

NWX-DOL ESA OFCCP (US)

Moderator: Brenda Stewart

February 20, 2014

1:00 pm CT

Coordinator: Welcome and thank you for standing by for today's conference call. At this time I need to remind all participants that you're in a listen-only mode for the duration of the call. At this time I need to remind parties today's conference is being recorded. If you have any objections to this recording, disconnect now. I'm going to turn the call over to Mrs. Brenda Stewart. Ma'am, you can begin.

Brenda Stewart: Thank you operator and good afternoon to everyone that's joined us today. I'm Brenda Stewart and I will be serving as your moderator. I'd like to welcome you to our fourth installment of OFCCP's Moving Toward Compliance Series. And throughout this series we've been covering a variety of topics related to the recent changes to the regulation. These include the Vietnam Era Veteran's Readjustment Assistance Act as amended better known as VEVRA as well as section 503 of the Rehabilitation Act also known as section 503.

During today's training the presenters will cover information on the equal opportunity clause better known as the EO clause under the new VEVRA and

section 503 regulations. In addition they will discuss the expectations in turn of listing jobs under the section 503 final rule. Before I introduce today's speakers I'd like to go over a few housekeeping items.

First questions can only be submitted through the WebEx chat panel and please insure you direct them to all panelists. The questions can be submitted at any time throughout this presentation and our panel of subject matter experts will be reviewing the questions and preparing the sponsors so that they can be discussed at the conclusion of the presentation. For those that need closed captioning services, please maximize the media viewer window so that you can see live transcribing. Next slide.

We have two presenters joining us today and you should be able to see them right now on our camera. (Ebony Ross) in the lovely green is an equal opportunity specialist in OFCCP's branch of regulatory legislative and policy development. As an EOS (Ebony) conducts extensive research and analysis on regulatory and policy related issues and also provides training to staff, contractors and members of the public on topics surrounding the laws that OFCCP enforces including today's topic on the new VEVRA and section 503 regulation. She received her law degree from Howard University School of Law and her bachelor of arts in English from Samson University. Welcome (Ebony).

(Lynn White) is a program analyst in OFCCP's branch of planning and program development. As a program analyst (Lynn) wears several hats including regulatory development and analysis and training. (Lynn) also received her degree from Howard University School of Law and she will be acting as our hiring official in today's presentation. Welcome (Lynn).

Today's panel of subject matter experts includes (Naomi Levin) the branch chief of policy and (Kiera Rigelstaff) and (Susan Chastain) senior attorneys from DOL's solicitor's office. Welcome to everyone and now I'll turn the presentation over to (Lynn) to get us started.

(Lynn White): Thank you so much Brenda and I want to thank OFCCP for putting together this fabulous training series on moving toward compliance to the section 503 and VEVRA final rules.

We received an excellent introduction to the new data collection requirements under the rules. we also received a thorough and comprehensive overview of all of the affirmative action program requirements under section 503 and VEVRA including the new provisions and I definitely want to thank you for posting those on your internet so we can go back to them whenever we have follow-up questions.

I'm really excited to learn more from you today (Ebony) about the new equal opportunity clause requirements in the mandatory job listing and we are on the edge of our seats waiting for that golden benchmarks training next week on March 6th. So thank you very much and let's get started with this training.

(Ebony Ross): Thank you very much (Lynn). Next slide. All right well thank you (Lynn) again, you know, for those wonderful compliments. We really appreciate it here. But before we begin I want to discuss today's objectives. Now as you know we've done a series of these trainings and the goal of today's training is to help federal contractors and subcontractors understand how to comply with the section 503 and VEVRA EO clause.

And so that training includes the mandatory - next slide please. No, I'm sorry, this slide. The mandatory job listing requirements under VEVRA, the

information that contractors must provide to the employment service delivery system or, you know, ESDS under VEVRA, how to post notices of right for employees who work offsite and for applicants, what to include in job solicitations and advertisements and how to incorporate the EO clause into subcontracts.

