
BOND INFORMATION MEMO

Labor and Employment Law

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New Affirmative Action Regulations Require Hiring Goals for Individuals with Disabilities and Veterans

On August 27, 2013, the Office of Federal Contract Compliance Programs (“OFCCP”) announced final new regulations for Federal contractors for compliance under Section 503 of the Rehabilitation Act of 1973 (“Section 503”) and the Vietnam Era Veterans’ Readjustment Assistance Act (“VEVRAA”). The final rules will become effective 180 days after publication in the Federal Register.

For the first time, both rules require contractors to establish annual hiring benchmarks for qualified disabled individuals and protected veterans. The OFCCP’s new Section 503 rule establishes a 7% utilization goal for individuals with disabilities for each of a contractor’s Job Groups, or for the entire workforce if the contractor employs 100 employees or less. The new VEVRAA rule establishes a requirement for an annual benchmark for protected veterans, but allows contractors to choose one of two methods. One option is to establish a benchmark equal to the national percentage (currently 8%), which will be published annually by the OFCCP. Another option for contractors is to establish their own benchmark based on the best data available.

Highlights of the final rules that affect both Section 503 and VEVRAA include:

- **Data Collection:** The requirement that contractors document and update annually the number of individuals with disabilities and protected veterans who apply for jobs, as well as the number who are hired. The data must be maintained for three years.
- **Invitation to Self Identify:** The requirement that contractors invite applicants to self-identify at both the pre-offer and post-offer stage.
- **Incorporation of the EO Clause:** New specific language to be used in subcontracts.
- **Records Access:** The requirement to allow OFCCP access to review documents related to a compliance check or focus review, either on-site or off-site. In addition, contractors must, upon OFCCP’s request, inform OFCCP of all formats the records are maintained and provide them to OFCCP if requested.

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