

NWX-DOL ESA OFCCP

Moderator: Brenda Stewart
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Coordinator: Okay. Welcome and thank you for standing by. At this time all participants are on a listen-only mode for the duration of today's conference.

This call is being recorded. If you have any objections you may disconnect at this time. And I would now like to turn the call over to Lisa Jordan. Ma'am you may begin.

Lisa Jordan: Thank you operator. Good day everyone. We are back again today. And I want to welcome everyone to the Webinar that we're hosting on the new final rule changes to Section 503 Regulations sponsored by the Office of Federal Contract Compliance Programs.

Again my name is Lisa Jordan and I will be your moderator for today. But before I introduce today's presenters first I want to welcome our Director of OFCCP, Patricia Shiu.

And I will turn over to her because I think she has a few words to share with us. Director Shiu you may begin.

Patricia Shiu: Thank you Lisa. And thank you everybody who has joined us today for taking the time as we begin our journey here on the new Section 503 rules.

It's really important I think that we think about this as a journey because this is something we're going to be working on together.

I want to thank my magnificent team at OFCCP, my colleagues at the Solicitor's office, everybody at the Department of Labor, our colleagues at the EEOC in the Department of Justice who really helped us think through a lot of these issues.

This is really a historic moment because for the first time we are going to provide people with disabilities and veterans the same sorts of kind of affirmative action protection that we have for race and sex a little different approach but it is a historic moment.

I want to say, you know, this process has been long in the making. I tried when I first started almost four years ago to reach out to as many stakeholders as I possibly could even before we issued our ANPRM.

I went around the country to talk to stakeholders. We've had hundreds of meetings and conversations with many of you and many others.

And I want to tell you that we really listened to your concerns. And I hope that you will find in this presentation and in the presentation we did yesterday and others that will follow that we had tried in every way we possibly can to give contractors the greatest flexibility in trying to meet these goals and benchmarks without compromising the underlying data and information that you're going to need in order to track your progress.

As I've told my compliance officers and I'm going to tell you this is a process. This is not going to happen overnight. We don't expect that it's going to happen overnight. It can't happen overnight.

There are many contractors who've already exceeded the 7%. There are many contractors that have affinity groups and they've gone way beyond what we've asked in this regulation.

But we realize that we're going to have to work very closely with our contractors in order to help them achieve compliance and facilitate their success.

So I want you to know that we're looking at this on a case by case basis right? Every contractor establishment is different, located in different places, different business needs, and we're going to be taking all of that into account.

The other final thing I guess I want to say just to kind of keep us focused and our eyes on the prize here is just theoretically if in the first year contractors could try and reach the 7% goal. And we know it's not going to happen in the first year.

But I wanted to give you some metrics of our own in terms of anticipated new jobs not new jobs but jobs for people with disabilities 600,000 people with disabilities would be placed in jobs.

Again they're not new jobs. And 200,000 vets would be placed in jobs which we think is not only a boon for our economy, a boon for contractors who have a wide swath of very experienced, motivated, and loyal employees who are out there who want to work for you, new taxpayers.

So with that I just want to say that change doesn't happen in a moment it happens in a movement. And we are going to work closely with you I can promise you that to help you achieve your compliance.

So you don't need to be afraid. We are here to help you all 800 of us. And with that I will turn it over to Lisa.

Lisa Jordan: Thank you Director Shiu. We're really excited about today's presentation as we were yesterday. So before we get right into it and I introduce the presenters for today I just want to remind folks that we are taking questions only through the chat box.

And we want - like for you to submit your questions to all panelists. And this is to ensure that all of your questions are being received by the panelists.

And we will not be opening up the phone lines but we will be addressing some of those questions through the chat toward the end of today's presentation.

So as we turn to the next slide I would like to introduce our presenters. First I would like to introduce Naomi Levin.

She is the Branch Chief for Policy here at OFCCP. And she's accompanied by Suzan Chastain from our Office of Solicitor and another colleague of hers (Jessica Lind) from our Office of the Solicitor. So at this point I'll turn it over to Naomi.

Naomi Levin: Okay. Thanks very much Lisa and thank you to everybody for joining us today. Here's what's on the agenda for today if we can move to the next slide no stay where you are. Sorry.

We're going to start with a little bit of background for those who may be less familiar with 503 on exactly what 503 is all about.

And then we'll be talking a little bit about why we're doing what we're doing and some about the effective date which I'm sure everybody wants to know.

And then I guess the main event for today is an overview and a tour of the key changes to the regulations.

We won't be covering absolutely everything. But we'll be hitting all of the highlights today of the main thing.

And then we'll conclude with questions and answers as Lisa has mentioned to you and by all means please send them in.

And one note before we begin on our tour please know that this is just an initial overview this is not a one shot deal. This is not all we're going to be doing between now and the effective date.

As Director Shiu said we are certainly here to help you. We'll be providing more technical assistance and outreach and education as this process proceeds.

And as always you are welcome to contact us and ask for assistance at any time. And there are a number of ways to do that by calling, or emailing, contacting the local office near you.

So please don't think that, you know, if you don't get it today then somehow you've missed something. This is just the very beginning and just a brief overview.