Now, you know, as you heard Brenda say we're also going to talk about how job listings relate to section 503 and the outreach recruitment obligation. Next slide please.

Now I know that you all are looking at your monitors like okay OFCCP you include this slide in every presentation that you do. Well that's because the dates are dates to remember. I mean they're super significant and as you all are well aware now we published the VEVRA and section 503 final rules on September 24th 2013 and we're very proud of that, okay.

Now the next date that's very important to remember is March 24th 2014 and, you know, I know that you all have set that date with me because that's the date that the rules do what (Lynn)?

(Lynn White): Become effective.

(Ebony Ross): Exactly.

(Lynn White): We're trying to really hit that home.

(Ebony Ross): Okay well great. I'm glad that we did that for you. Now another important date is that contractors need to remember and, you know, (Lynn) your company needs to remember is your next affirmative action program cycle date after the effective rules.

Now as you know we've said in previous webinars that contractors who have an affirmative action program in place on March 24th 2014 - they can maintain that, okay. They can maintain that AAP however they must come into compliance with the affirmative action program requirements under the final rule under next affirmative action program cycle after the rules effective date which is...

(Lynn White): March 24th 2014.

(Ebony Ross): Very good. Now enough about the subpart (unintelligible). Today we're going to talk about a new subpart - subpart A - and subpart C like I said is phased in compliance but under subpart A contractors must begin complying with those obligations on the rules effective date.

(Lynn White): March 24th 2014.

(Ebony Ross): Correct. Next slide please. Now before we begin discussing what has changed under the EO clause I want to, you know, give a little context. Now (Lynn) I remember you asked me previously on a technical assistance call (Ebony) what notices, you know, does OFCCP refer to in those EO clauses. You know, you were saying - I'm just saying, you know, that contractors are supposed to notify applicants and employees of their EO rights and they're supposed to say, you know, their obligations but what does that mean? What are you talking about?

And I'm here to tell you (Lynn) and everyone else out there who had a question about that the notices that we are referring to are the notices that are provided on the EEO info law poster.

(Lynn White): Absolutely. We already put those up but now it looks like you're asking us to do more with them.

(Ebony Ross): Well you also know that we jointly had this poster with the EOC. So not only will you see laws on that poster that OFCCP enforces but also the EOC.

(Lynn White): Are there other notices that we have to worry about?

(Ebony Ross): Well yes (Lynn) there are other notices but for today's purposes we're only focused on the notices that are on the EEO law poster because those are the notices that are referred to in the VEVRA in section 503 clause. I mean yes, there's that executive order 13496 where federal contractors are required to notify their employees of their rights to bargain collectively and engage in concerted, you know, protected activity. And there are also other notices, you know, from other federal agencies such as the wage and hour division but we're not going to talk about that, you know, for today's purposes.

All right, next slide please. Now that we have gotten that out of the way, let's talk about what has changed under the VEVRA and section 503 EO clauses. Now as you all know that currently under section 503 and VEVRA we have a suggestion in the regulations that says, you know, read the notice to an individual with a disability or maybe, you know, post it lower so someone in a wheelchair can see it. Well that suggestion is outdated. It's outdated.

So the final rule - it changes that and it replaces that outdated suggestion with the one to provide the notice in Braille or in large print version. Post the copy at a lower height so that someone with a wheelchair, you know, can view it him or herself and it also makes it easier for that, you know, the individuals with such a disability to read it him or herself.

(Lynn White): And we certainly agree that that language makes it more relevant to today's processes but at what point in the hiring process are we supposed to provide the alternative version of the notice?

(Ebony Ross): Well (Lynn) I'm glad you asked that question and the answer is a prior request at the same time, you know, in the process that you would notify applicants without disabilities of the notice.

(Lynn White): Okay.

(Ebony Ross): Okay? Next slide please. Okay so now we're going to discuss the electronic posting of notices for employees working offsite. And what the final rule does - it allows contractors to electronically post a notice for those individuals who don't work at - who don't work at the fiscal location for example in the context of teleworking.

