individual with a disability or a protected veteran was not selected, contractors should prepare a statement of the reason for rejection and provide a comparison of the qualifications of the person selected with those of the individual with a disability or protected veteran. Records should also indicate the reasonable accommodations (if any) that were considered to enable the individual with a disability or disabled veteran to perform the essential functions of the job.
- ◆ Contractors may only consider the portions of a veteran's military record that are job-related, including discharge papers.
- ◆ Contractors should review their reasonable accommodation practices and procedures. They should ensure that these procedures are disseminated to all applicants and employees, that requests for reasonable accommodation are promptly handled, and that any necessary accommodation is provided unless it would impose an undue hardship on the company.
- ◆ Contractors should review the accessibility of their online or electronic application systems to applicants and employees with disabilities and ensure that needed accommodations can be easily requested and are readily provided when requested.
- ◆ If contractors find that any personnel practices are discriminatory, the practice must be changed and the change must be noted in the contractor's affirmative action program.

Suggested procedures for reviewing personnel practices are listed in Appendix C of 41 CFR Part 60-250 and Appendix C of 41 CFR Part 60-741. *A sample statement is provided in Appendix B of this Guide at page 2.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #3**

Contractors and subcontractors must conduct a review of physical and mental job qualifications. [41 CFR 60-250.44(c), [41 CFR 60-300.44(c) and 41 CFR 60-741.44(c)]

Contractors must provide and adhere to a schedule for the periodic review of all physical and mental job qualification standards to ensure that any qualification standard that would tend to screen out qualified individuals with disabilities or disabled veterans is job-related and consistent with business necessity. *A sample review is provided in Appendix B at page 3.*

- ◆ Qualification standards are often found in specific job descriptions and general company policy statements. Examples of common mental and physical job qualification standards include requirements such as "must be able to lift 50 pounds," "must be able to carry heavy mail bags to and from the accounting department," or "must be able to tolerate heights." Other examples include desired weight or height specifications, or specific hearing or vision requirements.

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #4**

Contractors and subcontractors must make reasonable accommodation to the known physical and mental limitations of otherwise qualified individuals. [41 CFR 60-250.44(d), 41 CFR 60-300.44(d) and 41 CFR 60-741.44(d)]

Contractors must provide reasonable accommodation to the known physical or mental limitations of qualified applicants, employees with disabilities and disabled veterans unless the contractor can show that the accommodation would impose an undue hardship on the operation of its business. *A sample statement is provided in Appendix B at page 4.*

The term ***reasonable accommodation*** means:

Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability or a disabled veteran to perform the essential functions of that position; or

Modifications or adjustments that enable the contractor's employee who is an individual with a disability or a disabled veteran to enjoy equal benefits and privileges of employment as are enjoyed by the contractor's other similarly situated employees who are not individuals with disabilities or disabled veterans; or

Modifications or adjustments to a job application process that enable a qualified applicant who is an individual with a disability or a disabled veteran to be considered for the position such applicant desires. This includes any accommodations that are needed to enable an applicant with a disability to use a contractor's online or electronic application or testing system. It also includes providing an alternative means of applying or testing if there is not an accommodation that will enable the applicant with a disability to use the online or electronic system.

Reasonable accommodation may include, but is not limited to:

Making existing facilities used by employees readily accessible to and usable by individuals with disabilities and disabled veterans;

Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, training materials, or policies; the provision of qualified readers or interpreters; and

Reassignment to a vacant position (for employees only).

For more information on reasonable accommodation, see Appendix A to 41 CFR 60-250, 60-300 and 60-741.

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #5**

Contractors and subcontractors must develop and implement procedures to prevent harassment. [41 CFR 60-250.44(e), 41 CFR 60-300.44(e) and 41 CFR 60-741.44(e)]

The contractor must develop a policy statement prohibiting harassment and include it in its AAP. This statement should enumerate the specific procedures that have been or will be taken by the contractor to ensure that employees who have disabilities or who are protected veterans are not harassed because of their disability or status as a protected veteran. *A sample statement is provided in Appendix B at page 5.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #6**

Contractors and subcontractors must disseminate their EEO policy externally and perform outreach and positive recruitment. [41 CFR 60-250.44(f), [41 CFR 60-300.44(f) and 41 CFR 60-741.44(f)]

The contractor/subcontractor is required to undertake appropriate outreach and positive recruitment that are reasonably designed to effectively recruit individuals with disabilities and protected veterans. *A sample statement is provided in Appendix B at page 6.*

Some suggested activities include:

- ✓ Enlisting support of State and local recruitment agencies such as vocational schools, sheltered workshops, the Local Veterans' Employment Representative, and veterans' counselors and coordinators on college campuses.
- ✓ Discussing recruitment efforts on company premises with representatives from recruitment sources.
- ✓ Making special efforts to reach students at colleges, universities, and vocational schools who are individuals with disabilities or protected veterans.
- ✓ Making employees who are veterans and/or have disabilities available for career days, youth motivation programs, and related activities in the community.
- ✓ Incorporating the equal opportunity contract clauses in all contracts, purchase orders, leases, etc., covered by Section 503 and/or VEVRAA, as applicable.

The above list is not exhaustive; for more examples see 41 CFR 60-250.44(f), 41 CFR 60-300.44(f) and 741.44(f).

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #7**

Contractors and subcontractors must disseminate their EEO policy internally. [41 CFR 60-250.44(g), 41 CFR 60-300.44(g) and 41 CFR 60-741.44(g)]

A strong outreach program is ineffective without adequate internal support from supervisory and non-supervisory personnel. The contractor must design internal procedures to foster understanding, acceptance, and support of the contractor's obligation to promote equal employment opportunity for individuals with disabilities and protected veterans. Some suggested activities to implement this element of the AAP include:

- ✓ Publishing the EEO policy in the company's policy manual, newsletter, annual report, and other company publications.
- ✓ Discussing the EEO policy at all-employee and all-management meetings and training sessions, including orientation sessions for new personnel.
- ✓ Informing all union officials of the EEO policy and obtaining their cooperation.
- ✓ Including articles about, and pictures of employees who have disabilities or are protected veterans in company publications.

The above list is not exhaustive; for more examples see 41 CFR 60-250.44(g), 41 CFR 60-300.44(g) and 60-741.44(g). *A sample statement is provided in Appendix B at page 7.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #8**

Contractors and subcontractors must design and implement an audit and reporting system. [41 CFR 60-250.44(h), 41 CFR 60-300.44(h) and 41 CFR 60-741.44(h)]

An acceptable internal audit and reporting system is one that allows the contractor to measure the effectiveness of its total AAP program, including determining the extent to which the contractor's objectives have been attained and specifying needed remedial action if they have not been attained. This includes analyses to ensure individuals with disabilities and protected veterans have not been discriminated against in the following employment activities:

- ✓ Recruitment, advertising, and job application procedures;
- ✓ Hiring, promotion, upgrading, award of tenure, layoff, recall from layoff;
- ✓ Rates of pay and any other forms of compensation including fringe benefits;
- ✓ Job assignments, job classifications, position descriptions, and seniority lists;
- ✓ Sick leave, leaves or absence, or any other leave;
- ✓ Training, apprenticeships, attendance at professional meetings and conferences;
- ✓ Provision of needed reasonable accommodations for applicants and employees with disabilities; and
- ✓ Any other term, condition, or privilege of employment.

An acceptable internal audit system should also include a review of the company's online or electronic application systems to determine if they are accessible and to ensure that needed reasonable accommodations may be readily obtained.

An AAP should contain a narrative description of every aspect of the internal audit and reporting system. The description should specify the frequency of reports and audits and state that corrective actions, if necessary, will be taken as problems are revealed. The description should also designate the contractor officials responsible for taking corrective actions. Lastly, contractors and subcontractors should indicate how and when program results and effectiveness will be reviewed with the various levels of management in the company. *A sample statement is provided in Appendix B at page 8.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #9**

Contractors and subcontractors must designate a management official to direct and assume the responsibility for ensuring the implementation of their affirmative action program. [41 CFR 60-250.44(i), 41 CFR 60-300.44(i) and 41 CFR 60-741.44(i)]

A contractor or subcontractor must designate someone to direct or manage its affirmative action program, and include in the written VEVRAA and Section 503 AAP a statement identifying that person(s). A description of their duties should also be included in the AAP. Ultimately, the head of the company is responsible for the implementation of the company's AAP. However, he or she will probably designate a management official at each facility or establishment to serve as the affirmative action officer with the responsibility for carrying out the contractor's AAP implementation and EEO commitments. The affirmative action officer's identity should appear on all internal and external communications regarding the affirmative action program. This official is to be given top management support and sufficient staff to manage implementation of the program. *A sample statement is provided in Appendix B at pages 9-11.*

**SECTION 503 AND VEVRAA
AFFIRMATIVE ACTION PROGRAM
ELEMENT #10**

Contractors and subcontractors must train their personnel to ensure that EEO and affirmative action program commitments are implemented. [41 CFR 60-250.44(j), 41 CFR 60-300.44(j), 41 CFR 60-741.44(j)]

All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes must be knowledgeable about the contractor's EEO obligations and, if appropriate, about the contractor's affirmative action commitments under Section 503 and VEVRAA. *A sample statement is provided in Appendix B at page 12.*

Additional Requirements

There are also several additional compliance requirements with which supply and service contractors and subcontractors must comply. These requirements include:

- Recordkeeping requirements;
- Implementation of the Guidelines on Discrimination because of Religion or National Origin;
- Inclusion of EEO clauses in contracts;
- Invitations to self-identify as an individual with a disability or protected veteran;
- Mandatory job listings;
- Filing of EEO-1 and VETS 100/100A reports; and
- Completion and retention of I9 forms.

ADDITIONAL REQUIREMENTS: RECORDKEEPING

General Record Retention

Any personnel or employment record made or kept by a contractor or subcontractor must be maintained by the contractor/subcontractor for a period of not less than two years from the date of the making of the record or the personnel action involved. If the contractor/subcontractor has fewer than 150 employees or has a contract for less than \$150,000 the minimum record retention period is one year. [41 CFR 60-1.12, 41 CFR 60-250.80, 41 CFR 60-300.80 and 41 CFR 60-741.80]

Records Concerning Employee Selection

Contractors with 100 or more employees must maintain and have available for each job records and other information showing the impact of the total selection process (i.e., the combined effect of all selection procedures leading to the final employment decision) by identifiable race, sex, and ethnic group. [41 CFR 60-3.4B and 3.15A(2)(a)] Contractors with fewer than 100 employees must maintain and have available records showing, for each year: the number of persons hired, promoted, and terminated for each job and the number of applicants for hire and promotion, by sex, race and national origin. [41 CFR 60-3.15A(1)]

Personnel and employment records subject to the general record retention regulations include, but are not limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, layoff, recall, termination, rates of pay or other terms of compensation, selection for training or apprenticeship, requests for reasonable accommodation, results of physical examinations, job advertisements and postings, applications and resumes, tests, test results and interview notes. Failure to preserve complete and accurate records constitutes noncompliance under Executive Order 11246, Section 503, and VEVRAA, as appropriate, and may result in a presumption that the information destroyed or not preserved would have been unfavorable to the contractor.

Recordkeeping requirements specific to Internet applicants are discussed in guidance materials located at <http://www.dol.gov/esa/ofccp/regs/compliance/faqs/iappfaqs.htm#Q1RKa>.

At least annually, contractors with 100 or more employees are required to analyze their records and other information maintained for each job to determine whether the total selection process is having adverse impact. 41 CFR 60-3.15A(2). The adverse impact determinations must be conducted by gender and for each race or ethnic group (e.g. Black, Hispanic, Asian/Pacific Islander, and American Indian/Alaskan Native) that constitutes at least two percent of the labor force in the relevant area or two percent of the contractor's applicable workforce. Appendix D

of this Guide contains guidance about conducting adverse impact determinations. Where a total selection process has an adverse impact on any of the above referenced groups, the contractor should maintain and have available records showing which components of the selection process have an adverse impact. The contractor also should have available for each component that has an adverse impact, evidence that the procedure has been validated in accordance with the Uniform Guidelines (UGESP).

**ADDITIONAL REQUIREMENTS:
DISCRIMINATION BASED ON
RELIGION OR NATIONAL ORIGIN**

Contractors and subcontractors must implement the Guidelines on Discrimination because of Religion or National Origin [41 CFR 60-50]

Contractors and subcontractors must review their employment practices to ensure that members of various religious and/or ethnic groups are not harassed or discriminated against and receive fair consideration for job opportunities. Contractors and subcontractors must also ensure that the religious practices of applicants and employees are accommodated, unless to do so would impose an undue hardship. Although not required, self-monitoring of this obligation will aid contractors in ensuring compliance. *A sample document addressing compliance with these guidelines is provided in Appendix A at pages 30-31.*

**ADDITIONAL REQUIREMENTS:
CONTRACT CLAUSES**

Contractors and subcontractors must include or reference the following clauses in certain (depending on dollar amount) subcontracts and purchase orders resulting from the contract:

- Executive Order 11246 equal opportunity clause;
- VEVRAA equal opportunity clause; and
- Section 503 equal opportunity clause.