So with that let's go next slide. Section 503 for those who are less familiar or by way of background prohibits employment discrimination on the basis of disability by federal government contractors and subcontractors.

Section 503 also requires that covered contractors take affirmative action to employ and advance employment qualified individual with disabilities.

All contractors and subcontractors with federal contracts in excess of \$10,000 are subject to the nondiscrimination provision of Section 503.

In addition contractors and subcontractors with contracts of \$50,000 or more and 50 or more employees -- what we sometimes call the 50-50 rule -- must create, maintain and implement written affirmative action programs.

Let me say you will probably hear me start just saying contractors instead of contractors and subcontractors and always mean both. So whenever you're contractor think subcontractors as well as subcontractors as we continue on.

Next slide so why are we going through this whole exercise? As you heard it's been sort of a lengthy process.

And there are a number of reasons why we are making changes to the 503 regulations starting with the framework articulating contractors responsibilities with respect to affirmative action and recruitment efforts has been in place since the 1970s. And that's a long time.

Since the 1970s there have been tremendous changes in technology, tremendous changes in the way business is done, and in the way OFCCP does business and uses technology.

So it was certainly time to update things. And to - you'll see as we go through some of the changes in the rule reflect changes in the way business and technology are used.

Another reason the unemployment rate of working age individuals with disabilities and the percentage of working age individuals with disabilities that are not in the labor force which is also called the Labor Participation Rate or the Labor Force Participation Rate remains significantly higher than for those without disabilities even though the law has been in effect for all of these years.

Data from the Department of Labor's Bureau of Labor Statistics tells us that just 31.6% of working age people with disabilities were in the labor force in 2012 compared with more than double that 76.5% of working age individuals without disabilities.

The unemployment rate similarly the unemployment rate for those with disabilities was 15% in 2012 compared with an unemployment rate of 8% for working age individuals without such build - disability without disabilities. And that's a tremendous disparity. And we'd like to see the start to close a bit.

And finally the ADA Amendments act which was passed in 2008 made significant changes to the definition of disability and to a few of the nondiscrimination requirements of law.

And that law applies equally to Section 503. And it's been in effect since 2009. And so we wanted to bring our nondiscrimination regulations and definition into conformity with the ADA.

Next slide so the final rule comes after a December 2011 publication of a proposed rule. And a number of you out there may remember that or been involved and commented on that.

And after we did that we did a thorough review of all of your comments that we received and there were quite a number.

And as a result of the review we did and the analysis we did in the final rule we take a more tailored and streamlined approach than we did in the proposed rule.

And the final rule really focuses on enhancing contractor accountability, and fostering compliance, and provides tools all sort of focused on those kinds of objectives.

The final rule strengthens the existing regulations primarily with respect to the affirmative action obligations.

And the strengthening rule will provide contractors and provide us at OFCCP with tools needed to better assess whether and where barriers to equal employment opportunity remain in the workforce so that they can be removed or reduced but we have to know they're there first.

And also will provide tools needed to assess the effectiveness of outreach and recruitment efforts so they can be adjusted if they are not effective.

Again you sort of need to be able to assess these things before you can determine whether or not they're functioning so you know if you need to change them or tweak them as the case may be.

Next slide the effective date the final rule of his effective 180 days after publication in the Federal Register.

Now that 180 day period has not yet begun. The rule has not yet been published in the Federal Register.

It is right now on our Web site but until publication that 180 days - this is sort of an extra period that we now that we are in until that official publication.

That official publication will come with the date in it. So right now it's 180 days after publication. Now that's a good period of time so that allows time for everyone to become familiar with new provisions or with things that have changed.

That's true for OFCCP staff as well. And that also allows time for additional training, for outrage, for technical assistance, for you to contact us, and for us to reach out and do more education for contractors, and as well also for other groups and organizations and members of the public who are interested and might be affected.

Next slide in addition to the 180 day effective period it's also important to note that the rule also provides for phased in compliance of the affirmative action requirements of Subpart C of the 503 reregulation.

Now that's the portion of the rule that addresses the contents of an affirmative action plan the self-identification requirement is in there. That's all Subpart C.

The phased and compliance provision if you are looking for it is in the preamble of the final rule. And that permits contractors who have an AAP developed under the existing rules that we have now in place on the effective

date of the new rule has the option to choose to continue to maintain that AAP until the end of your current AAP cycle and then come into compliance with the new Subpart C with - at the beginning of your new cycle.

So it allows you to keep your cycle keep your AAP cycle in place if you want to do that. Let me say if you go to our Web site we have a landing page for 503.

You'll find a lot of information there. You will find the regulation is posted. It is in three pieces. It's in three parts. So if you want to go read the preamble you'll find a section labeled Summary and Preamble.

If you want to just go to the regulatory text you'll find it listed in a separate section for the regulatory text.

Know that the whole regulation was republished. The whole regulation did not change but it's so much easier to read it in context when you have the whole rule there.

And if you want to know about the (garden) analysis the cost associated again that's in a separate section as well as - we have FAQs and fact sheets so there's a lot of information.

And of course once we have an effective date you'll be able to find that as well as a link to the official Federal Register version of the reg.