Now contractors may do this by meeting either one or two conditions. The first one is to provide employees with computers or access to computers that can actually access the electronic notice, okay. The other option is to have actual knowledge that the employees can access the notice.

(Lynn White): Well (Ebony) are you - when you say actual knowledge are you saying that I have to know that employees accessed the notice?

(Ebony Ross): (Lynn) that's a great question and no, I'm not saying that. Actual knowledge means that the employees could access it, not that they actually did.

(Lynn White): Well can you give me an example so I can know how this would work practically?

(Ebony Ross): Definitely. One thing that you could do is post a notice on your internet page conspicuously in a format that it can be readily seen by employees or you can email it to the employees. Does that answer your question?

(Lynn White): It does.

(Ebony Ross): Great.

(Lynn White): That was a great example. Thank you.

(Ebony Ross): No problem. Next slide please. Okay now another change the final rules make to the EO clauses are the electronic posting of applicants for - I'm sorry - the electronic posting of rights for applicants. Now basically what that does is it says that if you are going to use an electronic application process then you must also post a notice electronically informing applicants of their EO rights, okay. And it also states that the notice must be conspicuously started with or as a part of the electronic application.

(Lynn White): Okay (Ebony) I get this because we as contractors know that job applicants have to know about their rights too but the regulations require us to conspicuously store the EEO law as the poster with or as part of an electronic application. Does this mean that the actual physical or electronic copy of the poster must be individually stored with the application because it's really long and it's big and it can make the application a little cumbersome?

(Ebony Ross): You know, you're right and (Lynn) you know, I also want to take this opportunity to pull up the FAQ's that we have on our website. Now under those and under the federal contractor's workers corner you can find the poster but the poster's actually available in different sizes.

(Lynn White): Oh, okay.

(Ebony Ross): Yes so that, you know, that's one thing and, you know, back to your question - even though what you suggest - I mean that's a great idea. That would definitely satisfy the requirement but it's not required, you know, contractors aren't required to do that. You know, you can choose to satisfy this requirement in any way that insures that the electronic applicant has the opportunity to view the poster so that he or she may understand what his or her rights are.

For example you could display the poster using a permanent link on your website and then, you know, include a description of what the link connects to.

(Lynn White): Okay, thank you.

(Ebony Ross): No problem. Next slide please. Okay so now let's discuss the contractor solicitations and advertisements. Now if you read the regulations you know now that the section 503 EO clause is now a tad bit longer. The final rule - yes - the final rule has a new paragraph seven that requires contractors to state in all solicitations or advertisements that they will receive - that all qualified applicants with disabilities will receive consideration for employment and will not be discriminated against on the basis of that disability, okay.

Now the VEVRA final rules require contractors to state in solicitations and advertisements that it is an equal opportunity employer of protected veterans. Now this can be done by simply adding veteran status or something similar to an existing equal opportunity employer statement, okay.

Now (Lynn) I want you to understand something about these requirements. The purpose - the reason we did this is because we want job seekers and the public to understand that individuals with disabilities and protected veterans - they are entitled to nondiscrimination and affirmative action in the workplace of the federal contractor. And I'm sure that you hear us say that, you know, having a federal contract is a privilege and not a right.

(Lynn White): Absolutely.

(Ebony Ross): Yes. And also I want to ask you something. Did you know that a comparable clause also exists in executive order 11246?

(Lynn White): I did (Ebony). I did know that and, you know, a lot of contractors already have a pretty detailed EEO tagline requirement. For example, my company - we use D and V respectively for individuals with disabilities or veterans. Is that sufficient for OFCCP?

(Ebony Ross): Oh no (Lynn) that is not. You know, using D and V - that's actually inadequate. You know, individuals with disabilities and protected veterans - they need to know who you are referring to in your tagline. So D and V could be David and Victor. It could be Dorothy and Valerie. So you should put something, you know, at a minimum say disability or vet so that jobseekers know who you are referring to.