[41 CFR 60-1.4(a); 60-250.5; 60-300.5 and 60-741.5]

- **Executive Order 11246 equal opportunity clause:** Federal supply and service contractors and subcontractors must include or reference provisions of the Executive Order 11246 equal opportunity clause found at 41 CFR 60-1.4(a) in each subcontract or purchase order in excess of \$10,000, unless exempted by the regulations. *See the discussion on pages 8-9 of this Guide.*
- **VEVRAA equal opportunity clause:** VEVRAA requires that contractors include or reference the provisions of the equal opportunity clause for protected veterans found at 41 CFR 60-300.5 and 60-250.5 in every subcontract or purchase order of \$100,000 or more, unless exempted by the regulations.
- **Section 503 equal opportunity clause:** Section 503 requires that contractors include or reference the equal opportunity clause for individuals with disabilities found at 41 CFR 60-741.5 in each subcontract or purchase order in excess of \$10,000, unless exempted by the regulations.

**ADDITIONAL REQUIREMENTS:
INVITATION TO SELF-IDENTIFY: INDIVIDUALS WITH DISABILITIES**

Contractors and subcontractors must invite applicants to self-identify as an individual with a disability so that they may benefit under the affirmative action program for individuals with disabilities. [41 CFR 60-741.42]

The invitation to self-identify is designed to give persons whose disabilities may not be known to the contractor an opportunity to identify their disability in order to benefit from the contractor's affirmative action program. In general, the invitation is to be extended after an employment offer has been made and before the applicant begins work. A contractor may invite an applicant to self-identify as an individual with a disability before an offer of employment has been made:

- If the invitation is made when the contractor actually is undertaking affirmative action for individuals with disabilities at the pre-offer stage; or
- If the invitation is made pursuant to a Federal, state or local law requiring affirmative action for individuals with disabilities.

The invitation to self-identify must inform the applicant that the request to benefit under the contractor's affirmative action program may be made immediately or at any time in the future.

For further explanation of self-identification requirements, see 41 CFR Part 60-741.42. There is a sample invitation to self-identify in Appendix B to 41 CFR Part 60-741, and at the end of Appendix B of this Guide.

**ADDITIONAL REQUIREMENTS:
INVITATION TO SELF-IDENTIFY: PROTECTED VETERANS**

Contractors and subcontractors must invite applicants to self-identify as a disabled veteran so that they may benefit under the affirmative action program for protected veterans. Contractors must also invite applicants to self-identify as a recently separated or other protected veteran. [41 CFR 60-300.42(a) and (b)]. See also: 60.250.42.

The invitation to self-identify requirement for **disabled veterans** mirrors the requirement for individuals with disabilities. In general, the invitation is to be extended after an employment offer has been made and before the applicant begins work. The contractor may invite disabled veterans to self-identify prior to making a job offer when:

- The invitation is made when the contractor actually is undertaking affirmative action for disabled veterans at the pre-offer stage; or
- The invitation is made pursuant to a Federal, state or local law requiring affirmative action for disabled veterans at the pre-offer stage.

The contractor must also invite applicants to self identify as a recently separated or other protected veteran, *i.e.*, a veteran who served during a war or in a campaign or expedition for which a campaign badge has been authorized or an Armed Forces service medal veteran, so that they may benefit under the contractors affirmative action program. The invitation to these veterans may be extended at any time before the applicant begins his or her employment duties. The invitation to self-identify must inform the applicant that the request to benefit under the contractor's affirmative action program may be made immediately or at any time in the future.

For further explanation of self-identification requirements, see 41 CFR 60-300.42. There is a sample invitation to self-identify in Appendix B to 41 CFR Part 60-300, and at the end of Appendix B of this Guide. See also 41 CFR 250.42, Appendix B.

**ADDITIONAL REQUIREMENTS:
MANDATORY JOB LISTING**

Contractors and subcontractors covered under VEVRAA must list employment openings with the appropriate employment service delivery system where the opening occurs. [41 CFR 60-250.5 and 41 CFR 60-300.5]

Contractors are required under VEVRAA to list with the appropriate employment service delivery system all employment openings except:

- ✓ Executive and top management positions;
- ✓ Positions that will be filled from within the contractor's organization; and
- ✓ Positions lasting three days or less.

Employment openings that must be listed include full-time jobs, temporary jobs lasting more than three days, and part-time jobs.

Contractors covered by Part 60-300, (*i.e.*, those with a contract over \$100,000 entered into or modified after December 1, 2003), and contractors covered by Part 60-250, (*i.e.*, those with contracts over \$25,000 entered into prior to December 1, 2003) are required to list employment openings with the appropriate employment service delivery system concurrently with the contractor's use of any other recruitment source or effort. The term "employment service delivery system" means the public employment offices established under the Wagner-Peyser Act and known as the "Employment Service." The Employment Service provides these services as part of the One-Stop service delivery system established by the Workforce Investment Act. The names of the agencies providing these services vary and may include the words "Employment Services," "State Workforce Agency," "Employment Security Commission," "Job Service," "Career Center," "Workforce Center," "One-Stop," "Job Center," or "Workforce Development Center." Listing with an appropriate local employment service office where the job opening occurs, or with the state workforce agency job bank in the state where the job opening occurs will satisfy the job listing requirement. Additional information regarding the job listing requirement and links to the state workforce agency job banks are located at <http://www.dol.gov/esa/ofccp/regs/compliance/faqs/jvafaqs.htm>.

**ADDITIONAL REQUIREMENTS:
EEO-1 REPORT**

Contractors and subcontractors with 50 or more employees and a covered contract or subcontract of \$50,000 or more must submit an annual EEO-1 Report. *[41 CFR 60-1.7a]*

Contractors and subcontractors with 50 or more employees and a contract or subcontract of \$50,000 or more must complete and submit the **Employer Information Report EEO-1** (or EEO-1 Report) that identifies employees in job categories by race and sex. The EEO-1 Report is used by the Joint Reporting Committee (JRC), which is comprised of representatives from the Department of Labor and the Equal Employment Opportunity Commission (EEOC). Reports must be filed with the JRC annually, no later than September 30.

- Contractors that maintain a single establishment must only complete one EEO-1 Report yearly.
- Contractors that maintain multiple establishments must file:
 - ◆ One report covering the contractor's principal or headquarters office;
 - ◆ A separate report for each establishment employing 50 or more people;
 - ◆ A consolidated report for the entire contractor that includes all employees.

The following two pages contain a copy of the EEO-1 Report form. The EEO-1 Report form (Standard Form 100) and Instruction Booklet can be found online at <http://www.eeoc.gov/eeo1survey/>.

- Joint Reporting Committee
- Equal Employment Opportunity Commission
- Office of Federal Contract Compliance Programs (Labor)

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Standard Form 100
REV. 01/2006

O.M.B. No. 3048-0007
EXPIRES 01/2009
100-214

Section A—TYPE OF REPORT

Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX).

(1) Single-establishment Employer Report

Multi-establishment Employer:

- (2) Consolidated Report (Required)
- (3) Headquarters Unit Report (Required)
- (4) Individual Establishment Report (submit one for each establishment with 50 or more employees)
- (5) Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only) _____

Section B—COMPANY IDENTIFICATION (To be answered by all employers)

1. Parent Company

a. Name of parent company (owns or controls establishment in item 2) omit if same as label

Address (Number and street)

City or town

State

ZIP code

2. Establishment for which this report is filed. (Omit if same as label)

a. Name of establishment

Address (Number and street)

City or Town

County

State

ZIP code

b. Employer identification No. (IRS 9-DIGIT TAX NUMBER)

c. Was an EEO-1 report filed for this establishment last year? Yes No

Section C—EMPLOYERS WHO ARE REQUIRED TO FILE (To be answered by all employers)

- Yes No 1. Does the entire company have at least 100 employees in the payroll period for which you are reporting?
- Yes No 2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 100 or more?
- Yes No 3. Does the company or any of its establishments (a) have 50 or more employees AND (b) is not exempt as provided by 41 CFR 60-1.5, AND either (1) is a prime government contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more, or (2) serves as a depository of Government funds in any amount or is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Savings Notes?

If the response to question C-3 is yes, please enter your Dun and Bradstreet identification number (if you have one):

NOTE: If the answer is yes to questions 1, 2, or 3, complete the entire form, otherwise skip to Section G.

Section D-EMPLOYMENT DATA

Employment at this establishment - Report all permanent full- and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

Job Categories	Number of Employees (Report employees in only one category)														Total Col A - N	
	Hispanic or Latino		Not Hispanic or Latino										Race/Ethnicity			
	Male	Female	Male					Female					White	Black or African American		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Senior Level Officials and Managers	1.1															
First/Mid Level Officials and Managers	1.2															
Professionals	2															
Technicians	3															
Sales Workers	4															
Administrative Support Workers	5															
Craft Workers	6															
Operatives	7															
Laborers and Helpers	8															
Service Workers	9															
TOTAL	10															
PREVIOUS YEAR TOTAL	11															

1. Date(s) of payroll period used: _____ (Omit on the Consolidated Report.)

Section E - ESTABLISHMENT INFORMATION (Omit on the Consolidated Report.)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, tile insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity.)

Section F - REMARKS

Use this item to give any identification data appearing on the last EEO-1 report which differs from that given above, explain major changes in composition of reporting units and other pertinent information.

Section G - CERTIFICATION

- Check 1 All reports are accurate and were prepared in accordance with the instructions. (Check on Consolidated Report only.)
 one 2 This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person to contact regarding this report	Title	Address (Number and Street)	
City and State	Zip Code	Telephone No. (including Area Code and Extension)	Email Address

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII. WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001

ADDITIONAL REQUIREMENTS VETS-100 AND VETS-100A REPORTS

Once a year, Federal Government contractors and subcontractors covered under VEVRAA must compile a report of the numbers of disabled and other covered veterans in their workforce by job category and hiring location. Contractors and subcontractors must also collect data indicating the total number of employees and the number of covered veterans hired during the reporting period. Contractors and subcontractors must use the VETS-100 or VETS-100A form, as appropriate, for this report. [41 CFR Part 61-250 and Part 61-300.]

Explanation of Requirements:

- The VETS-100A Report is to be completed by each federal contractor or subcontractor with a contract or subcontract entered into or modified on or after December 1, 2003, in the amount of \$100,000 or more.
- A VETS-100 Report is to be completed by each federal contractor or subcontractor with a current contract or subcontract of \$25,000 or more entered into before December 1, 2003. However if such a contract has been modified after that date, and the contract as modified is for \$100,000 or more, a VETS-100A Report is to be completed by the contractor.
- Contractors or subcontractors with multiple work establishments must prepare a VETS-100/VETS-100A report for:
 - The company's principal or headquarters office;
 - Each hiring location employing 50 or more persons; and
 - Either: (i) a separate report for each hiring location employing fewer than 50 persons, or (ii) consolidated reports, by State, combining all hiring locations within one State that have fewer than 50 employees each. Each consolidated report also must list the name and address of the hiring locations covered by the report, a contact person, contact number and e-mail address.

For more information or to request VETS-100 or VETS-100A Report forms, visit the VETS-100/100A website at <http://www.dol.gov/vets/programs/fcp/main.htm>, email the VETS-100 staff at HELPDESK@VETS100.com or call (301) 306-6752.

A sample form currently in use as of the publication date of this Guide is on the following page. Downloadable forms are available at: <https://vets100.vets.dol.gov>.

ADDITIONAL REQUIREMENTS I-9 FORMS

Under the Immigration Reform and Control Act of 1986, contractors and subcontractors must maintain I-9 forms to verify that their employees are legally authorized to work in the United States.

Explanation of Requirements:

- OFCCP will review contractors' records to verify the following actions have been performed to comply with this law:⁴
 - ◆ New employees must complete an I-9 form when they start work;
 - ◆ Contractors must check documents that indicate the employee's identity (e.g., driver's license, passport) and eligibility to work (e.g., work visa, social security card);
 - ◆ Contractors must properly complete the verification sections on the I-9 form;
 - ◆ Contractors must keep I-9 forms for at least three (3) years or at least one year after a person leaves the contractor's employment, if the employee stays for more than three years; and
 - ◆ I-9 forms must be presented to U.S. Citizenship and Immigration Services (USCIS) or DOL investigators for inspection upon request.

- I-9 forms may be ordered in bulk from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Contractors may also call (202) 512-1800.