But we do allow the reg in the preamble does provide for phased in compliance of Subpart C. And doing that will make things much, much simpler for everybody for our contractors and for OFCCP.

And what this does is ensure that only one set of requirements will apply to each AAP during a compliance evaluation.

So if your scheduled for a compliance evaluation shortly after the effective date of the regulation and you already have an AAP in place OFCCP will be using the existing role when it examines your AAP. Once your plan is updated in the new cycle we'll be using the new rules for that purpose.

Keep in mind the space in compliance is only for Subpart C. There are nondiscrimination positions in Subpart A and other requirements record keeping provisions and other things and other Subparts B and D and E some of which we'll be discussing those all come into effect 180 days after. And there is no phased in compliance for those other portions of the loss.

Okay next slide. Before we go into some of the key provisions I just want to let you know there are some other smaller things there are other revisions small things that we won't be discussing today.

Some non-substantive changes for example we've alphabetize the definitions which make things much easier.

Right now there are sort of grouped by topic area which is a little cumbersome. And now we've alphabetized them so it's much easier to find something.

We've also updated the appropriate title for the head of OFCCP. So you'll see the use of the term Director and the new rules.

Again today's Webinar is really focused on the key changes and overview of those changes and a tour through the new parts of the rule.

Next definitions this gets to as I mentioned one of the driving factors behind revising the 503 regulations was the need to come up to - into compliance with the changes made by the ADA amendments of 2008.

The ADA as many of you know made significant changes to the way disability is defined. It made changes to terms like major life activities and added a brand new term for major bodily functions as part of major life activities. And it redefined regarded as having a disability.

So we've included those sorts of things. We've made those changes. And in addition we include a discussion and examples of conditions that will virtually always be a disability.

So the changes in the final rule will bring our regs into compliance at the ADA. And they will also make them consistent with the EEOC's updated ADA regulations.

So please be assured on - there is only one set of nondiscrimination standards for the ADA in 503. You're not subject to different standards so all rules are consistent with the EEOC.

The EEOC as you may know is part of the regulatory process. So they were involved in the development of those regulations.

So again one standard for ADA in 503 nondiscrimination requirements and our regulations will now reflect that.

Next please then we move into the equal opportunity clause. And there we've made a couple of changes.

And the first one I want to tell you about reflects some of the updating and coming into sort of reflecting the way business is now done and the way technology is used.

So one question we've been asked a lot is about electronically posting the notice of rights and obligations that contractors are required to conspicuously post in their workplaces.

And in the final rule we've addressed this in part. And said that you can satisfy posting obligation electronically for employees who telework or who work offsite.

So they work either elsewhere. They're not in your physical premises. They're working at some offsite center where employees maybe share workspaces.

In that instance you can use posting on an Internet perhaps and be able to meet your posting obligation for those employees in that way.

There are a couple of caveats to that. One is that if you're using that you must either be supplying the computers to the employees or have actual knowledge that the notice that you're posting is accessible by computers. And that the employees can in fact read the notice, access it, and see that notice.

In addition we've addressed another issue that we've been hearing a lot and that is what about when a contractor uses electronic or Internet based application processes?

Well in that instance the final rule says that an electronic notice in that case must be conspicuously stored with or as part of an electronic application.

So both of these changes sort of reflect the advent of teleworking and, you know, electronic application systems.

Next slide another change that we made in the EEO clause in our effort to sort of bring 503 give it - makes some of the requirements more like those we've had for many years with respect to race and gender under Executive Order 11246.

And this is one way to do that. So this part of the EEO clause addresses solicitation and advertisement. And the final rule requires that contractor's state and all solicitations and advertisements that it is an equal employment - equal opportunity employer of individuals with disabilities.

This is analogous to the existing requirement under Executive Order 11246 that contractors state that it provides equal opportunity without regard to race, color, sex or national origin.

This should not be difficult to do. It means adding one or two words to that advertisement. But it will signal to those with disabilities that this is a welcoming employer.

And it will also serve as a reminder to those who ever need it in the workforces of the contractors that we share this and provide equal opportunity on the basis of disability and for people with disabilities.

Next one of the other things we try to address in the proposed rule was incorporating the EEO clause by reference.

Under the current regulation the EEO clause is incorporated by reference under the requirements of the FAR by simply including a citation to the regulation.

Now the problem with that is it doesn't tell you anything. It's easily overlooked in a whole big contract full of lots of words and lots of citations.

Any gives you no information no clue what those regulations are what that means to you. There - we have had numerous instances of subcontractors who really didn't know that they had obligations at all because all they ever had was a reference like that that wasn't meaningful.

So what we've done in the final rule is we appreciate the convenience and importance of being able to engage an corporation by reference but we still wanted people to have some idea of what this incorporation by reference refers to.

So the final rule says you can still engage in a corporation by reference but it's to be done by including the citation but in addition to that it must include the language you see up on the screen right now.

The text must be in bulk. And it says this contractor and subcontractor shall abide by the requirements of 41CFR60-741.5A.

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.

Now including this language it's brief. But it will certainly put subcontractors on notice that the federal contractors that they have specific equal employment and affirmative action obligations as federal contractors.

