

Section 503 Targeted Audit Letters on the Way for Some Federal Contractors

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In 2018, the Office of Federal Contract Compliance Programs (OFCCP) vowed to begin targeted enforcement efforts, conducting single audits focused on one of the three regulations it enforces - Section 503, Executive Order 11246 or VEVRAA. This week, the OFCCP revealed its scheduling letter for targeted Section 503 audits, a letter that about 500 contractors are expected to receive in 2019.

Section 503 of the Rehabilitation Act requires federal contractors and subcontractors to take affirmative action to recruit, hire, promote and retain individuals with disabilities. Contractors are required to implement an affirmative action plan for individuals with disabilities. Among other obligations, contractors are required to conduct an annual utilization analysis for each of their job groups to determine whether at least 7 percent of the individuals in those job groups are individuals with disabilities and to assess problem areas and establish specific, action-oriented programs to address any identified problems. Contractors are also required to invite applicants at both the pre-offer and post-offer stage to self-identify as individuals with a disability. Every five years, they must invite their employees to self-identify.

Contractors who receive the targeted enforcement letter under Section 503 will have 30 days to submit to OFCCP the following information:

- Current Executive Order 11246 Affirmative Action Program
- Current Section 503 Affirmative Action Program
- The formation of job groups covering all jobs for women and minorities
- Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities
- Documentation of all actions taken to comply with audit and reporting system regulatory requirements
- The annual data collection analysis
- The utilization analysis evaluating the representation of individuals with disabilities in each job group
- Copies of the EEO-1 for the last three years
- Any collective bargaining agreements, if applicable
- Copies of the contractor's reasonable accommodation policies and documentation of any accommodation requests received and their resolution
- Assessment of personnel processes, including the date assessment was performed, any actions taken or changes

made as a result of the assessment and the date of the next scheduled assessment

- The contractor's most recent assessment of the physical and mental qualifications for positions, including the date the assessment was performed, any actions taken or changes made because of the assessment and the date of the next scheduled assessment.

Contractors who do not have a Section 503 affirmative action plan and who do not meet the regulatory requirements in place under Section 503 should reach out to legal counsel for assistance in meeting these requirements.

The OFCCP will not grant an extension to its 30-day requirement to produce a written affirmative action plan and contractors will be cited for such violations. Please [contact me](#) or any member of our [Employment Practice Group](#) for assistance.

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