- U.S. Citizenship and Immigration Services has additional information about the I-9 requirement on online at <http://www.uscis.gov/i-9>.

- IRCA also prohibits certain forms of discrimination. Under this law, contractors with four or more employees may not discriminate against any individual (other than an unauthorized alien) in hiring, termination, or recruiting or referring for a fee because of that individual's national origin or citizenship status.

- For more information concerning IRCA's anti-discrimination provisions, contact the U.S. Department of Justice at:

⁴ For more information, please see OFCCP Directive Number: 284 - *The U.S. Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services' (USCIS) revised Employment Eligibility Verification Form (Form I-9)*.

U.S. Department of Justice
Civil Rights Division
Office of Special Counsel for Immigration-Related
Unfair Employment Practices
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Main Number: (202) 616-5594

Online: <http://www.usdoj.gov/crt/osc>.

Preparing for a Compliance Evaluation

The OFCCP conducts compliance evaluations to determine:

- Whether the contractor maintains nondiscriminatory employment practices;
- Whether the contractor is taking affirmative action to ensure equal employment opportunity;
- Whether the contractor has demonstrated good faith efforts in meeting its affirmative action goals;
- Whether the contractor has provided reasonable accommodation to qualified individuals with disabilities and disabled veterans;
- Whether the contractor needs technical assistance to understand the evaluation process or to ensure that its affirmative action efforts are complete and effective; and
- How to best remedy any discriminatory practices or regulatory violations.

A compliance evaluation may consist of any one or more of the following investigative procedures:

1. An *off-site review of records*, consisting of an analysis and evaluation of part or all of the affirmative action programs, supporting documentation, and other documents relevant to a determination of whether the contractor has complied with the requirements of the regulations implementing Executive Order 11246, VEVRAA and Section 503.
2. A *compliance check*, conducted to ascertain whether data and other information submitted previously by the contractor is complete and accurate; to ascertain whether the contractor has maintained required records; and/or to ascertain whether the contractor has properly developed its AAPs;
3. A *focused review*, consisting of an on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices; or
4. A *“full-scale” compliance review*, consisting of a comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written AAPs, and the results of the affirmative action efforts undertaken by the contractor.

Full-scale compliance reviews generally consist of four phases:

Phase 1: Desk audit;

Phase 2: On-site investigation;

Phase 3: Off-site analysis; and

Phase 4: Notice of findings.

Phase 1: Desk Audit - . During the desk audit, an OFCCP compliance officer (CO) reviews the written affirmative action programs and personnel activity records to determine whether the contractor is complying with relevant provisions of 41 CFR Chapter 60.

The desk audit gives the compliance officer an opportunity to:

- (a) Review of the contractor's basic organizational structure;
- (b) Examine the contractor's Executive Order, VEVRAA and Section 503 AAPs for completeness and the inclusion of supporting data;
- (c) Examine the contractor's personnel policies and procedures;
- (d) Identify areas where there has been a lack of progress in meeting goals and the information that will be needed to evaluate the contractor's good faith efforts, including the development and implementation of programs designed to improve opportunities for minorities and women; and
- (e) Identify areas for an in-depth investigation of potential discrimination where minorities and women are underrepresented or concentrated in the workforce; where employment activity has been disadvantageous to minorities and women; and where there may be problems in the compensation of minorities and women.

The CO conducts this review at his or her field office, away from the contractor's facility in preparation for the on-site review. At any time during the desk audit process, a CO may identify the need to contact the contractor and will do so to make an inquiry and/or to offer technical assistance.

Phase 2: On-Site Investigation – An on-site investigation will be conducted as a part of all “full reviews” and may be scheduled in other instances, as determined by OFCCP.⁵ An on-site investigation offers the CO an opportunity to confirm and verify information provided by the contractor and to follow up on potential discrimination identified during the desk audit. An on-site investigation is performed at the contractor's facility. Prior to the on-site, the compliance officer will discuss with the contractor mutually agreed upon dates. The compliance officer will then issue an on-site confirmation letter that may also itemize information to be provided to OFCCP prior to the on-site and/or when OFCCP is on-site.

⁵ OFCCP may also conduct focused reviews, *e.g.* Corporate Management Compliance Evaluation, or OFCCP may conduct a compliance check for verification of recordkeeping and notice requirements. These reviews may also include an on-site visit. In each instance, OFCCP will provide written notice or confirmation of its intention to conduct an on-site visit.

The on-site begins with an entrance conference with the CEO, in which OFCCP's mission and the compliance evaluation process is discussed. In conducting the on-site, a compliance officer compares the information and data reviewed during the desk audit with the actual employment practices at the company. The compliance officer also reviews personnel, pay and other employment records; interviews employees and company officials; and investigates other aspects of employment. Other documents are likely to be inspected, as well, including I-9 forms; VETS 100 forms; reasonable accommodation records; and the placement of required postings, such as the EEO poster. Additional requests for data and documentation, not previously provided by the contractor, may be made during the on-site investigation.

Contractors should make sure that an officer of the company, who is empowered to make and discuss policy and to make commitments regarding corrective action, where necessary, is present during the on-site. An exit conference with the CEO is generally held on the last day of the on-site, or the compliance officer may schedule a time to return for the exit conference.

Phase 3: Off-Site Analysis - During an off-site analysis, the compliance officer evaluates all data gathered during the course of the review including statistical information, interviews, notes, and results of record checks. The compliance officer then makes an initial determination as to whether the contractor's policies and practices comply with OFCCP regulations.

Phase 4: Notice of Findings - During the final phase, OFCCP will notify the contractor of the findings of the review. If there are no problems or violations noted, the contractor will be so advised via a Notice of Review Completion. If problems or violations do exist, OFCCP will issue the contractor (1) a Pre-Determination Notice (PDN) outlining potential problems, such as indicators that recordkeeping violations, discriminatory treatment and/or systemic issues in hiring or other employment practices may have occurred, and allowing for contractor response; and/or (2) a Notice of Violations (NOV) containing an explanation of any violation(s) found, and recommendations for corrective action and suggested ways to improve the contractor's EEO and affirmative action performance record. OFCCP will determine whether it is appropriate to issue a PDN, NOV, or both, based on the facts of the individual compliance evaluation.

A compliance evaluation may: 1) be closed after the desk audit, 2) continue with an on-site review that is focused on one or two issues, and/or 3) continue with an on-site review that involves an examination of several issues.

Compliance Evaluations and Confidentiality of Records: During a compliance evaluation, supply and service contractors must provide documented evidence of their efforts to implement all of the affirmative action and equal opportunity requirements. When a compliance evaluation is scheduled contractors are given a letter that lists the types of documents and records initially required for examination during the evaluation. OFCCP treats documents and records obtained during the compliance evaluation as confidential to the maximum extent the data are exempt from public disclosure under the Freedom of Information Act (FOIA), 5 USC

552. In keeping with the FOIA exemptions, it is the practice of OFCCP not to release data when the contractor is still in business, and it is determined that the data is confidential and sensitive and that the release of data would subject the contractor to commercial harm. Contractors should clearly identify proprietary materials to avoid inadvertent disclosure of materials that may be exempt from disclosure.

Compliance evaluations present few challenges to contractors who demonstrate good faith efforts and have designed a well-organized affirmative action program. Contractors can prepare for a compliance evaluation by:

- ✓ Familiarizing themselves with OFCCP's regulations, and, in particular 41 CFR Parts 60-1, 60-2, 60-3, 60-250, 60-300 and 60-741. Copies will be made available upon request. They are also available on the Internet at: <http://www.dol.gov/esa/ofccp>.
- ✓ Updating their AAPs annually.
- ✓ Ensuring that company officials and personnel are available to meet with OFCCP during the course of the review and are familiar with the OFCCP's mission and purpose.
- ✓ Conducting self-audits to assess the contractor's compliance efforts and activities.

As part of the self-audit, contractors should ask themselves questions such as the following⁶:

Internal Dissemination of Policy

Has the contractor conspicuously displayed the required EEO poster (available from any OFCCP office or on the OFCCP web site) at each work site or company location in areas accessible to both applicants and employees?

Has the contractor posted its EEO policy at every job site?

External Dissemination of Policy

Do the contractor's contracts and purchase order forms display or reference the equal opportunity clause as required?

Audit of Personnel Operations

How does the contractor hire employees for jobs? Are records maintained regarding the hiring process?

Does the contractor maintain a system for identifying applicants by gender, race, and ethnicity (Hispanic/non-Hispanic) and, when appropriate to do so, applicants who are individuals with

⁶ This is a non-exhaustive list.

disabilities or protected veterans for consideration as candidates for appropriate openings and promotions?

Are application, hiring, promotion, and termination procedures carried out in a uniform, nondiscriminatory fashion?

Is there a disparity between the separation and termination rate of minorities and women and that for non-minorities and males, or for individuals with disabilities and protected veterans as compared to individuals without disabilities and those who are not protected veterans? If so, why?

Has the contractor implemented policies and procedures to identify and remedy issues of discrimination or harassment based on race, color, sex, religion, national origin, disability, or status as a protected veteran?

Are reasonable accommodation requests from applicants and employees with disabilities processed promptly and are needed reasonable accommodations provided?

Are online or electronic application systems accessible and are reasonable accommodations provided, when requested?

Are training programs, including apprenticeship programs, available to employees without regard to race, color, sex, religion, national origin, disability, or status as a protected veteran?

Effect of Personnel Practices

Does the facility have written personnel policies and procedures? Do any of these policies or practices have an adverse impact by gender, race, or ethnicity (Hispanic/non-Hispanic)?

Are job descriptions in written form? Are job qualification standards job-related and consistent with business necessity? Are they likely to screen out qualified individuals on the basis of disability?

Are there any restrictions to the granting of fringe benefits, including medical and life insurance, pension and retirement benefits, profit sharing and bonus plans and credit union benefits based on the gender of the employee, status as a protected veteran, or status as an individual with a disability? If so, what is the impact of the restriction(s)?

Are employment benefits available to the spouses and families of male employees also available to the spouses and families of female employees? Are the benefits available to the families of individuals without disabilities and those who are not protected veterans also available to the families of individuals with disabilities and protected veterans?

Validation

Are tests used by the contractor as a part of its selection procedures? If so, does the use of the test have an adverse impact on the screening or selection by gender, race, or ethnicity?

(Hispanic/non-Hispanic)? If so, have tests been validated to ensure that they are valid predictors of an individual's success in that position?

Compensation Disparities

Has the contractor reviewed its salary and bonus structure to ensure that it does not discriminate against minorities, women, individuals with disabilities, or protected veterans?

Do minorities, women, individuals with disabilities or protected veterans receive lower starting rates of pay than their counterparts with similar education and experience who are not minorities, women, individuals with disabilities or protected veterans?

Do jobs offered by the contractor have similar duties but different pay rates? If so, are minorities, women, individuals with disabilities or protected veterans concentrated in the job that has the lower rate of pay? Do minorities or women earn less than their non-minority or male counterparts? Do individuals with disabilities or protected veterans earn less than their counterparts who are not individuals with disabilities or protected veterans?

Maintenance of Records

Does the contractor maintain proper applicant flow records?

Does the contractor maintain proper records about terminations and separations?

Have I-9 forms been maintained for all required employees and filled out correctly?

Have the appropriate VETS 100 and 100A forms been maintained and filled out correctly?

Sex Discrimination

Does the contractor's policy on maternity/parental leave meet regulatory requirements?

Does the contractor have a sexual harassment policy that is disseminated to staff and employees? Is training on the sexual harassment policy provided?

Retirement Policy

Does the contractor's policy on mandatory or optional retirement age differ based upon the gender of the employee or their status as an individual with a disability or protected veteran?

Directing Recruitment Efforts

Does the contractor underutilize minorities or women in its positions? If so, what efforts has the contractor made to recruit minorities and women?

What recruitment sources does the contractor use? Do these sources refer women, minorities, individuals with disabilities, and protected veterans?

Has the contractor complied with the job listing requirement of VEVRAA?

Community Relations

What is the equal employment opportunity image of the facility in the community?

Religion/National Origin

Has the contractor reviewed its employment practices and policies to determine whether members of the various religious and ethnic groups receive fair consideration for job opportunities?

Are employees periodically informed of the contractor's commitment to equal employment opportunity for all persons, without regard to religion or national origin?

Have recruiting sources been informed of the contractor's commitment to provide equal employment opportunity without regard to religion or national origin?

Have reasonable accommodations to the religious observances and practices of employees or prospective employees been made?

Asking yourself the above questions will go a long way towards preparing a contractor for an OFCCP compliance evaluation. Contractors should also know that when a compliance evaluation is scheduled, compliance officers will request the following documents for on-site inspection:

- ✓ Books, records, payrolls, accounts and other relevant documents, including a list of all employees who worked during the 12 months preceding this review;
- ✓ A copy of the VETS-100 or VETS 100A report; and
- ✓ U.S. Citizenship and Immigration Services (USCIS) I-9 Forms.