Next turning to the prohibitions the final rule modifies makes a couple of changes here also that are mandated by the ADAA.

It adds a provision clarifying that contractors are not required to provide reasonable accommodation to individuals who only meet the regarded as having a disability standard.

It also adds the ADA's prohibition on the use of qualification standards, tests, or selection criteria that are based on uncorrected vision unless the contractor can show that the factor is job related for this specific position and consistent with business necessity.

Once again these regulations will bring our regulations into conformance with ADAA. And will make our regulations consistent with the EEOC's updated ADAA regulations.

Next the final rule also adds another provision dealing with accommodations that reminds contractors that the accommodation obligation extends to their use of electronic and online application systems.

So if a contractor is using such a system it has to provide reasonable accommodation if it's needed to ensure that a qualified individual with a disability who is unable to use the system is nonetheless provided with an equal opportunity to apply and be fully considered for all jobs.

Now if you're thinking gee didn't I read a directive like that? Yes you did. We've also included it here in the final rule.

The final rule also encourages but does not require contractors to make their online job application systems generally accessible and compatible with the system technologies such as screen readers that are frequently used by individuals with certain kinds of disabilities.

Now if you do that that does not guarantee that you will not get requests for accommodation and will not have to provide reasonable accommodation.

What it does is reduce the number. It will likely reduce the number of requests for accommodation and likely reduce the number of people who will have difficulty using your online application system.

But again reasonable accommodation pertains to individuals and needs of individuals who have disabilities and the limitations those disabilities cause.

So it's not going to be a perfect shield. But it certainly will go a long ways to help you in reducing the number of accommodations needed.

Next please now we get to the invitation to self-identify. The final rule as some of you know made several changes to the requirement that contractors invite voluntary self-identification of disability.

At the pre-offer stage the final rule adds a requirement to invite applicants to self-identify as an individual with a disability pre-offer.

Let - I don't - let me say plainly this does not violate the ADA. It does not violate EEOC regulations.

If you actually read EEOC's regulations you will see that it specifically envisions pre-offer self-identification requests to for 503 of the rehabilitation act.

In addition to that the cost there continued to be questioned even though we quoted EEOC's regulations.

We have posted on our landing page for the 503 rule a letter from EEOC to Director Shiu explaining very clearly that self-identification pre-offer for 503 purposes is not in violation of the ADA.

And you're welcome to see it any time. It's available should you still have any doubts or questions about that particular point.

Now why did we do this? Adding this requirement was really vitally important to fill a very large data gap.

Now although many people with hidden disabilities may choose not to self-identify at this early stage of the process many people with obvious disabilities have been involuntarily self-identifying for years anytime they came to the workplace for an interview anytime they came to the workplace and asked to fill out an application.

However there has been no record of how these individuals fared in the hiring process, no record of whether or not they were screened out by any employment barriers whether intentionally or unintentionally, no record even whether or not they were even there at all.

And so having a requirement like this at the pre-offer stage we hope will change that and begin to fill that data gap for both not only for OFCCP but for contractors that as well to get an idea of whether or not there are barriers in their employment processes and their hiring processes that are screening of people with disabilities.

At the post-offer stage the final rule retains the existing post-offer invitation to self-identify. Again people who might not feel comfortable particularly if they have a hidden disability self-identifying at the pre-offer stage might feel differently once they have the job in hand. So we have this retain this request at this stage.

Then we also have added a request an invitation for employees. And we have done that because unlike things like race disability is not an immutable characteristic.

Someone who does not have a disability when they're hired may later become disabled and somebody over time who has a hidden disability may become more comfortable about self-identifying once they've been in the workplace for a while and feel welcome in that environment.

So we add this self-identification invitation for employees. Here's how that requirement works. The final rule says the invitation must be issued the first year that the contractor is subject to the self-identification requirement.

It would be - it must be issued again at the five year mark and then every five years thereafter that the employer is a federal contractor.

The final rule also requires that between these five year invitations the contractor at least once must remind employees in some way that they can always update their disability status at any time in a voluntary way.

This reminder can be very simple. It can be in the form of an email to all employees. We certainly get a lot of emails to all employees on a number of things here at the Department of Labor. It can be a conspicuous notice on the Web site, or on a bulletin board, or in some other way.

So this is one of those areas where contractors have the flexibility to do what fits in with their work culture and what is easiest and meet their needs the best.

A couple of things I want to point out about this requirement first all 503 self-identification invitations will be made by the contractor using a standardized form that OFCCP will post on its Web site.

It's not there yet. You'll see, you know, if you go to the landing page you'll see it will say coming soon.

It will be a simple form. It will basically ask people it will have the definition. Explain what a disability is. And ask people if they wish to voluntary self-identify. And somebody can say yes I have a disability or somebody can say no I don't wish to self-identify.

It will not be more in depth than that. It will not ask people what kind of disability have, how long they've had a disability, or any other information beyond whether they have a disability. So it will be very simple.

Also in response to comments from contractors in the preamble we've made it clear that contractors may self-identify an individual as having a disability even if the person chooses not to identify themselves.

