

# MURTHA MEANS MORE INFORMATION



## LABOR AND EMPLOYMENT NEWS

February 2014

### OFCCP New Regulations - New Rules for Employment of Veterans and Persons with Disabilities

The U.S. Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") announced Final Rules that change the regulations implementing both the Vietnam Era Veterans' Readjustment Assistance Act ("VEVRAA") and Section 503 of the Rehabilitation Act of 1973. Both of these Final Rules become effective on March 24, 2014. VEVRAA and Section 503 only apply to federal contractors and subcontractors. VEVRAA prohibits these federal contractors and subcontractors from discriminating against veterans and provides affirmative steps these contractors must take to increase employment opportunities for these veterans. Section 503 prohibits these contractors and subcontractors from discriminating against individuals with disabilities and provides steps these contractors and subcontractors must take to ensure these individuals have equal employment opportunities as others. The Final Rules strengthen the regulations under each law in an effort to provide better job opportunities to groups that suffer from higher than average unemployment rates.

The most significant changes to the regulations for each law are described below.

#### VEVRAA

Federal contractors and subcontractors must establish hiring benchmarks for protected veterans. Contractors may either establish a benchmark equal to the percentage of veterans in the national workforce or use certain data published by the OFCCP along with unique work factors to establish a benchmark.

Employers must collect quantitative data regarding the number of veterans applying for jobs and hired for jobs. This will allow contractors to assess their outreach and recruitment efforts.

Contractors must now make job listings available to the appropriate state and/or local employment agencies. These job listings must be formatted in accordance with the state agency's request so it can make the job listings available to job seekers.

Federal contractors must include certain equal opportunity language in their contracts with subcontractors to ensure that the subcontractors are aware of their duties as federal contractors.

The contractors must invite applicants to self-identify as protected veterans at both the pre-offer and post-offer stages.

Contractors must allow OFCCP to review their records in order to monitor compliance with these regulations either on-site or off-site per OFCCP's request.

If you have any questions about the issues addressed here, or any other matters involving Labor and Employment issues, please feel free to contact:

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**Action Steps:** Federal Contractors must make sure that their record keeping tracks veteran applications and hiring; and that their contracts with subcontractors include EEO language. Job advertisements must be properly formatted for state agencies.

### **Section 503--Persons with Disabilities - New Benchmarks**

Section 503 of the Rehabilitation Act protects individuals with disabilities who work for federal contractors. The law aims to provide these individuals with increased job opportunities in an effort to curb their high unemployment rates. We highlight the most important regulatory changes below.

The regulations establish a utilization goal of 7% for qualified individuals with disabilities. Although federal contractors will not be penalized if they do not meet this goal, they will need to assess their utilization each year to determine how to increase the utilization rate.

The contractors must invite individuals to self-identify as individuals with disabilities at both the pre-offer and post-offer stages of employment. Additionally, they must invite their employees to self-identify as individuals with disabilities every five years using language prescribed by the OFCCP.

Contractors must compile data regarding the number of individuals who applied for jobs and who were ultimately hired. Collecting this data will help contractors assess their outreach and recruitment efforts.

The contractors must include mandated equal opportunity language into their contracts with subcontractors to alert the subcontractors to their responsibilities as federal contractors.

The contractors must allow the OFCCP to come review their records in an effort to monitor compliance with the new regulations either on-site or off-site per OFCCP's request.

Finally, the regulations now contain a new definition of "disability" and other necessary changes were made to the nondiscrimination provisions of the regulations in order to bring them into compliance with the Americans with Disabilities Act.

**Action Steps:** Federal contractors should carefully review the rules as they add recordkeeping and notice requirements.

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