For Further Information: Procedures and instructions for compliance checks, offsite review of records, focused reviews and full scale compliance reviews are detailed in the Federal Contract Compliance Manual Chapter 2 and on the OFCCP website at <http://www.dol.gov/esa/ofccp>

Recognizing Best Practices

Each year OFCCP hosts an award ceremony to recognize and honor those contractors and subcontractors that go well beyond the minimum requirements of the EEO and affirmative action laws.

The Secretary of Labor's **Opportunity Award**, initiated in 1988, is presented by the Secretary of Labor to honor one contractor for the successful implementation of a significant multi-faceted program ensuring equal employment opportunity and affirmative action within its organization, and for the successful implementation of programs supporting these goals in the broader community.

The **Exemplary Voluntary Effort (EVE) Award**, initiated in 1983, is presented by the Director of OFCCP to contractors that have demonstrated through programs or activities, exemplary and innovative efforts to increase the employment opportunities for employees, including minorities, women, individuals with disabilities and covered veterans.

The **Exemplary Public Interest Contribution (EPIC) Award**, initiated in 1994, is presented by the Director of OFCCP to honor selected public interest organizations that have supported affirmative action and linked their efforts with those of Federal contractors to enhance employment opportunities for minorities, women, individuals with disabilities and protected veterans.

The **G-FIVE Initiative**, initiated in 2008, recognizes contractors' best practices to employ and advance veterans. G-FIVE recognition is awarded by the Director of OFCCP.

To be eligible for consideration for an EVE or Opportunity Award, a nominee must be a Federal contractor covered by Executive Order 11246, as amended; Section 503 of the Rehabilitation Act, as amended; and the Vietnam Era Veterans' Readjustment Assistance Act, as amended. Also, nominees must not have any unresolved employment discrimination allegations as determined by a compliance evaluation and/or a complaint or other investigation.

In addition, the nominee must not have any enforcement actions pending, or be subject to any corrective actions or consent decrees that have resulted from litigation under laws enforced by any agency in the Department of Labor. While the EVE Award may be given for a single program or activity, recipients of the Opportunity Award must have developed and implemented a multi-faceted affirmative action program directed towards the changing demographics of the labor force. This may include involvement in community-based projects that assist in the development of a diverse workforce for the future. The Opportunity Award nominee may represent a single establishment or the entire corporation.

In past years, Opportunity and EVE Awards have recognized contractor programs such as:

- Recruitment, retention and management training and development programs that shattered glass ceilings and enhanced opportunities for women and minorities at all levels of management;
- Innovative outreach and recruitment programs designed to attract minorities, women, qualified individuals with disabilities, and qualified protected veterans;
- Programs that provided individuals with basic essential skills needed for employment;
- Programs that motivated and supported minorities and women in attaining advanced degrees, and in obtaining education in science and technical fields;
- Seminars and conferences that created a greater awareness throughout a company of the contributions of employees with learning disabilities; and
- Workplace environment strategies that helped employees balance work and family responsibilities.

To be eligible for consideration for an EPIC Award, a nominee must be a non-profit public interest organization whose activities support the mission of the OFCCP. Past winners have been recognized for their efforts in non-traditional employment for women, vocational training, literacy training, legal advocacy, scholarship programs, mentoring, and linkage with employment referrals to Federal contractors.

The latest guidance on the eligibility criteria, nomination process and administrative procedures for the Opportunity, EVE, and EPIC Awards can be found on OFCCP's web site at: <http://www.dol.gov/esa/ofccp/media/reports/eveint.htm>.

The latest guidance on the eligibility criteria, nomination process and administrative procedures for the G-FIVE Initiative can be found on OFCCP's web site at:

http://www.dol.gov/esa/ofccp/g_five.htm

Or contact your local OFCCP office for additional information regarding any of these honors.

Appendix A

SAMPLE AFFIRMATIVE ACTION PROGRAM (AAP)

The following sample AAP is for illustrative purposes only and does not represent the only styles and formats that meet regulatory requirements. While this sample has been constructed around a company with less than 150 employees, thereby allowing the AAP job groups to be formulated according to OFCCP occupational categories as authorized by 41 CFR 60-2.12(e)⁷, it may be used as a guide for larger employers.

When preparing an AAP, it should be customized to reflect an employer's organizational structure, policies, practices, programs, and data. Usually a separate AAP is required for each establishment. In appropriate circumstances, an establishment may include several facilities located at two or more sites if the facilities are in the same labor market or recruiting area.

In addition to the records an employer is required to compile and maintain to support the AAP [41 CFR 60-1.12 and 60-2.17(d)], the employer should also keep materials evidencing its affirmative action efforts. This may include items such as copies of collective bargaining agreements and other documents that indicate employment policies and practices; copies of letters sent to suppliers and vendors stating the EEO/affirmative action policy; copies of letters sent to recruitment sources and community organizations; and copies of contract language incorporating the regulatory EEO clause [41 CFR 60-1.4].

⁷ Employers may use the EEO-1 categories for this purpose. See footnote 2 for further discussion.

FEDERAL CONTRACTOR, INC. (FCI)
EXECUTIVE ORDER 11246
SAMPLE AFFIRMATIVE ACTION PROGRAM

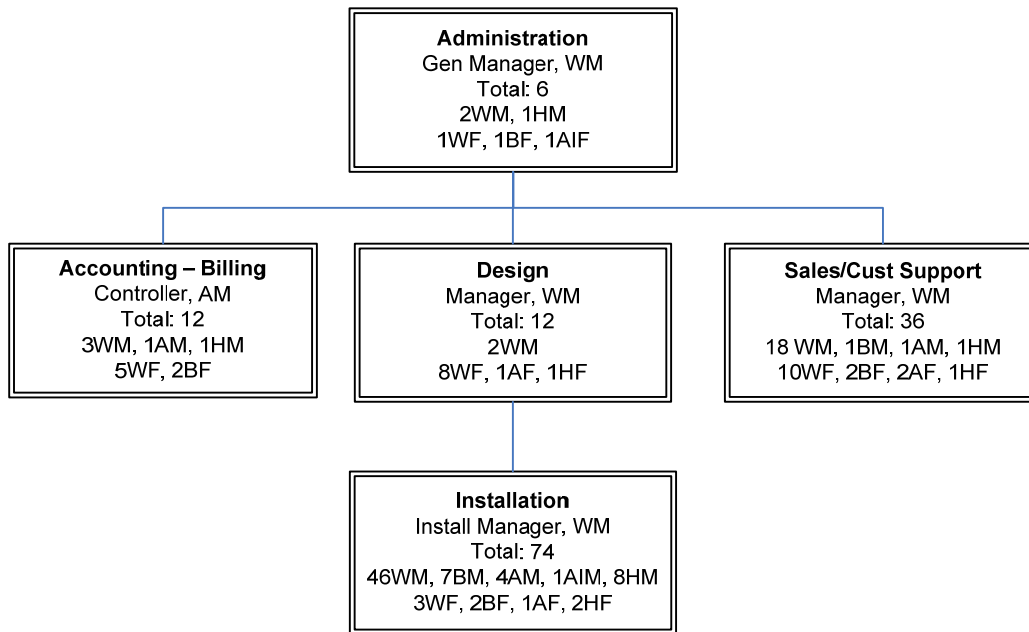
	Title 41 CFR Section
Organizational Profile	60-2.11
Job Group Analysis	60-2.12
Utilization Analysis	
Placement of Incumbents in Job Groups	60-2.13
Determining Availability	60-2.14
Comparing Incumbency to Availability	60-2.15
Placement Goals	60-2.16
Additional Required Elements	60-2.17
Designation of Responsibility for Implementation	60-2.17(a)
Identification of Problem Areas	60-2.17(b)
Action-Oriented Programs	60-2.17(c)
Internal Audit and Reporting System	60-2.17(d)
Support Data	60-2.17(b) and 60-3
General Requirement (optional inclusion in AAP)	
Guidelines on Discrimination because of Religion or National Origin	60-50

Organizational Display

The **Organizational Display** is a detailed chart of the contractor's organizational structure. For each organizational unit, the display must indicate the following:

- The name of the unit and the job title, race and gender of the unit supervisor
- The total number of male and female incumbents and the total number of male and female incumbents in each of the following groups: Blacks, American Indians, Asians, Hispanics, and whites other than Hispanics⁸.

Federal Contractor, Inc. (FCI)



Note that the organizational display shows each department, the race/sex of the supervisor(s) and employees within each department, and how all of the departments relate to each other.

⁸ OFCCP's regulations regarding the race, ethnicity, and job categories to be used by contractors have not changed to reflect the new categories required for the EEO-1 Report. However, OFCCP will accept AAPs and supporting records that reflect the categories outlined in either 41 CFR Part 60-2 or the new EEO-1 Report. For more information, see OFCCP's Directive at <http://www.dol.gov/esa/ofccp/regs/compliance/directives/dirindex.htm>

Workforce Analysis

DEPARTMENT/WORK UNIT: Administration					MALES						FEMALES					
Job Title	Wage Rate	EEO-1 Category (EEO-1 Form or OFCCP regulations)	Job Group	Total Employees	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic
General Manager	S-A	1	1	1	1	1										
Personnel Manager	S-D	1	1	1	1	1										
Executive Assistant	S-J	5	5	1							1	1				
Administrative Assistant	H-8	5	5	1							1		1			
File Clerk	H-11	5	5	2	1					1	1				1	
DEPARTMENT TOTAL				6	3	2				1	3	1	1		1	

Workforce Analysis

DEPARTMENT/WORK UNIT: Accounting - Billing					MALES						FEMALES					
Job Title	Wage Rate	EEO-1 Category	Job Group	Total Employees	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic
Controller	S-C	1	1	1	1			1								
Pricing – Billing Manager	S-E	1	1	1	1	1										
General Ledger Accountant	S-F	2	2	1							1	1				
Payroll Administrator	S-H	2	2	1	1	1										
Billing Clerk	H-5	5	5	3	1					1	2	2				
Material Pricing Clerk	H-5	5	5	3	1	1					2	1	1			
Administrative Assistant	H-8	5	5	2							2	1	1			
DEPARTMENT TOTAL				12	5	3		1		1	7	5	2			

Workforce Analysis

DEPARTMENT/WORK UNIT: Accounting – Design					MALES						FEMALES					
Job Title	Wage Rate	EEO-1 Category	Job Group	Total Employees	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic
Interior Design Manager	S-E	1	1	1	1	1										
Interior Designer	S-M	2	2	2							2	1				1
Office Space Planner	S-M	2	2	5	1	1					4	4				
Administrative Assistant	H-8	5	5	2							2	2				
File Clerk	H-11	5	5								2	1		1		
DEPARTMENT TOTAL				12	2	2					10	8		1		1

Workforce Analysis

DEPARTMENT/WORK UNIT: Sales – Customer					MALES						FEMALES					
Job Title	Wage Rate	EEO-1 Category	Job Group	Total Employees	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic
Sales – Customer Support Manager	S-G	1	1	1	1	1										
Pricing Specialist	S-J	2	2	6	5	3	1	1			1					1
Purchasing Agent	S-J	2	2	7	5	5					2	2				
Office Equipment Sales Representative	S-K	4	4	10	8	8					2	2				
Customer Information Sales Representative	H-7	5	5	6							6	4		1		
Call Center Agent	H-7	5	5	3	1	1					2	1	1			
Customer Service Complaints Clerk	H-8	5	5	3	1					1	2	1		1		
DEPARTMENT TOTAL				36	21	18	1	1		1	15	10	2	2		1

Workforce Analysis

DEPARTMENT/WORK UNIT: Installation					MALES						FEMALES					
Job Title	Wage Rate	EEO-1 Category	Job Group	Total Employees	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic	Total	White	Black/African American	Asian/Pacific Islander	American Indian/Alaskan Native	Hispanic
Installation Manager	S-F	1	1	1	1	1										
Installation Supervisor	S-G	1	1	1	1	1										
Furniture Repair Supervisor	S-G	1	1	1	1	1										
Inventory Control Clerk	H-9	5	5	2							2	1				1
Systems Specialist	H-9	6	6	12	10	8				2	2	1	1			
Installer	H-10	6	6	18	17	12	2	1		2	1					1
Furniture Repair	H-10	6	6	13	12	7		3		2	1		1			
Truck Driver	H-11	7	7	8	7	5	1		1		1	1				
Forklift Operator	H-12	7	7	2	2	1	1									
Installer Helper	H-13	8	8	13	12	8	2			2	1			1		
Receiving	H-13	8	8	3	3	2	1									
DEPARTMENT TOTAL				74	66	46	7	4	1	8	8	3	2	1		2