So a contractor can identify somebody as having a disability even if they choose not to self-identify in one of two circumstances either when the disability is obvious and the person chooses not to self-identify or if the disability is known to the contractor.

For example if somebody put in an accommodation request for their diabetes but hasn't self-identified this is somebody the contractor now know has a disability. No guessing is allowed.

Now this provision is analogous to what we permit contractors to do with respect to the identification of race and gender under Executive Order 11246 and it's designed that way intentionally so we don't permit guessing there. We don't permit guessing here so onward.

Next slide please. One concern many contractors commenters had that we've saw repeated over and over again was the timing of pre-offer invitations to self-identify.

Contractors were concerned that the requirement to collect preauthorized self-identification data wouldn't comport with the Internet applicant rule that you find in the Executive Order 11246 regulations.

And that that would mean that they'd be required to send pre-offer self-identification invitations to everyone who had submitted a resume or an application electronically including those whose resumes were unsolicited entirely and there was a great deal of concern about that.

So the final rule does not adopt the Internet applicant rule. However in appreciation of the concern and in an effort to simplify and harmonize the Section 503 regulatory requirements with the Internet applicant regulations under the executive order the preamble explains that as a matter of policy OFCCP will permit contractors to invite applicants to self-identify as an individual with a disability at the same time as the contractor selects demographic data from applicants under the executive order.

Keep in mind though a couple things. First under the Executive Order's Internet Applicant rule contractors are allowed to in essence do a first cut and screen out individuals that they believe do not meet basic qualifications for the position before they collect demographic data on race, gender and ethnicity.

Because of this there is a concern that these basic qualifications may be used either intentionally or inadvertently it really doesn't matter to screen out qualified individuals with disabilities because those qualifications may not be designed to take into account the possibility of reasonable accommodation.

So they may not be designed to take into account somebody with a disability might be able to meet the qualification with a reasonable accommodation or might be able to perform the essential functions of the job with a reasonable accommodation.

So in light of this again the preamble has a rather lengthy discussion of this topic. The preamble points out that under Section 503 it's unlawful for contractors to use qualification standards that screen out or tend to screen out an individual or class of individuals on the basis of disability unless the standard is job related and consistent with business necessity.

This is not new. This is in the existing rules. This has been there. It comes - it was in the ADA. So this is not a new provision.

But the preamble is pointing out this applies to contractors design and use of basic qualifications screens under the Internet Applicant Rule because these screens are nothing but qualification standards that's what they're being used for.

In addition selection criteria that relate to the performance of an essential function or are consistent with business necessity can't be used to exclude an individual with a disability if that person can satisfy the criteria with a reasonable accommodation. So please keep those things in mind when designing and using basic qualifications screen.

Next slide please. Moving right along some of the most significant changes to the required Affirmative Action Plan elements relate to record keeping.

And recordkeeping of course is one of the keys to accountability for compliance. So first in the area of outreach and recruitment the final rule retains contractor flexibility to choose the outreach and recruitment methods that work best for you whatever meet your needs whatever works for you you can use.

In the final rule though you'll find some updated examples about reach and recruitment activities in the regulations.

And you also will find a couple of new things and here is what's new. Contractors must document each of their outreach and recruitment efforts. And do an annual written assessment of the effectiveness of each one.

Contractor's conclusions in this regard - must be reasonable as determined by OFCCP. If the contractor determines that the totality of its efforts were not effective it must identify and implement alternative efforts.

Now this does not mean that every single effort must be a smashing success. It means that the totality of efforts must be effective.

And if they are not you need to be doing something else and change them, So that's the purpose of this whole provision by assessing them, by doing an assessment of each one, and identifying them, you now have the information to determine what works, and what doesn't work, and then to change things so they - will work better.

Contractors are required to maintain all of the records regarding outreach and recruitment including that annual assessment for three years.

Now again the purpose of this is to really allow for a much better picture of what's going on in the workplace and for a much better picture of what is working and what is not working by allowing you to see what's happening over time.

So it may be an off year or it may be that something just doesn't work. So having this kind of information for three years gives you the ability to see, and to see trends, and to see what is actually working over time and what perhaps needs to be changed. And is it working quite so well.

And of course OFCCP can always help identify alternative means once you determine things aren't working so well.

Next slide another significant recordkeeping requirement is the new Section 44K data collection and analysis requirement.

This provision requires contractors to document and to update annually several quantitative comparisons for the number of individuals with disabilities who apply for jobs and the number of individuals with disabilities they hire.

Specifically contractors must track the number of individuals with disabilities who are applicants, the total number of applicants for all jobs, the total number of job openings and jobs filled, the number of individuals with disabilities that are hired and the total number of applicants hired.

The purpose of this provision is to fill a data gap that currently exists in Section 503. In Section 503 right now there is no structured data collection requirement regarding the numbers of individuals with disabilities who apply for jobs.

Without that kind of information it is merely impossible for contractors and for OFCCP to perform even rudimentary evaluations of the availability of individuals with disabilities in the workforce since we don't know who's there or to make any sort of objective assessment about the effectiveness of contractor outreach and recruitment efforts.