(Lynn White): And (Ebony) we want those applications from those veterans and those individuals with disabilities so this is a good provision. But I know what I think solicitations mean.

(Ebony Ross): Okay.

(Lynn White): What does OFCCP mean when they say solicitations?

(Ebony Ross): That's a great question (Lynn) and OFCCP has broadly construed solicitations to include job listings, announcements and advertisements. Does that clear that up for you?

(Lynn White): That's very clear. Thank you.

(Ebony Ross): Next slide please. Okay so (Lynn) let's discuss now the inclusion of the section 503, EO clause and subcontract. Now I want to, you know, take a moment to talk about what's required currently under the rules. Now you know that, you know, you as a contractor - you have options to put the EO clause into your subcontracts verbatim. However under the current rule if you don't want to do that verbatim you can incorporate it by reference simply by signing to 41CFR 60-741.5A which is the provision of the regulation that actually contains the section 503 EO clause. But do you see the problem with this?

(Lynn White): Well (Ebony) I see how it could be a problem. It's not a problem for me because I happen to know what this provision means but if you don't know what 41CFR 60-741.5A means, it really - it doesn't say anything.

(Ebony Ross): Right, exactly. And so the final rule wanted to change that, okay. We wanted to change that. We want contractors and federal contractors to know the nature of their obligations under the rules. so as a result what we have done to remedy that problem is require that you not only cite to the EO clause but you also include this text that you see on the monitor here immediately after that citation in bold print. And do you mind reading that for everyone (Lynn)?

(Lynn White): No, I don't mind. This contractor and subcontractor shall abide by the requirements of 41CFR 60-741.5A. This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities. And (Ebony) I mean that is definitely a lot more clear about what this statute really requires you to do.

(Ebony Ross): Right. Thank you (Lynn).

(Lynn White): But let me pose a hypothetical to you. Suppose that my company enters into a subcontract on March 25th 2014 and the EO clause is made part of the subcontract just by citation to 41CFR 60-741.5A. Am I in compliance? Is this going to be a violation I might be cited for?

(Ebony Ross): Okay (Lynn) now based on the information that you gave me there, you know, this does appear to be a violation. Remember that the EO clauses under section - the EO clause under section 503 is a part - a subpart A of our rules. And subpart A of our rules are effective on March 24th 2014.

So (Lynn) if your company has entered into a contract on the date after the rules become effective and only cite to the section 503 EO clause without including this text on the page in bold right after that citation, that's a problem. However, you know, we understand that, you know, these are new rules. But this - I mean this sounds like a perfect opportunity for some technical assistance. So if you aren't sure about what to do on that date, give us a call.

(Lynn White): Absolutely and before you put a red flag up, we have been working on coming into compliance since the rules were covered.

(Ebony Ross): Oh, I know you have. All right so now let's talk about the inclusion - next slide please. Let's talk about the inclusion of the VEVRA EO clause in subcontract. And just like section 503 we did the same thing because we have the same problem. Contractors - I mean just citing to the EO clause - it did little to notify contractors and subcontractors of the nature of their affirmative action and equal employment obligations under these rules.

So again if you are going to enter into, you know, a subcontract remember the final rules require you on March 24th 2014 and thereafter to put this text that you see on this screen here in bold immediately following the citation to the VEVRA EO clause. And can you, you know, read that for us (Lynn)?

(Lynn White): All right. This contractor and subcontract shall abide by their requirements of 41CFR 60-300.5A. This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

Now (Ebony) I had had this question myself and a couple of my other contractor friends - we had been talking about this. And can we combine these two EO clauses because they're kind of the same but they have different meanings and we understand the purpose of that.

(Ebony Ross): Well (Lynn) you know what, I'm glad you asked. We heard you. We have heard you which is why we have posted an FAQ on that very topic on our webpage. Next slide please.

Now (Lynn) and everyone else out there if you look on your monitor this slide says live screen. And what it's going to do is take us to the frequently asked

questions which we often update and which we hope that you often go and take a look at. We have Mr. (Ivan Brown) here navigating for us.