**Job Group Analysis:
Listing of Job Titles**

Job Titles	Job Group Name	EEO-1 Category
General Manager	1	Officials & Managers
Controller		
Pricing-Billing Manager		
Sales – Customer Support Manager		
Interior Design Manager		
Personnel Manager		
Installation Manager		
Installation Supervisor		
Furniture Repair Supervisor		
Interior Designer	2	Professionals
Office Space Planner		
General Ledger Accountant		
Payroll Administrator		
Purchasing Agent		
Pricing Specialist		
Office Equipment Sales Representative	4	Sales Workers

**Job Group Analysis:
Listing of Job Titles**

Job Titles	Job Group Name	EEO-1 Category
Executive Assistant	5	Office and Clericals
Administrative Assistant		
File Clerk		
Billing Clerk		
Inventory Control Clerk		
Material Pricing Clerk		
Customer Information Sales Representative		
Call Center Agent		
Customer Service Complaints Clerk		
Systems – Specialist	6	Craftworkers
Installer		
Furniture Repair		
Truck Driver	7	Operatives
Forklift Operator		
Installer Helper	8	Laborers
Receiving		

**Utilization Analysis:
Placement of Incumbents in Job Groups**

Job Group	Total # of Incumbents	# of Females	Female Incumbency %	# of Minorities	Minority Incumbency %
1	9	0	0.0	1	11.1
2	22	10	45.5	4	18.2
4	10	2	20.0	0	0.0
5	30	25	83.3	13	43.3
6	43	4	9.3	15	34.9
7	10	1	10.0	3	30.0
8	16	1	6.3	6	37.5

**Utilization Analysis:
Determining Availability⁹**

Job Group: 6	Raw Statistics		Value Weight	Weighted Statistics		Source of Statistics	Reason for Weighting
	Minority	Female		Minority	Female		
1. Percentage of minorities or women with requisite skills in the reasonable recruitment area	18.4%	40.2%	10%	1.84%	4.02%	2000 Census Data	
2. Percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization.	20.1%	44.6%	90%	18.09%	40.14%		
Totals:			100%	19.93%	44.16%	Final Factor	

⁹ The example is of one job group only. Contractors must conduct an analysis of each of the job groups and determine availability for each [41 CFR 60-2.12 – 60-2.14]. Please note that the chart includes fictionalized numbers designed for illustrative purposes.

**Utilization Analysis:
Comparing Incumbency to Availability
and
Establishing Placement Goals**

Job Group	Female Incumbency %	Female Availability %	Establish Goal? Yes/No	If Yes, Goal for Females	Minority Incumbency %	Minority Availability %	Establish Goal? Yes/No	If Yes, Goal for Minorities
1	0.0%	47.6%	Yes	47.6%	11.1%	18.1%	Yes	18.1%
2	45.5%	43.8%	No		18.2%	8.2%	No	
4	20.0%	34.5%	Yes	34.5%	0.0%	12.4%	Yes	12.4%
5	83.3%	87.7%	No	*	43.3%	27.6%	No	
6	9.3%	5.5%	No		34.9%	23.2%	No	
7	10.0%	6.3%	No		30.0%	37.5%	No	*
8	6.3%	19.1%	Yes	19.1%	37.5%	26.3%	No	

*The 80% rule of thumb was followed in declaring underutilization and establishing goals when the actual employment of minorities or females is less than 80% of their availability. If the female/minority incumbency percent (%) is less than the female/minority availability percent (%) and the ratio of incumbency to availability is less than 80%, a placement goal should be included in the appropriate "If Yes" column.

Designation of Responsibility for Implementation

Responsibilities of the Equal Employment Opportunity Manager:

The Personnel Manager has the responsibility for designing and ensuring the effective implementation of Federal Contractor, Inc's. (FCI's) Affirmative Action Program (AAP). These responsibilities include, but are not limited to, the following:

1. Developing Equal Employment Opportunity (EEO) policy statements, affirmative action programs and internal and external communication procedures;
2. Assisting in the identification of AAP/EEO problem areas;
3. Assisting management in arriving at effective solutions to AAP/EEO problems;
4. Designing and implementing an internal audit and reporting system that:
 - a. Measures the effectiveness of FCI's program;
 - b. Determines the degree to which AAP goals and objectives are met; and
 - c. Identifies the need for remedial action;
5. Keeping FCI's General Manager informed of equal opportunity progress and reporting potential problem areas within the company through quarterly reports;
6. Reviewing the company's AAP for qualified minorities and women with all managers and supervisors at all levels to ensure that the policy is understood and is followed in all personnel activities;
7. Auditing the contents of the company's bulletin board to ensure compliance information is posted and up-to-date; and
8. Serving as liaison between FCI and enforcement agencies.

Responsibilities of Managers and Supervisors:

It is the responsibility of all managerial and supervisory staff to implement FCI's AAP. These responsibilities include, but are not limited to:

1. Assisting in the identification of problem areas, formulating solutions, and establishing departmental goals and objectives when necessary;

2. Reviewing the qualifications of all applicants and employees to ensure qualified individuals are treated in a nondiscriminatory manner when hiring, promotion, transfer, and termination actions occur; and
3. Reviewing the job performance of each employee to assess whether personnel actions are justified based on the employee's performance of his or her duties and responsibilities.

Identification of Problem Areas

<i>Areas of Concern</i>	<i>Corrective Actions</i>
<ul style="list-style-type: none"> Underutilization of minorities and women in Job Groups 1 and 4 where external hiring opportunities occurred. Concern regarding low minority and female applicant flow rate resulting from inadequate recruitment for both job groups. 	<ul style="list-style-type: none"> No later than March 1, 2010, notify management and professional recruitment sources, in writing, of FCI's interest in attracting qualified minorities and women to apply for job openings. No later than March 1, 2010, expand FCI's recruitment program to colleges and universities with a significant percentage of minority and female students.
<ul style="list-style-type: none"> Underutilization of women in Job Group 8 entry-level blue-collar jobs. Concern regarding low female applicant flow rate resulting from inadequate recruitment. 	<ul style="list-style-type: none"> No later than January 1, 2010, contact the local YWCA, local vocational school, and training centers to inform them of FCI's interest in attracting qualified female applicants.
<ul style="list-style-type: none"> High termination rate for females in Job Group 8. 	<ul style="list-style-type: none"> Immediately review exit interview survey of terminated females to confirm voluntary reason for leaving.

Action-Oriented Programs

FCI has instituted action programs to eliminate identified problem areas and to help achieve specific affirmative action goals. These programs include:

1. Conducting annual analyses of job descriptions to ensure they accurately reflect job functions;
2. Reviewing job descriptions by department and job title using job performance criteria;
3. Making job descriptions available to recruiting sources and available to all members of management involved in the recruiting, screening, selection and promotion processes;
4. Evaluating the total selection process to ensure freedom from bias through:
 - a. Reviewing job applications and other pre-employment forms to ensure information requested is job-related;
 - b. Evaluating selection methods that may have a disparate impact to ensure that they are job-related and consistent with business necessity;
 - c. Training personnel and management staff on proper interview techniques; and
 - d. Training in EEO for management and supervisory staff;
5. Using techniques to improve recruitment and increase the flow of minority and female applicants. FCI presently undertakes the following actions:
 - a. Include the phrase "Equal Opportunity/Affirmative Action Employer" in all printed employment advertisements;
 - b. Place help wanted advertisement, when appropriate, in local minority news media and women's interest media;
 - c. Disseminate information on job opportunities to organizations representing minorities, women and employment development agencies when job opportunities occur;
 - d. Encourage all employees to refer qualified applicants;
 - e. Actively recruit at secondary schools, junior colleges, colleges and universities with predominantly minority or female enrollments; and

- f. Request employment agencies to refer qualified minorities and women;
- 6. Hiring a statistical consultant to help FCI perform a self-audit of its compensation practices; and
- 7. Ensuring that all employees are given equal opportunity for promotion. This is achieved by:
 - a. Posting promotional opportunities;
 - b. Offering counseling to assist employees in identifying promotional opportunities, training and educational programs to enhance promotions and opportunities for job rotation or transfer; and
 - c. Evaluating job requirements for promotion.

Internal Audit and Reporting System

The Personnel Manager has the responsibility for developing and preparing the formal documents of the AAP. The Personnel Manager is responsible for the effective implementation of the AAP; however, responsibility is likewise vested with each department manager and supervisor. FCI's audit and reporting system is designed to:

- Measure the effectiveness of the AAP/EEO program;
- Document personnel activities;
- Identify problem areas where remedial action is needed; and
- Determine the degree to which FCI's AAP goals and objectives have been obtained.

The following personnel activities are reviewed to ensure nondiscrimination and equal employment opportunity for all individuals without regard to their race, color, gender, religion, or national origin:

- Recruitment, advertising, and job application procedures;
- Hiring, promotion, upgrading, award of tenure, layoff, recall from layoff;
- Rates of pay and any other forms of compensation including fringe benefits;
- Job assignments, job classifications, job descriptions, and seniority lists;
- Sick leave, leaves or absence, or any other leave;
- Training, apprenticeships, attendance at professional meetings and conferences; and
- Any other term, condition, or privilege of employment.

The following documents are maintained as a component of FCI's internal audit process:

1. An applicant flow log showing the name, race, sex, date of application, job title, interview status and the action taken for all individuals applying for job opportunities;
2. Summary data of external job offers and hires, promotions, resignations, terminations, and layoffs by job group and by sex and minority group identification;
3. Summary data of applicant flow by identifying, at least, total applicants, total minority applicants, and total female applicants for each position;
4. Maintenance of employment applications (not to exceed one year); and
5. Records pertaining to FCI's compensation system.

FCI's audit system includes a quarterly report documenting FCI's efforts to achieve its EEO/AAP responsibilities. Managers and supervisors are asked to report any current or foreseeable EEO problem areas and are asked to outline their suggestions/recommendations for solutions. If problem areas arise, the manager or supervisor is to report problem areas immediately to the Personnel Manager. During quarterly reporting, the following occurs:

1. The Personnel Manager will discuss any problems relating to significant rejection ratios, EEO charges, etc., with the General Manager; and
2. The Personnel Manager will report the status of the FCI's AAP goals and objectives to the General Manager. The Personnel Manager will recommend remedial actions for the effective implementation of the AAP.

**Support Data:
Personnel Activity**

OFCCP Category: Officials and Managers Job Group: 1	External Hires		External Applicants		Promotions - Into Job Group		Promotions - Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White	1		8		1			
Black/African American				1				
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)	1		8	1	1			
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American			1					
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)			1					

**Support Data:
Personnel Activity**

OFCCP Category: Professionals Job Group: 2	External Hires		External Applicants		Promotions - Into Job Group		Promotions - Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White	2		6	9			1	
Black/African American			1	1				
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic			1			1		
Race Missing or Unknown								
TOTAL (count each person once only)	2		8	10		1	1	
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)								

**Support Data:
Personnel Activity**

OFCCP Category: Sales Workers Job Group: 4	External Hires		External Applicants		Promotions - Into Job Group		Promotions - Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								1
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)								1
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White			1					
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)			1					

**Support Data:
Personnel Activity**

OFCCP Category: Office and Clerical Job Group: 5	External Hires		External Applicants		Promotions - Into Job Group		Promotions - Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White	1		5	46				1
Black/African American		1	2	3				
Asian/Pacific Islander			2					
American Indian/Alaskan Native				1				
Hispanic			1	3				
Race Missing or Unknown								
TOTAL (count each person once only)	1	1	10	53				1
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic			1					
Race Missing or Unknown								
TOTAL (count each person once only)			1					

**Support Data:
Personnel Activity**

OFCCP Category: Craftworkers Job Group: 6	External Hires		External Applicants		Promotions - Into Job Group		Promotions – Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White	2		15	2	1		1	
Black/African American		1	1	1				
Asian/Pacific Islander			2	1	1			
American Indian/Alaskan Native								
Hispanic	1							
Race Missing or Unknown								
TOTAL (count each person once only)	3	1	18	4	2		1	
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White	1			1				
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)	1			1				

**Support Data:
Personnel Activity**

OFCCP Category: Operatives Job Group: 7	External Hires		External Applicants		Promotions - Into Job Group		Promotions - Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White					1		1	
Black/African American								
Asian/Pacific Islander							1	
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)					1		2	
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)								

**Support Data:
Personnel Activity**

OFCCP Category: Laborers Job Group: 8	External Hires		External Applicants		Promotions - Into Job Group		Promotions – Within Job Group	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White			19	1			1	
Black/African American	1		3					
Asian/Pacific Islander			1					
American Indian/Alaskan Native								
Hispanic			4					
Race Missing or Unknown								
TOTAL (count each person once only)	1		27	1			1	
	Voluntary Terminations & Retirements		Involuntary Terminations		Layoffs		Recalls	
	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES	MALES	FEMALES
White								
Black/African American			1					
Asian/Pacific Islander			1					
American Indian/Alaskan Native								
Hispanic								
Race Missing or Unknown								
TOTAL (count each person once only)			2					

Support Data

ANALYSIS OF AFFIRMATIVE ACTION PROGRAM PROGRESS: [] PRIOR YEAR AAP [] CURRENT YEAR AAP

JOB GROUP*		GOAL PLACEMENT RATE (%)**	ACTUAL PLACEMENT RATE (%)***	ANALYSIS OF GOOD FAITH EFFORTS
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			

* JOB GROUPS WHERE GOALS ARE REQUIRED

** GOAL PLACEMENT RATE EQUALS AVAILABILITY PERCENTAGE RATE FOR MINORITIES OR FEMALES AS APPLICABLE

*** ACTUAL PLACEMENT RATE FOR MINORITIES OR FEMALES FOR A PARTICULAR JOB GROUP IS EQUAL TO THE NUMBER OF MINORITY OR FEMALE PLACEMENTS DIVIDED BY THE TOTAL NUMBER OF PLACEMENTS. FOR EXAMPLE, IF JOB GROUP A EXPERIENCED 45 FEMALE PLACEMENTS OUT OF 90 TOTAL PLACEMENTS, THE ACTUAL PLACEMENT RATE FOR FEMALES IS (45/90=.50) OR 50%.