Again this is another effort to provide tools that will help assess what's going on in the workforce, whether there might be barriers or problems and how well things are working.

This data must also be maintained for three years. Again so that it can be used over to spot trends over time.

And to see what's going on over time. Are things moving in the right direction? Are things moving in the wrong direction or not moving at all?

This will help track progress towards equal employment opportunity help identify when there might be a barrier somewhere by having this kind of data and having it over time.

Next perhaps the most critical change in the 503 rule is the establishment of a nationwide 7% utilization goal for qualified individuals with disabilities.

This is a little different from the placement or hiring goals that we have in the executive order for those of you who are contractors in that its focus is on the presence of individuals with disability in the workforce, throughout the workforce, rather than just on newly placed employees or who's being hired.

The goal is derived from American Community Survey data regarding the availability of individuals with disabilities.

And it includes an estimate of discovered workers with disabilities so that this number accounts for historical discrimination.

And it accounts for those with disabilities not currently employed due to discrimination, due to employment barriers, who've basically just given up looking and removed themselves from the workforce.

The ACS definition of disability is similar to the definition of disability used in 503 and the ADA but it's narrower in scope.

So while the ACS data is not perfect data it's certainly it's the best data source that we have available.

The goal will for the first time provide contractors with a quantitative yardstick against which they can measure success of outreach and recruitment efforts.

And also it will help contractors assess whether and where barriers to equal employment opportunity may still remain.

The final rule we've tried to make this as simple as possible. So the final rule requires that contractors apply the goal to each of your Executive Order 11246 job groups on an annual basis. So just as you would your - any goals that you may have for minorities or women.

There is an exception for the smallest contractors with 100 or fewer employees. These employees have the option of applying the goal to their workforce as a whole but are reminded that segregation is strictly prohibited under this law as under all our laws.

When the goal is not met in one or more job groups the contractor must take steps basically the steps we've been talking about assessing its personnel processes, assessing the effectiveness of your outreach and recruitment efforts and the results of your affirmative action program audit to determine whether and where there may be impediments to equal employment opportunity.

If the contractor identifies a problem area it must develop and execute action oriented programs designed to fix those problems.

Now it is - let me again be very clear simply failing to meet the goal is not a violation. It does not carry any penalties. It will not result in you losing your contracts. It will not result in any sort of sanction whatsoever.

The goal is not designed to be sort of a got you for us. The goal is intended to provide a tool for analyzing and assessing workplace processes, and affirmative action efforts, and the progress toward equal employment opportunity.

So not applying the goals as you're required to in the regulations could be a violation of the law. Not doing the other assessments we've been talking about this afternoon could also be a violation.

But the mere fact that the goal is not being met so you're doing everything right and the goal is not being met that is not constitute discrimination and it is not a violation of the law. So if you've been reading or hearing anything to the contrary it's just not correct.

Lastly let me say the final rule states unequivocally the goal is not a quota. The goal is not an employment floor nor is it in employment ceiling.

It is simply a management tool designed to help measure progress toward equal employment opportunity.

Next please. There are also a few changes to the law that pertain to the way OFCCP will be conducting compliance evaluations.

And again these changes reflect changes in the way business is done, it reflects changes in technology, and the way in which we do business.

So the changes in the rules provide clarity regarding the scope of compliance evaluation. They provide us additional flexibility in the manner in light of the kinds of changes and increased use of technology in the business place and in the governments.

And as a result changes will make us more efficient as an agency in conducting compliance evaluations. It will make us more effective as an agency. And these should be viewed as good things by everybody.

So one of the changes that you'll see in the regulations is the addition of preaward compliance review procedures added.

The preaward procedures that you'll find in the final rule mirror the ones in the Executive Order regulations.

And that's the general idea. So they'll be parity in this way. And technical assistance on this level can take place on all laws. And that should be very helpful to contractors and helpful for us.

The final rule also includes a provision incorporating the administrative review board's 2012 Frito-Lay decision.

Now in that executive order case the ARBs as we call the review board upheld OFCCPs long standing position that when conducting a compliance evaluation the agency has authority to obtain information pertinent to that evaluation through periods after the date of the scheduling letter and is not exclusively limited to information that predates the scheduling letter.

This can be necessary for example in order to determine whether violations that we have found are continuing or whether violations have been in fact remedied.

The Frito-Lay case taught us that clarification regarding this policy was needed. And since OFCCP has always followed the same policy with respect to Section 503 the final rule adds a provision clarifying this matter.

It states that OFCCP may extend the temporal scope of the desk audit beyond that set forth in the scheduling letter if OFCCP deems it necessary to carry out its investigation of potential violations.

Again this does not represent a change in policy. It does not represent a new contract obligation of any kind it's simply a clarification.

In addition the final rule provides that OFCCP can review documents during a compliance check either on site or off site and removes the requirement that focused reviews be conducted only on site meaning that they too can be conducted on site or off site. And again this reflects the common use of electronics technology and whatnot.

These revisions are going to make us much more efficient which means we should be able to complete compliance evaluations more quickly which of course is good for contractors and good for OFCCP alike.

Next slide as we mentioned a couple of times before the final rules establish a new three year retention period for certain records, for documentation required, for concerning external outrage and recruitment efforts, and concerning data collection analysis in the new 44K.