Right now what you see on the screen is the OFCCP's webpage okay and then (Ivan) is going to click on section 503 under read the latest section 503 in VEVRA FAQ. It's the second bullet. And there we go. You see here these are the frequently asked questions for the section 503 final rules. Now as (Ivan) scrolls down the page you're going to see that our FAQ's are broken down into different subcategories. He's going to scroll down to the category that talks about that equal opportunity clause and there we have it.

Now (Lynn) you asked whether the VEVRA and section 503 EO clauses could be combined. Now I want (Ivan) to click on that link so we can find out what the answer to that question is. Oh thank you (Ivan). So (Lynn) you tell me. Can the clauses be combined?

(Lynn White): Wow well it looks like yes. Contractors can combine these two EO incorporation by reference clauses provided that the combined clause is set in bold text like you mentioned and the prescribed content of those clauses is preserved and you even provided a great example. And I have to thank you for these frequently asked questions because we do have many and it's great to know that there's this resource here that we can refer to just as often as we referred to the training.

(Ebony Ross): Well (Lynn) thank you so much and I'll definitely let my other colleagues know how much you appreciate, you know, what we've done and all the great compliments. And, you know, I want to add something (Lynn). Not only can you combine the section 503 and EO clause but if (Ivan) clicks on question two or you look down at question two on your page if you want to you can

also combine all of the clauses. That includes executive order 11246 EO clause, section 503 and VEVRA. I mean we give you that option.

(Lynn White): This is excellent (Ebony) because this gives us an opportunity to make sure that our subcontractors know how committed we are to enforcing these two - implementing these obligations but it also saves space because our contracts can get kind of long.

(Ebony Ross): Right, I know. All right next slide please. And we're going to give (Ivan) a little time to navigate away from this page. All right, next slide. Now let's talk about mandatory job listings in section 503.

(Lynn White): Well (Ebony) I don't mean to interrupt you but let me ask real quick - are contractors required to list jobs with employment service delivery systems, one stop career centers or form linkage agreements under the section 503 final rule because I know there was some discussion about that when the rule was being developed?

(Ebony Ross): (Lynn) you know what, I am so glad you asked me that question and I'm sure you're not the only one out there with that question. It's the million dollar question so let me answer it for you. No, there is no mandatory job listing requirement under section 503. And, you know, I just want to explain where the confusion has come in. So when we proposed the section 503 final rules, we proposed to have contractors enter into a minimum of three linkage agreements and to post their jobs with - excuse me - and to post their jobs with one stop career centers, okay.

Well after reading and considering comments from the public we decided not to do that and just to stick with the current language that we already had in the regulation which deals with appropriate outreach and recruitment activities

and we also added a suggested list of - a suggested list of resources in that part of the rule. So no, there's no section 503 mandatory job listing requirement under section 503.

(Lynn White): Thank you for clearing that up (Ebony).

(Ebony Ross): Yes, you're just required to engage in appropriate outreach and recruitment activities, okay. Thank you. Next slide.

Okay now let's talk about the mandatory job listing requirements under VEVRA. Okay now (Lynn) there is one under VEVRA and it's not purely a regulatory creation. It's actually required in the statute itself, okay. So contractors have always been required to list their job with employment service delivery systems.

(Lynn White): Okay.

(Ebony Ross): Now in 2002 VEVRA was amended and when VEVRA was amended it just said that contractors could list their jobs with American job banks or, you know, some other national job banks prescribed by EOL but his was not in and of itself sufficient to satisfy that requirement. So what we did and what the final rule clarifies is the contractors, you know, our long standing policy that contractors must provide its job listing information to the EOC in a format that is permitted by the appropriate ESCS.

What we also require contractors to do is to indicate on their job listings their status as a federal contractor and their desire for priority referrals for protected veterans. Now...

(Lynn White): Well (Ebony) this is a smart change because as a contractor the one thing I don't want to happen is to spend the time sending out my job listings and them not even be useful to help me get applicants from protected veterans. But could you provide me a practical example of how the contractor is required to post its information - the job listing information with the appropriate ESCS?