Guidelines on Discrimination Because of Religion or National Origin

It is the policy of FCI, Inc. to take affirmative action to insure that applicants are employed, without regard to their religion or national origin. Such action includes, but is not limited to the following employment practices: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training.

Employment practices have been reviewed to determine whether members of the various religions and/or ethnic groups are receiving fair consideration for job opportunities. Attention has been directed toward executive and middle management levels.

1. The policy concerning FCI's obligation to provide equal employment opportunity without regard to religion or national origin is communicated to all employees via employee handbooks, policy statement and the Affirmative Action Program.
2. Internal procedures have been developed in this program to insure that FCI's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented. **[LIST PROCEDURES]**
3. Employees are informed at least annually of FCI's commitment to equal employment opportunity for all persons, without regard to religion or national origin.
4. Recruiting sources have been informed of our commitment to provide equal employment opportunity without regard to religion or national origin.
5. Employment records of all employees are reviewed to determine the availability of promotable and transferable employees.
6. Contacts with religious and ethnic organizations will be made for purposes of advice, education, technical assistance and referral of potential employees as necessary to accomplish the purpose of this program.
7. FCI engages in recruitment activities at educational institutions with substantial enrollments of students from various ethnic and religious groups.
8. Ethnic and religious media may be used for employment advertising.

Reasonable accommodations to the religious observances and practices of employees or prospective employees will be made, unless doing so would result in undue hardship. In determining whether undue hardship exists, factors such as the cost to the company and the impact on the rights of other employees.

Appendix B
SECTION 503 & VEVRAA
SAMPLE AFFIRMATIVE ACTION PROGRAM

	Title 41 CFR Section
Policy Statement - Equal Employment Opportunity for Individuals with Disabilities and Protected Veterans	60-250.44(a), 60-300.44(a) 60-741.44(a)
Review of Personnel Processes	60-250.44(b), 60-300.44(b) 60-741.44(b)
Review of Physical and Mental Job Qualifications	60-250.44(c), 60-300.44(c) 60-741.44(c)
Reasonable Accommodation	60-250.44(d), 60-300.44(d) 60-741.44(d)
Harassment Prevention (and Prohibition Against Retaliation)	60-250.44(e), 60-300.44(e) 60-741.44(e)
External Dissemination of EEO Policy	60-250.44(f), 60-300.44(f) 60-741.44(f)
Internal Dissemination of EEO Policy	60-250.44(g), 60-300.44(g) 60-741.44(g)
Audit and Reporting System	60-250.44(h), 60-300.44(h) 60-741.44(h)
Establishment of Responsibility for AAP Implementation	60-250.44(i), 60-300.44(i) 60-741.44(i)
Training to Ensure AAP Implementation	60-250.44(j), 60-300.44(j) 60-741.44(j)
Sample Invitation to Self-Identify	60-250.42, 60-300.42, 60-741.42

Policy Statement - Equal Employment Opportunity for Individuals with Disabilities and Protected Veterans

It is the policy of Federal Contractor, Inc. (FCI) not to discriminate against any employee or applicant for employment because he or she is an individual with a disability or a protected veteran, (*i.e.*, disabled veteran, Armed Forces service medal veteran, recently separated veteran, or other veteran who served during a war, or in a campaign or expedition for which a campaign badge has been authorized). It is also the policy of FCI to take affirmative action to employ and to advance in employment, all persons regardless of their status as individuals with disabilities or protected veterans, and to base all employment decisions only on valid job requirements. This policy shall apply to all employment actions, including but not limited to recruitment, hiring, upgrading, promotion, transfer, demotion, layoff, recall, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship, at all levels of employment.

Employees and applicants of FCI will not be subject to harassment on the basis of disability or status as a protected veteran. Additionally, retaliation, including intimidation, threats, or coercion, because an employee or applicant has objected to discrimination, engaged or may engage in filing a complaint, assisted in a review, investigation, or hearing or have otherwise sought to obtain their legal rights under any Federal, State, or local EEO law regarding individuals with disabilities or protected veterans is prohibited.

As General Manager of FCI, I am committed to the principles of Affirmative Action and Equal Employment Opportunity. In order to ensure dissemination and implementation of equal employment opportunity and affirmative action throughout all levels of the company, I have selected the Personnel Manager as the Equal Employment Opportunity (EEO) Manager for FCI. One of the Personnel Manager's duties will be to establish and maintain an internal audit and reporting system to allow for effective measurement of FCI's programs.

In furtherance of FCI's policy regarding Affirmative Action and Equal Employment Opportunity, FCI has developed a written Affirmative Action Program which sets forth the policies, practices and procedures that FCI is committed to in order to ensure that its policy of nondiscrimination and affirmative action for qualified individuals with disabilities and qualified protected veterans is accomplished. This Affirmative Action Program is available for inspection by any employee or applicant for employment upon request, during normal business hours, in the Administration Department. Interested persons should contact the Personnel Manager at 555-555-1212 for assistance.

Roger Wilco
January 1, 2009
Federal Contractor, Inc.

Review of Personnel Processes

FCI reviews annually its personnel processes to determine whether its present procedures assure careful, thorough and systematic consideration of the qualifications of known individuals with disabilities and protected veterans. This review covers all procedures related to the filling of job vacancies either by hire or by promotion, as well as all training opportunities offered or made available to employees.

In determining the qualifications of veterans, FCI limits its consideration of a protected veteran's military record, including discharge papers, to only that portion of the record, which is relevant to the specific job qualifications for which the veteran is being considered.

Based upon FCI's review of its personnel processes, FCI will modify the personnel processes when necessary, and will include the development of new procedures in this Affirmative Action Program to ensure equal employment opportunity. To date, no modifications have been necessary.

Review of Physical and Mental Job Qualification Standards

The physical and mental job qualifications of all jobs were reviewed during calendar year 2009 to ensure that, to the extent that such qualification requirements tend to screen out qualified individuals with disabilities and qualified disabled veterans, job qualifications are consistent with business necessity and the safe performance of the job.

No qualification requirements were identified that are likely to have a screening effect. All job qualification requirements were found to be job-related and consistent with business necessity and safety.

FCI will continue to review physical and mental job qualification requirements whenever a job is vacated and the company intends to fill it through either hiring or promotion and will conduct a qualifications review whenever job duties change.

No pre-employment physical examinations or questionnaires are used by FCI's hiring process.

If at any time in the future, FCI should inquire into an employee's physical or mental condition or should conduct a medical examination, FCI affirms that such inquiries or exams will be conducted in accordance with the Section 503 regulations and that information obtained as a result of the inquiry or exam will be kept confidential, except as otherwise provided for in the Section 503 regulations. The results of the examination or inquiry will only be used in accordance with the Section 503 Regulations.

Reasonable Accommodation to Limitations Due to Disability

FCI commits to making reasonable accommodation to the known physical or mental limitations of qualified individuals with disabilities and qualified disabled veterans, unless such accommodation would impose an undue hardship on the conduct of its business. FCI also commits to engaging in an interactive process with the person requesting the accommodation (or their representative), as needed, to determine an appropriate accommodation. Undue hardship will be determined by assessing whether the requested accommodation would cause significant difficulty or expense, as provided for in the Section 503 regulations.

Harassment Prevention and Prohibition Against Retaliation

Employees and applicants of FCI will not be subject to harassment because of disability or their status as a protected veteran. If an employee or applicant believes that he/she has been subject to harassment, he/she may file a complaint with the Personnel Manager's office. Any employee or applicant who believes that they have been subject to harassment because of their disability or status as a protected veteran should promptly contact a manager in their chain of command, or promptly contact the Personnel Manager at 555-555-1213 for assistance.

Retaliation, including intimidation, threat, or coercion, against an employee or applicant because they have objected to discrimination, engaged or may engage in filing a complaint, assisted in a review, investigation, or hearing or have otherwise sought to obtain their legal rights under any Federal, State, or local EEO law regarding individuals with disabilities or protected veterans is prohibited. Any employee or applicant who believes that they have been subject to retaliation because of their disability or status as a protected veteran should contact the Personnel Manager at 555-555-1213 for assistance.

This policy is communicated to all employees and supervisors annually; most recently on December 1, 2008, and a notice is posted in the personnel office.

External Dissemination of Policy, Outreach and Positive Recruitment

All subcontractors, vendors and suppliers have been sent written notification of FCI's Equal Employment Opportunity and Affirmative Action policy regarding the employment of qualified individuals with disabilities and qualified protected veterans. All recruiting sources, including State employment agencies, educational institutions and social service agencies have been informed of the company's policy concerning the employment of qualified individuals with disabilities and qualified protected veterans and have been advised to actively recruit and refer qualified persons for job opportunities.

FCI lists all suitable employment openings with the appropriate employment service delivery system where the openings occur and maintains regular contact with the local Veterans Employment Representative. A copy of FCI's Affirmative Action Policy for qualified individuals with disabilities and qualified protected veterans is provided to the State Employment Service annually.

Formal briefing sessions are held with representatives from recruitment sources and placement agencies, which include facility tours, discussion of current and prospective position openings, job descriptions and required qualifications and explanations of FCI's selection procedures. Formal arrangements have been made to ensure that each recruitment source is provided with timely notice of job opportunities, to ensure that recruitment sources have an opportunity to refer qualified candidates.

FCI participates in local job fairs sponsored by support groups for individuals with disabilities and veterans.

The equal employment opportunity clause concerning the employment of qualified individuals with disabilities and qualified protected veterans are included in all non-exempt subcontracts and purchase orders.

Internal Dissemination of Policy

Copies of our affirmative action programs will be made available for inspection to any employee or applicant upon request to promote understanding, acceptance and support. Policies are re-emphasized to managers and supervisors annually.

FCI's Affirmative Action policy and the EEO poster are posted on bulletin boards located throughout our facilities and office work areas.

All applicants have been invited to identify themselves as an individual with a disability, as defined in Section 503 of the Rehabilitation Act of 1973, as amended, and/or as a protected veteran under the equal employment opportunity provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, if they wish to benefit under this affirmative action program. Such invitation has been posted on bulletin boards throughout the facility and work areas. Employees may self-identify at anytime.

All employees are advised annually of the company's policy and encouraged to aid in FCI's affirmative action efforts to ensure a fair and effective program.

Briefing sessions are conducted annually for managers and supervisors to review the applicable regulations and to discuss such affirmative action measures as training and reasonable accommodation. The last such meeting was held on December 1, 2008.

When making internal Equal Opportunity audits, implementation of this affirmative action program will be reviewed.

This facility's Personnel Manager has attended State-sponsored workshops, which stressed the use of vocational rehabilitation agencies in hiring qualified individuals with disabilities and qualified disabled veterans and the provision of reasonable accommodation.

Articles (and pictures) regarding accomplishments of employees who are individuals with disabilities and protected veterans shall be included in Company and/or facility publications.

At least once a year the policy is distributed to all employees.

Audit and Reporting Systems

The Personnel Manager has the responsibility for developing and preparing the formal documents of the AAP. The Personnel Manager is responsible for the effective implementation of the AAP; however, responsibility is likewise vested with each department manager and supervisor. FCI's audit and reporting system is designed to:

- Measure the effectiveness of the AAP/EEO program;
- Document personnel activities;
- Identify problem areas where remedial action is needed; and
- Determine the degree to which FCI's AAP goals and objectives have been obtained.