We thought it would be very helpful to have in one place the requirements for which there is a three year retention period so that we don't have to try to remember or go looking it up.

And so in the final rules you'll find the three year record retention period will not only be mentioned with the requirements that are subject to the three year attention period but in a separate provision as well so they'll be in one place.

Next slide there's one other provision I want to mention to you that will foster greater efficiency in the way OFCCP conducts compliance evaluations and complaint investigations.

This provision is found in the access to records section. It requires contractors upon request to inform OFCCP of all formats including electronic formats in which its records are maintained and requires contractors to provide OFCCP with the relevant records in whichever of these formats that we request them.

Now this provision does not require contractors to maintain records in any particular format. That's not what it's about.

It only requires contractors to tell us what formats your records are already maintained in. And then to provide them to us in whichever of those formats we request.

And once again having records electronically will improve our efficiency in conducting compliance evaluations. And will make us more effective as well and will probably save a lot of trees.

In this same section the final rule reiterates a requirement for contractors to provide OFCCP with offsite access to records when it's requested during compliance evaluation or a complaint investigation.

Now another concern we heard from contractors about offsite record the use of records off site was confidentiality concerns.

So in the final rule we have also added a provision that's confirmed OFCCP's long standing commitment to treat records provided by contractors as confidential to the maximum extent. The information in them is exempt from public disclosure under the Freedom of Information Act.

It's not a change in policy for us. But again it's a clarification that we hope will allay some concerns out there.

Next slide the Appendix A which is the guidelines on contractor's duties to provide reasonable accommodation

When you look there you won't find tremendous changes. I just wanted to alert you to some what we call updating tweaks that you'll see there to basically conform that to other changes made in the regulation.

Most significant among those are you'll see a reference to the new invitation to self-identify using the OFCCP provided form.

You'll also see a mention requiring that in the event needed reasonable accommodation by somebody would constitute an unreasonable hardship for the contractor.

Because of cost of the person with the disability should be given the option of providing their own accommodation or of paying the difference basically the difference between the portion that would be an undue hardship and the rest of it that would not be.

And there's also a change in there stating that generally the contractor should seek the advice of an individual with a disability when providing them with a reasonable accommodation.

Next Appendix B is new. And it provides guidance on best practices for contractors to use when voluntarily choosing to create and implement formal written reasonable accommodation procedures.

As some of you may know each federal executive branch agency like the Department of Labor is required to have an implement formal reasonable accommodation procedures.

They can be very helpful in a number of ways. So what we've done in Appendix B is provide you some guidance in the way of describing this as a best practice on the federal sector requirement should you want to engage in that kind of a practice for yourself.

Okay I think that concludes our tour of the major changes in the final rule. As I said at the beginning this is not a single shot operation. There will be more technical assistance.

And please call us or reach out to us should you want - have any other questions as we go along. And we just hope to give you an introduction today. And I'll turn it back over to Lisa for our questions.

Lisa Jordan: Thank you Naomi for that extensive presentation and a great introduction to our new role. We do have a few questions we want to address that came through over the chat.

And so I'm going to turn it over to Margaret Kraak another Branch Chief in our division here at OFCCP.

She's going to ask the questions. And then they'll be addressed by some of our panelists that's on the Webinar today. Margaret?

Margaret Kraak: Good afternoon everybody. It was a great presentation Naomi. Thanks. So the first question it's kind of an easy one. When will the rule be published?

Naomi Levin: Our expectation is approximately two weeks. It couldn't be soon enough for me but that's our expectation about two weeks.

And again as soon as that happens we'll post it on our Web site. We'll put a link to the registered version and so everybody will be able to see the effective date.

Margaret Kraak: Great. Great thank you. And we did get a lot of questions. So we're going to be the sort of bouncing from topic to topic so forgive me but it was a very dynamic chat going on. So we had a lot of questions a lot of different topics.

So can contractors help - can subcontractors help federal contractors meet their utilization goals?

Naomi Levin: That question kind of sounds like its asking can employees and subcontractors be counted towards the goal of a contractor.

And the answer is no. That's true of the executive order is well. And it would be true here as each contractor and subcontractor is responsible for applying the goal to their own job groups and their own workforces.

Margaret Kraak: Okay. Okay are construction contractors required to follow these requirements?

Naomi Levin: Yes.

Margaret Kraak: Okay

Naomi Levin: They are.

Margaret Kraak: What is OFCCP's definition of a disability?

Naomi Levin: The Section 503 definition of disability is identical to the definition used in the ADA. So that would be an impairment that substantially limits, a major life activity, a record or history of such an impairment, or being regarded having such an impairment it's exactly the same under ADA regs.

Margaret Kraak: Okay all right thank you.

(Jessica Lind): And actually if I can just jump in and, you know, this is (Jessica Lind) in the Solicitor's office. And Naomi is exactly right.

It is the same definition under 503 as under the ADA which also means that it's to be construed in favor of broad coverage of individuals to the maximum extent permitted by law.

So the question of whether someone is an individual with a disability really should not require extensive analysis.