(Ebony Ross): Oh not a problem (Lynn). For example if the ESCS requires electronic transmission through a web-based form, you can provide it in that way. If the ESCS wants it through mail, fax or email, you provide it in those ways. The goal is for you to provide the employment service delivery system that information in the way that they need it so that it can be readily and easily understood.

(Lynn White): Okay that makes sense. Now how would I indicate it's sufficient for OFCCP that I'm a federal contractor on the job listing? What all am I going to have to go through to do that?

(Ebony Ross): Okay (Lynn) that's an excellent question and you can simply do that for example by putting VEVRA federal contractor on your job listing.

(Lynn White): Okay that's not overly burdensome.

(Ebony Ross): No, next slide please. Now we're still talking about the mandatory job listing requirement and the final rule requires something else. It requires contractors to provide contact information for the individual that's responsible for hiring at each hiring location who can verify the information in the job listing. Additionally (Lynn) if you decide to use some external job search organization to help you list your job, that contact information must also be provided to the employee service delivery system because remember, you know, the point is to employ protected veterans who are qualified.

And so in order for the ESCS to effectively do their job they need to have accurate information and they need to be able to contact someone if they have questions about, you know, the job listing information.

(Lynn White): And we certainly have people on staff who that's their job is to make sure that we get these applications in.

(Ebony Ross): Right and before you - I know you have a question for me and before you ask that question I also want to provide, you know, somewhat of a temporal scope. So this contact information must be provided to the ESCS at the same time that you list the job.

(Lynn White): Okay.

(Ebony Ross): Okay.

(Lynn White): Okay, all right. Thank you for making that point. But, you know, you said that we have to provide the contact information for the contractor official responsible for hiring at each hiring location who can verify the information. Well what type of official are you looking for on that listing?

(Ebony Ross): Oh (Lynn) I mean you have a couple of options. It can be a senior management contact, an HR official or any appropriate official who can verify the information.

(Lynn White): Okay because a maintenance official won't do.

(Ebony Ross): Right, next slide. Oh wow so that brings us to the end of this presentation on the section 503 and VEVRA EO box. Now (Lynn) I want to insure that you

got what it was that OFCCP is trying to convey so could you please wrap this up for us?

(Lynn White): I'd be happy to (Ebony). And I really enjoyed this presentation. It was a great topic to really dig into. One of the first things I've learned and most important is if I have questions, your website is a great resource. I can check the FAQ's out to find out information and you're technically answering the questions as they come up and that's wonderful and I also can watch replays of these webinars on the internet.

(Ebony Ross): That's right.

(Lynn White): And I know that I have to begin complying with the EO clause requirements and subpart A of the regulations on March 24th 2014.

(Ebony Ross): That's correct (Lynn).

(Lynn White): Excuse me - the new requirements. We're already complying with the...

(Ebony Ross): Right, okay.

(Lynn White): I also learned that individuals with disabilities and disabled veterans have to have their EO notice in accessible format upon request. The equal employment opportunity notices may be posted electronically for employees offsite provided that certain requirements are met - that actual knowledge that you mentioned.

(Ebony Ross): Exactly.

(Lynn White): All solicitations and advertisements must state that qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability. And we now know that D and V are not enough.

(Ebony Ross): That's right.

(Lynn White): Some of us might have to change our processes a little and make that clearer by either using disability or vet or veteran or something like that.

(Ebony Ross): Right.

(Lynn White): And we also have to state in our solicitations that we're equal employment opportunity of veterans. And finally the VEVRA section 503 EO clauses may be incorporated into subcontracts but only if we meet those conditions that you discussed in the presentation and I can actually go back to the FAQ for overview examples of the language I could use to incorporate those clauses.

(Ebony Ross): Wow (Lynn) you are a great student. I mean you nailed everything.

(Lynn White): Thank you.

(Ebony Ross): Yes but I also want to remind you of this. There is no mandatory job listing requirement under section 503 - only under what (Lynn)?