The following activities are reviewed at least annually to ensure freedom from discrimination or stereotyping of individuals with disabilities and protected veterans in any manner, including that which may limit their access to any job for which they are qualified:

- Recruitment, advertising, and job application procedures;
- Hiring, promotion, upgrading, award of tenure, layoff, recall from layoff;
- Rates of pay and any other forms of compensation including fringe benefits;
- Job assignments, job classifications, job descriptions, and seniority lists;
- Sick leave, leaves or absence, or any other leave;
- Training, apprenticeships, attendance at professional meetings and conferences; and
- Any other term, condition, or privilege of employment.

FCI's audit system includes a quarterly report documenting FCI's efforts to comply with its EEO/AAP responsibilities. Managers and supervisors are asked to report any current or foreseeable EEO problem areas and are asked to outline their suggestions/recommendations for solutions. If problem areas arise, the manager or supervisor is to report problem areas immediately to the Personnel Manager. During quarterly reporting, the following occurs:

1. The Personnel Manager will discuss any problems relating to significant rejection ratios, EEO charges, etc., with the General Manager; and
2. The Personnel Manager will report the status of the FCI's AAP goals and objectives to the General Manager. The Personnel Manager will recommend remedial actions for the effective implementation of the AAP.

Responsibility for Implementation of AAP

Responsibilities of the Equal Employment Opportunity Manager

In furtherance of FCI's commitment to Affirmative Action and Equal Employment Opportunity for individuals with disabilities and protected veterans, the Personnel Manager has the responsibility for designing and ensuring effective implementation of FCI's AAP. These responsibilities include, but are not limited to:

1. The development of the AAP for individuals with disabilities and protected veterans, policy statements, personnel policies and procedures, internal and external communication of the policy, and monitoring the effectiveness of these actions;
2. Reviewing all personnel actions, policies, and procedures to ensure compliance with FCI's affirmative action obligations;
3. Reviewing the qualifications of all applicants and employees to ensure qualified individuals are treated in a nondiscriminatory manner when hiring, promotion, transfer and termination actions occur;
4. Assisting in the identification of problem areas and the development of solutions to those problems;
5. Monitoring the effectiveness of the program on a continuing basis through the development and implementation of an internal audit- and reporting-system that measures the effectiveness of the program;
6. Keeping the General Manager of FCI informed of equal opportunity progress and problems within the company through quarterly reports;
7. Providing department managers with a copy of the Affirmative Action Program for Qualified Individuals with Disabilities and Qualified Protected Veterans and reviewing the program with them on an annual basis to ensure knowledge of their responsibilities for implementation of the program;
8. Reviewing the company's AAP for individuals with disabilities and protected veterans with all managers and supervisors at all levels to ensure that the policy is understood and is followed in all personnel activities;
9. Auditing the contents of company bulletin boards annually to ensure that compliance information is posted and is up-to-date;

10. Serving as liaison between FCI and enforcement agencies; and
11. Serving as liaison between FCI and organizations for individuals with disabilities and protected veterans.

Responsibilities of Managers and Supervisors

Managers and supervisors are advised annually of their responsibilities under the company's AAP for individuals with disabilities and protected veterans and of their obligations to:

1. Review the company's Affirmative Action policy for individuals with disabilities and protected veterans with subordinate managers and supervisors to ensure that they are aware of the policy and understand their obligation to comply with it in all personnel actions;
2. Assist in the identification of problem areas, formulate solutions, and establish departmental goals and objectives when necessary;
3. Review the qualifications of all applicants and employees to ensure qualified individuals are treated in a nondiscriminatory manner when hire, promotion, transfer, and termination actions occur; and
4. Review all employees' performance to ensure that nondiscrimination is adhered to in all personnel activities.

Training to Ensure AAP Implementation

Training is provided to all personnel involved in the recruitment, screening, hiring, promotion, disciplinary and related employment processes, to ensure that the commitments made in FCI's AAP are implemented. Training sessions were most recently conducted on December 1, 2008.

Invitation to Self-Identify for Protected Veterans

Note: The regulations at CFR 60-300.42 permit the contractor to invite veterans to self-identify at different stages in the employment process. Accordingly, use the language in paragraph 2 of the sample Invitation to self-identify below that best fits your affirmative action program, the veterans' status (disabled veterans, Armed Forces service medal veterans, recently separated veterans, or other veterans who served during a war, or in a campaign or expedition for which a campaign badge has been authorized), and the timing of the invitation (pre-offer or post offer). See also: CFR 60-250.42, as appropriate.

1. FCI, Inc. is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (VEVRAA) which requires Government contractors to take affirmative action to employ and advance veterans in employment. VEVRAA prohibits discrimination and requires affirmative action in all personnel practices regarding protected veterans. The statute covers disabled veterans, Armed Forces service medal veterans, recently separated veterans, and other veterans who served during a war, or in a campaign or expedition for which a campaign badge has been authorized.
2. **An invitation to veterans:** If you are a recently separated veteran, other protected veteran, or Armed Forced service medal veteran, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. The term "recently separated veteran" refers to any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty. The term "other protected veteran" refers to a person who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, under laws administered by the Department of Defense. The term "Armed Forces service medal veteran" refers to any person who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (62 FR 1209).¹⁰

An invitation to disabled veterans only: If you are a disabled veteran, we would like to include you in our affirmative action program. If you would like to be included under the affirmative action program, please tell us. This information will assist us in placing you in an appropriate position and in making any necessary accommodations for your disability. The term "disabled veteran" refers to a veteran 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 Defense, or was discharged or released from active duty because of a service-connected disability.

¹⁰ Additional information about the Armed Forces service medal is found at: <http://www.opm.gov/veterans/html/vgmedal2.asp>.

An invitation to both: If you are a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. [Include definitions of veteran categories].

3. You may inform us of your desire to benefit under the program at this time and/or at any time in the future.
4. 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.
5. 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 OFCCP, or enforcing the Americans with Disabilities Act, as amended, may be informed.
6. **[Insert a brief summary of the relevant portion of affirmative action program for protected veterans.]** A written copy of this Affirmative Action Program is available for inspection by any employee or applicant for employment, during normal business hours, in the Personnel Department. Interested persons should contact **[NAME, TITLE]**, at **[PHONE NUMBER]** for assistance.
7. If you are a disabled veteran it would assist us if you tell us about (i) any special methods, skills, and procedures that qualify you for positions that you might not otherwise be able to do because of your disability so that you will be considered for any positions of that kind, and (ii) any accommodations that we could make that would enable you to perform the job, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, provision of personal assistance services or other accommodations. This information will assist us in placing you in an appropriate position and in making accommodations for your disability.

Invitation to Self-Identify for Individuals With Disabilities

1. FCI is a Government contractor subject to Section 503 of the Rehabilitation Act of 1973, as amended, which requires Government contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.
2. If you have a disability and would like to be considered under the affirmative action program, please tell us.
3. You may inform us of your desire to benefit under the program at this time and/or at any time in the future. This information will assist us in placing you in an appropriate position and in making any necessary accommodations for your disability.
4. 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 Section 503 of the Rehabilitation Act.
5. Information you submit about your disability will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of qualified individuals with disabilities, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment; and (iii) government officials engaged in enforcing laws administered by OFCCP or the Americans with Disabilities Act, as amended, may be informed.
6. If you are a qualified individual with a disability, we would like to include you under the affirmative action program. It would assist us if you tell us about (i) any special methods, skills, and procedures that qualify you for positions that you might not otherwise be able to do because of your disability so that you will be considered for any positions of that kind, and (ii) any needed accommodations that would enable you to perform the essential functions of the job, including special equipment, changes in the physical layout of the job, elimination of marginal job duties, provision of personal assistance services or other accommodations.
7. A written copy of this Affirmative Action Program is available for inspection by any employee or applicant for employment, during normal business hours, in the Administration Department. Interested persons should contact the Personnel Manager at 555-555-1212 for assistance.

Appendix C:

Glossary of Terms

Accessibility

The extent to which a contractor's facility is readily approachable and usable by individuals with disabilities, particularly such areas as the personnel office, job work sites, rest rooms and public areas.

Adverse impact

A substantially different rate of selection in hiring, promotion, transfer, training or other employment related decisions for any race, sex or ethnic group. *See definition of Disparate impact.*

Affirmative Action

Actions, policies and procedures to which a contractor commits itself that are designed to achieve equal employment opportunity. Affirmative action obligations entail thorough, systematic efforts to prevent discrimination from occurring, to detect it and eliminate it as promptly as possible, and recruitment and outreach measures.

Applicant flow log

A chronological compilation of applicants (including Internet applicants) for employment or promotion candidates, showing each individual categorized by race, sex and ethnic group, who applied for each job title (or group of jobs requiring similar qualifications) during a specific period.

Business necessity

A defense used by an employer when there is a selection criterion that is facially neutral but which excludes members of one sex, race, national origin or religious group at a substantially higher rate than members of other groups (thus creating an adverse impact). The employer must prove that the requirement having the adverse impact is job-related and consistent with business necessity. Business necessity may also have to be proven when a qualification standard screens out an individual because of their disability.

Compliance

Meeting the requirements and obligations imposed by Executive Order 11246, as amended, Section 503, of the Rehabilitation Act of 1973, as amended, or 38 U.S.C. §4212 (VEVRAA), and their implementing regulations.

<i>Contract</i>	Any Government contract or subcontract, or for purposes of Executive Order 11246, any “federally assisted construction contract or subcontract.”
<i>Contractor</i>	A prime contractor or subcontractor, unless otherwise indicated.
<i>Covered Veteran</i>	As used in this document, this term refers to any veteran who may be covered by 41 CFR Part 60-250 or 41 CFR Part 60-300, as appropriate. This term includes, but is not limited to, recently separated veterans, disabled veterans, Armed Forces service medal veterans, and veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized.
<i>Disparate impact</i>	A theory or category of employment discrimination. Disparate impact discrimination may be found when a contractor’s use of a facially neutral selection standard (e.g., a test, an interview, a degree requirement) disqualifies members of a particular race, ethnic or gender group at a significantly higher rate than others and is not justified by business necessity and job-relatedness. Intent to discriminate is not necessary to this type of employment discrimination.
<i>Disparate treatment</i>	A theory or category of employment discrimination. Disparate treatment discrimination may be found when a contractor treats an individual or group differently because of race, color, religion, sex, national origin, disability or veteran status. Intent to discriminate is a necessary element in this type of employment discrimination, and may be shown by direct evidence or inferentially by statistical, anecdotal and/or comparative evidence.
<i>EEO-1 Report (or “Standard Form 100”)</i>	The Equal Employment Opportunity Employer Information Report. An annual report filed by certain employers subject to Executive Order 11246, as amended, or to Title VII of the Civil Rights Act of 1964, as amended. This report details the sex and race/ethnic composition of an employer’s workforce by job category. The EEO-1 Report is filed with the Joint Reporting Committee (JRC), which is composed of OFCCP and EEOC.

Employed

Under criteria established by the Bureau of the Census and the U.S. Department of Commerce, all civilians 16 years old and over who were either:

- a) "at work," meaning they performed at least some work during the reference week as paid employees or in their business or profession, or on their farm, or who worked 15 hours or more as unpaid workers on a family farm or in a family business; or
- b) "with a job but not at work," meaning they did not work during the reference week but had jobs or businesses from which they were temporarily absent due to illness, bad weather, industrial dispute, vacation, or other personal reasons.

Generally excluded from the category of "employed" are persons whose only activity consisted of unpaid work around the house or volunteer work for religious, charitable, and similar organizations, or persons on layoff.

Employee

A person employed by a Federal contractor, subcontractor or federally assisted construction contractor or subcontractor.

Establishment

A facility or unit which produces goods or services, such as a factory, office, store, or mine. In most instances, the unit is a physically separate facility at a single location. In appropriate circumstances, OFCCP may consider as an establishment several facilities located at two or more sites when the facilities are in the same labor market or recruiting area. The determination as to whether it is appropriate to group facilities as a single establishment will be made by OFCCP on a case-by-case basis.

Facially neutral selection standards/criteria

A criterion/process is facially neutral if it does not make any reference to a prohibited factor and is equally applicable to everyone regardless of race, gender or ethnicity, i.e., is not discriminatory on its face.

Immediate labor area

The geographic area from which employees reasonably may commute to the contractor's establishment. It may include one or more contiguous cities, counties, a metropolitan statistical area (MSA) or parts thereof.

<i>Internet applicant</i>	Any individual that: 1) submits an expression of interest in employment through the Internet or related electronic data technologies; 2) the contractor considers the individual for employment in a particular position; 3) the individual possesses the basic qualifications; and 4) at no point does the individual remove himself/herself from consideration. (See 41 CFR 60-1.3).
<i>Job area</i>	Any sub-unit of a work force sector, such as a department, job group, job title, etc.
<i>Job group</i>	One or a group of jobs having similar content, wage rates and opportunities.
<i>Labor area</i>	Geographic area used in calculating availability. The area may vary from local to nationwide.
<i>Non-compliance</i>	A contractor's failure to adhere to the conditions set out in the contract's equal opportunity clauses and/or the regulations implementing those clauses and/or failure to correct violations.
<i>Pattern or practice discrimination</i>	Employer actions constituting a pattern of conduct resulting in discriminatory treatment toward the members of a class.
<i>Prime contractor</i>	Any person holding a contract subject to Executive Order 11246, as amended, Section 503, of the Rehabilitation Act of 1973, as amended or VEVRAA, , or 38 U.S.C. §4212, as amended; and for the purposes of 41 CFR Part 60-1, Subpart B; 41 CFR Part 60-250, Subpart D; and 41 CFR Part 60-741, Subpart D, any person who has held a contract subject to Executive Order 11246, as amended, Section 503, of the Rehabilitation Act of 1973, as amended, or VEVRAA, as amended.
<i>Protected veteran</i>	<i>See definition of "Covered veteran."</i>
<i>Reasonable accommodation</i>	A reasonable accommodation means: <ul style="list-style-type: none"> a) Modifications or adjustments to a job application process that enable a qualified individual (or veteran) with a disability to be considered for the position such applicant desires; or b) Modifications or adjustments to the work environment, or to the manner or circumstances

under which the position held or desired is customarily performed, that enable a qualified individual (or veteran) with a disability to perform the essential functions of the position; or

- c) Modifications or adjustments that enable a contractor's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without a disability.

An employer does not have to provide any reasonable accommodation that will impose an undue hardship on its operations. *See definition of "Undue hardship."*

Subcontract

Any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

- a) for the purchase, sale or use of supplies or services or the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more Government contracts; or
- b) under which any portion of the contractor's obligation under one or more Government contracts is performed, undertaken or assumed.

Subcontractor

Any person holding a subcontract or anyone who has held a subcontract subject to Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, or VEVRAA, as amended.

Systemic discrimination

Employment policies or practices that serve to differentiate or to perpetuate a differentiation in terms or conditions of employment of applicants or employees because of their status as members of a particular group, e.g., a specific race or gender. Such policies may or may not be facially neutral, and intent to discriminate may or may not be involved.

Undue hardship

A defense used by an employer to explain why it did not provide a specific reasonable accommodation. The contractor must prove that providing the specific accommodation would have caused it significant difficulty or expense. Whether an accommodation would impose an undue hardship requires a case-by-case determination.

Validation

Validation is the demonstration of job-relatedness by showing the relationship between the selection procedure and job performance.

Veteran

See definition of “Covered veteran.”

VETS-100 and VETS 100A Reports

The VETS-100 and VETS 100A Reports are to be completed by all non-exempt Federal contractors and subcontractors with contracts or subcontracts for the furnishing of supplies and services or for the use of real or personal property. VETS-100 must be completed by contractors with contracts entered into prior to December 1, 2003 for \$25,000 or more. VETS-100A must be completed by contractors with contracts entered into or modified on or after December 1, 2003 for \$100,000 or more. The Reports require that contractors report annually the numbers of various categories of veterans they employ or have newly hired by hiring location and job category.

Violation

Failure to fulfill a requirement of the Executive Order, Section 503 or VEVRAA, or their implementing rules, regulations and orders. The terms “violation” and “deficiency” are often used interchangeably.

Appendix D:

Adverse Impact Determinations

Contractors with 100 or more employees must maintain and have available for each job records and other information showing the impact of the total selection process by identifiable race, sex and ethnic group. 41 CFR 60-3.4B and 3.15A(2)(a). “Total selection process” means the combined effect of all selection procedures leading to the final employment decision. At least annually, contractors with 100 or more employees are required to analyze these data to determine whether the total selection process for each job is having adverse impact. 41 CFR 60-3.15A(2). The adverse impact determinations must be conducted by gender and for each race or ethnic group (e.g., Black, Hispanic, Asian/Pacific Islander, and American Indian/Alaskan Native)¹¹ that constitutes 2 percent or more of the labor force in the relevant labor area or 2 percent or more of the applicable workforce. If the total selection process has an adverse impact, the impact of the individual components of the selection process also should be analyzed. 41 CFR 60-3.4C and 3.15A(2)(a).

“Adverse impact” is defined in the Uniform Guidelines as “a substantially different rate of selection in hiring, promotion, or other employment decision which works to the disadvantage of members of a race, gender, or ethnic group.” 41 CFR 60-3.16B. Generally, to determine whether the differences in selection rates are sufficiently substantial to be regarded as evidence of adverse impact, the contractor should apply what is commonly referred to as the “4/5ths rule” or “the 80 percent rule” of the Uniform Guidelines. Under this rule, a selection rate for any race, sex, or ethnic group that is less than 4/5ths or 80 percent of the selection rate for the group with the highest selection rate is generally regarded as evidence of adverse impact. The 80 percent rule is a general rule, and is not dispositive in all situations. The Uniform Guidelines recognize, for example, that sample size and other factors may affect the reliability of the 80 percent rule as a measure of adverse impact.

The 80 percent rule may not be accurate in detecting adverse impact where very large numbers of selections are made. Where the number of selections is very large, relatively small differences in selection rates may nevertheless constitute adverse impact if they are both statistically and practically significant. For that reason, where the sample size is very large, tests of practical and

¹¹ OFCCP’s regulations regarding the race, ethnicity, and job categories to be used by contractors have not changed to reflect the categories required for the current EEO-1 Report. However, as a matter of enforcement discretion, OFCCP will not cite any contractor for non-compliance with the Executive Order solely because it utilizes the race, ethnicity, or job categories required by the EEO-1 Report in records required by OFCCP regulations. Further, OFCCP will accept AAPs and supporting records that reflect the race, ethnicity, and job categories outlined in either 41 CFR Part 60-2 or the EEO-1 Report. A contractor using the EEO-1 Report race and ethnicity categories will only be expected to produce analyses relating to the impact of those identified as belonging to one of the single race and ethnicity categories, when OFCCP evaluates whether the contractor has maintained information on the impact of its selection procedures and conducted an adverse impact analysis under Part 60-3. For more information, see OFCCP’s Directive regarding the use of race and ethnic categories available online at <http://www.dol.gov/esa/ofccp/regs/compliance/directives/dirindex.htm>.

statistical significance should be used to assess whether the selection procedure results in adverse impact.

Further, the 80 percent rule may not be a reliable indicator of adverse impact where the number of persons selected and difference in selection rates is very small. For example, if a contractor selected three males and one female from an applicant pool of 20 males and 10 females, the 80 percent rule would indicate adverse impact. The selection rate for women is 10 percent and the rate for men, 15 percent; 10/15 or 66 2/3 percent is less than 80 percent. Yet, the number of selections is too small to warrant a determination of adverse impact in these circumstances. Where the 80 percent rule indicates adverse impact, but the analysis is based on a sample too small to be reliable, evidence of the impact of the procedure over a longer period of time, or evidence concerning the impact of the procedure when used in the same manner elsewhere may be considered when determining adverse impact. 41 CFR 60-3.4D.

A four-step process is used to determine adverse impact:

1. Calculate the rate of selection for each group (divide the number of persons selected from a group by the number of applicants from that group).
2. Observe which group has the highest selection rate.
3. Calculate the impact ratios by comparing the selection rate for each group with that of the highest group (divide the selection rate for a group by selection rate for the highest group).
4. Observe whether the selection rate for any group is substantially less (*i.e.*, usually less than 4/5ths or 80 percent) than the selection rate for the highest group. If it is, adverse impact is indicated in most circumstances.

For example:

<u>Applicants</u>	<u>Hires</u>	<u>Selection Rate</u>
10 American Indians	2	2/10 or 20%
50 Blacks	20	20/50 or 40%
60 Hispanics	30	30/60 or 50%
80 Whites	48	48/80 or 60%

Comparisons of the selection rate for each group with that of the highest group (Whites) reveal the following impact ratios: American Indians 20/60 or 33%; Blacks 40/60 or 66.6%; and Hispanics 50/60 or 83%. Applying the 80 percent rule, on the basis of the above information, adverse impact is indicated for American Indians and Blacks but not for Hispanics.

If a selection procedure results in adverse impact, the contractor is required to eliminate it or justify its continued use. The contractor can justify using a selection procedure that has adverse impact by showing that the procedure has been validated according to the technical requirements of the Uniform Guidelines. "Validation" is the demonstration of job-relatedness by showing the relationship between the selection procedure and job performance. "Validation in accordance with the Guidelines" means a demonstration that a validity study meeting the standards of the

Uniform Guidelines has been conducted and has produced evidence sufficient to warrant the use of the procedure for the purpose intended. 41 CFR 60-3.16 X.

Even when a selection procedure with adverse impact has been validated, the contractor is obligated to investigate and consider suitable alternative selection procedures, and suitable alternative methods to using the selection procedure which have as little adverse impact as possible. 41 CFR 60-3.3B. Further, the contractor is required to use the procedure having less impact if it is “substantially equally valid.” 41 CFR 60-3.3 B.

There also are circumstances when a contractor may justify using a selection procedure with adverse impact by showing that it is required by “business necessity” (i.e., the contractor must show that the selection procedure is job-related and necessary to the safe and efficient operation of its business.)

In sum, the Uniform Guidelines recommend the following actions when adverse impact occurs:

- Modify the assessment instrument or procedure causing the adverse impact.
- Exclude the component procedure causing adverse impact from your selection process.
- Use an alternative procedure that causes little or no adverse impact, assuming that the alternative procedure is substantially equally valid.
- Use the selection procedure that has adverse impact only if the procedure is job-related and valid for predicting successful job performance, and there is no equally effective procedure available that has less adverse impact.

Appendix E:

National Office Policy Assistance Help Desk

If you are looking for quick answers to questions about OFCCP, please take a look at our [Frequently Asked Questions](#) web page.

- Call OFCCP's Policy Assistance Help Desk toll free at **1-800-397-6251**
- E-mail: OFCCP-Public@dol.gov
- Contact your local [District or Area office](#)
<http://www.dol.gov/esa/ofccp/contacts/ofnation2.htm>

Appendix F:

OFCCP National and Regional Offices

National Office

Office of Federal Contract Compliance Programs
Room C-3325
200 Constitution Avenue, NW
Washington, DC 20210
(202) 693-0101
(202) 693-1304 FAX

Northeast Region

*(Connecticut, Maine, Massachusetts,
New Hampshire New Jersey, New York,
Puerto Rico, Rhode Island, Vermont,
Virgin Islands)*

Regional Office
201 Varick Street, Room 750
New York, NY 10014
(646) 264-3170
(646) 264-3009 FAX

Mid-Atlantic Region

*(Delaware, District of Columbia,
Maryland, Pennsylvania, Virginia,
West Virginia)*

Regional Office
Curtis Center, Suite 750 West
170 S. Independence Mall West
Philadelphia, PA 19106
(215) 861-5765
(215) 861-5769 FAX

Southeast Region

*(Alabama, Florida, Georgia, Kentucky,
Mississippi, North Carolina, South
Carolina, Tennessee)*

Regional Office
61 Forsyth Street, Room 7B75
Atlanta, GA 30303
(404) 893-4545
(404) 893-4546 FAX

Midwest Region

*(Illinois, Indiana, Iowa, Kansas,
Michigan, Minnesota, Missouri,
Nebraska, Ohio, Wisconsin)*

Regional Office
Kluczynski Federal Building, Room 570
230 South Dearborn Street
Chicago, IL 60604
(312) 596-7010
(312) 596-7037 FAX

***Southwest and Rocky Mountain
Region***

*(Arkansas, Colorado, Louisiana,
Montana, New Mexico, North Dakota,
Oklahoma, South Dakota, Texas, Utah,
Wyoming)*

Regional Office
525 South Griffin Street
Federal Building, Room 840
Dallas, TX 75202
(972) 850-2550
(972) 850-2552 FAX

Pacific Region

*(Alaska, Arizona, California, Guam,
Hawaii, Idaho, Nevada, Oregon,
Washington)*

Regional Office
90 7th Street, Suite # 18-300
San Francisco, CA 94103
(415) 625-7800
(415) 625-7799 FAX

Appendix G:

The Small Business Administration's Ombudsman Program

The Small Business Administration (SBA), in accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act, has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards in order to receive comments from small businesses about federal regulatory enforcement actions. The SBA Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. Small businesses wishing to comment on the enforcement activities of OFCCP may call 1-888-REG-FAIR (734-3247), or write to the SBA Ombudsman at:

SBA Ombudsman

409 Third Street SW

Washington, DC 20024

E-mail: ombudsman@sba.gov