(Lynn White): VEVRA.

(Ebony Ross): Thank you. Very good.

(Lynn White): And it's statutory.

(Ebony Ross): Exactly. Now we're going to turn the presentation over to Mrs. Brenda Stewart.

Brenda Stewart: Thank you (Ebony) and (Lynn) and (Ebony) we should be so lucky to have such bright and inquisitive contractors as (Lynn). Right now our panel of subject matter experts will begin addressing the questions that have come in through the chat box and we have several questions and we will get to as many as we can.

So starting with the first question - with regard to placement of the EO clause on purchase orders - is there font size requirement and can the clause be on the back or second page of the purchase order?

(Pierre): This is (Pierre) from the solicitor's office. The regs don't speak to this so there isn't a font size requirement and placement on the purchase order is not discussed in the regs at all. The only thing that the regs require is that those two sentences that (Lynn) read earlier are put in bold text in the contract. So that's the only specification with regard to font that is in the regs.

Brenda Stewart: Okay. Thank you (Pierre). Also on the new - under the new regulations if a federal contractor is not hiring in a certain location, is there still the requirement to notify the local ESDS that we are a federal contractor and we would like priority referrals as well as the contact information for the hiring official or contact at said location? Can you also explain what ESDS stands for?

(Pierre): ESDS is employment service delivery system and the person asking the question also wants to know if it's acceptable to notify the ESDS when and if there's a job opening at the site. And that's a good question and yes, I mean providing this information to the ESDS is really triggered by the job listing.

So if you're a federal contractor and you're not listing any jobs, there's no requirement. But once you list a job with the ESDS then you need to include that information. And then if any part of that information changes, the next time you list with the ESDS you need to provide updated information. So that's how that requirement works.

Brenda Stewart: So that addresses the second part of that question about whether it's acceptable to notify ESDS when and if there is a job opening. All right our next question - regarding the notices we are required to provide to all of our subcontractors, vendors, suppliers and new regs - what does the OFCCP deem as sufficient notice? So will email suffice? Will they need to be actual letters? Do they need an acknowledgement and is this only advised for new agreements?

(Naomi Levin): This is (Naomi). I don't think in this modern age we're going to require snail mail letters to everybody. Email would certainly be another way that that could be accomplished by providing an email. I don't know if (Kiera) has anything you want to add to that but certainly electronic email is fine. Even a mass email to all of your subcontractors at one time is fine. The point is that they should have some notification that you're a contractor and expect their support and cooperation.

(Pierre): Yes, I have nothing to add to that.

Brenda Stewart: Thanks (Naomi). Do we need to include the EO clause only in subcontracts that do directly for federal contracts or do we need to include the EO clause in all subcontracts regardless of whether they do work for federal contracts?

(Kiera): This is (Kiera). I think this is important - this is where it's important to look actually at the regs and look at the definition of what a subcontract is and the

subcontract - one of the elements of a subcontract is that it's for the purchase, sale and use of personal property or non-personal services which in whole or in part is necessary to the performance of any one or more of the contracts. So that's really - that's the catch there. It needs to be necessary to the performance of the contract or it needs to be, you know, portion that the subcontractor has assumed from the contractor. So if it's unrelated to either of those then it falls outside of our definitions.

Brenda Stewart: Okay. Now the VEVRA requirement slide number 15 - if you can go to that (Ivan) - must indicate on job listing status as federal contractor and desire for priority referrals of protected vets. Must this be in the job description or in the employer profile on the ESDS?

Man: I mean...

Brenda Stewart: It doesn't speak to that.

Man: Yes. The regs of that - so, you know, we don't have a requirement. I think that this is one of the things that we were trying to do in clarifying the intent of the mandatory job listing requirement was to make sure that contractors are listing their jobs with the ESDS in the manner that they can make use of. And so I think this is another good example of it might be a good idea for contractors to contact ESDS and see, you know, how should I submit this information to you. What's the best way for you to receive it that, you know, in a way that you can use it, so.

Woman: Right and the main intent was to make sure that the state agency knows that, has that information and knows that it can use it properly and that's what we're trying to accomplish.

Brenda Stewart: Okay. Now with this question - does an employee intranet count toward the electronic notice and notifying the employees to go to the site to view open positions?

Man: The answer is it can - that can be a way. Again the touchstone in the regulations is that if you're going to have employees who work offsite, you can fulfill the notice requirement by posting the notice electronically and you can do that on a company intranet. The only caveat to that is you need to make sure - the contractor needs to make sure either they're providing the computers that employees can use to look at that or they otherwise have actual knowledge that their employees are able to access the notice.

And we talked a little bit about this before but that actual notice - it really just means that you don't have to make sure that your employees have accessed the notice but just that they are able to access the notice.

Brenda Stewart: Okay. And talking about the OFCCP poster - if that poster of applicants and employees rights - the EEO is the law poster and from reading the regulations this person thought there was going to be a new OFCCP poster addressing specifically the rights of veterans and disabled.

(Naomi Levin): The EEO is the law poster - the joint poster between EEOC and OFCCP and so if you look at the current poster, it encompasses information about both of our agency's laws. So you will see information there about 503 and about VEVRA right now.

We do plan - if you saw the FAQ we will plan on updating that information - for example - some of the phrasing for the way veterans are discussed had changed. So we would want to update that. EEOC I think also has - will want to make some updates. So that's just because it's a joint process it takes a

while but there's not going to be an entirely new poster. We try to keep those to a minimum so there would be an updated EEO law poster that reflects any updated information that needs to be there. But right now there already is some basic information about VEVRA and 503 that still - that it's still accurate right now.

Brenda Stewart: Thank you (Naomi). This person has an existing contract with the vendor that lasts through the end of the year or early next year and they want to know do they need to immediately revise that contract on March 24th to include the new EO clause or can they wait until that contract is renewed or revised for other reasons?

Man: Yes, that's a good question. It's actually one that we've been getting a lot today and the answer is you can wait. If you've got an existing contract that went into effect before March 24th, you don't need to include the new EO clause until that contract is renewed or revised. Any contracts that are entered into after the - on or after the effective date of March 24th 2014 you would need to include that EO clause.

Woman: The rule's not retroactive in that way. You don't have to go out and change your existing contracts. Just from that date forward you would change that.

Brenda Stewart: Thank you. And our final question for today - this company advertises on TV and radio. Are they required to speak the EO tagline?

Woman: So the tagline is required to be included with ads on radio and TV. I don't know if we have a requirement that they be spoken or visible but if you're advertising jobs that way then they would need to be included because it's a solicitation like any other so the tagline is included with solicitation and advertisements for jobs.

Brenda Stewart: Okay. Now if we could go to the next slide and that will display our contact information. So if we did not have time to get to your question today or you have additional questions as a result of some of the things that were discussed or you need clarification on any issues, you can use the phone number 800-397-6251. That is to our helpdesk as well as the regulations telephone number or contact us through email and you can send an email directly to the public@dol.gov email address and it will come to us and we will get a response to you as soon as we can. Next slide.

So you can see on this slide that we have a list of resources that are available on our website and there are a variety - the FAQ's which you saw some of, the final rules, contractor resources. We have fact sheets as well as a chart that displays side by side changes. The recordings and slides from presentations that we've included in this series from the prior presentations are on there and we will have the registration link for our final webinar in this series posted by next week. You can also get copies of press releases.

In closing I want to thank our presenters (Ebony) and (Lynn) and our subject matter experts for their expertise in addressing your questions. And thank you all for joining us today. We hope you tune again next month when we have our final webinar. Have a great day.

Coordinator: Excuse me. This is the operator. Has the conference ended?

Brenda Stewart: Yes it has. Can you give me a count?

Coordinator: Yes ma'am. At this time I want to remind parties to go ahead and disconnect from the call at this time. Please disconnect from the call at this time. Please standby ma'am.

END