Margaret Kraak: Great. One participant asked can we collect disability information at the pre-offer stage and doesn't this conflict with the ADA?

Naomi Levin: Absolutely not. The original ADA regulation actually envisioned that Section 503 would include a pre-offer self-identification.

In addition to that well for one thing EEOC is part of the regulatory process. So we would not be able to issue a regulation that was inconsistent with their regulations.

And as I mentioned during the presentation because there still seemed to be doubts we have posted on our Web site a letter from EEOC's legal counsel on this issue and certifying that this practice is perfectly in accordance with the ADA.

And basically explaining all the reasons why that's so. So anybody can go to our landing page at ofccp. What is it wwdol.gov/ofccp. And then go to the 503 landing page. And we have a link directly for that letter.

Margaret Kraak: Great. Thank you. And I've actually got a follow up question that came in as well. Doesn't the pre-offer and five year self-identification process collection of data expose employers to significantly greater risk for ADA claims because now employers are aware of disabilities even those not requiring accommodation?

Naomi Levin: No. We - it should not do that. For one thing people making hiring decisions won't be getting that information in the first place. That's to be kept separately and confidential and kept in a separate data analysis file.

So those in the workplace unless somebody's asked for an accommodation shouldn't be getting that information in the first place.

And in the second place I would remind people that we've been asking for a race, and gender, and ethnicity data for decades. And that has not posed any particular difficulties. And we don't see that this would do so either.

Margaret Kraak: Great thank you. Another question if a contractor collects the applicant information electronically who on the staff should be allowed to see it for example recruiters, hire manage, who should see this data?

Naomi Levin: Well generally this data is kept confidential. And so it would be kept and used by those who normally do data analysis for AAP purposes under the other AAPs.

So for the executive order it would be used by those same people. So it should not be going to the people making hiring decisions and using those hiring decisions so there shouldn't be an issue.

Margaret Kraak: Okay. Okay I've got a question about the goal. Is the 7% goal for each job group or for the entire company?

Naomi Levin: For most employers that will be using their Executive Order 11246 job groups. We did that intentionally for two reasons.

One because the job groups already exists. And that means there's not a lot of extra work to do. You already have them.

And the other reason we did that is it makes it easier to avoid segregation. We didn't want people with disabilities being hired in droves into low paying jobs and then saying we've met the goal workforce wide.

That being said we recognize that the smallest contractors may have some very small numbers to deal with.

And so we put in an exception saying if you have 100 or fewer employees in your total workforce you have the option to use your - and to apply the goal to your entire workforce but again be mindful that segregation is strictly unlawful.

Margaret Kraak: Okay.

Suzan Chastain: Could I just - this is Suzan. I just wanted to - I just saw there were a number questions about this in there again I just wanted to emphasize some people said well we say entire workforce or we mean entire workforce in an establishment?

And as - just to emphasize what Naomi just said the answer to that is no it really is the entire workforce across all establishments.

Margaret Kraak: So next question is what could you explain the difference between placement goals and utilization goals?

Suzan Chastain: Sure. This is Suzan again. The - what the focus of a placement goal is a goal it's a hiring goal. So what the - what we're focusing on is - basically how many people are hired.

The - and of course in Section 503 what we decided to use was a utilization goal now what the focus of the utilization goal is the employees - incumbent employees in the workforce.

So we're taking a little different approach. And we're doing it because of the - some differences in terms of disability particularly when we did that initial outreach in terms of these town hall meetings and had discussions with people with disabilities about what are the barriers for people with disabilities?

What we heard was that there were not only problems with getting into the workforce but also problems with having people with disabilities be retained in the workforce.

Number one of the differences with disability is it is a mutable characteristic. Someone might be hired as a - and not be disabled and then become disabled.

And what we wanted to do was encourage employers as they are required to do is to provide reasonable accommodation. Do things to keep their workforce on the job when they have a disability.

So for in Section 503 context was a utilization goal there's really two ways that employers can work to meet that goal.

One is placement, increased recruitment, outreach those kinds of things. But the other is to be very careful about their current workforce.

And to the extent that someone may need an accommodation or may need, you know, some kind of extra help in order to actually be retained as an employee that actually is another way then for that employer then to meet their goal too. So that's why there's a difference between - and that's why we use the utilization goal here.

Margaret Kraak: Oh okay. Thanks for the clarification. Somebody wrote in and asked the Section 503 Affirmative Action Program was always available for employees to inspect.

Now that we're adding data analysis to these programs are - is the entire program still available for inspection or how is that going to be handled?

Suzan Chastain: Again this is Suzan. The - there is still an obligation to make that program available except for the data - data collection data analysis part of the AAP.

So that's that portion and will be part of the AAP but it will not be a portion that's required to be then made available by the employees. And by the way that regulation that contains that provision is our section 760-741.41.

Margaret Kraak: Great thank you Suzan. So another question came in about the self-ID form and the whole process around it.

If an employee selects no or that they don't identify as having a disability but the employer becomes aware that they do can be employer change the status in the data they're collecting?

Naomi Levin: Again under the same circumstances they can self-identify for somebody who is identified in the race context.

They are able to identify somebody with a disability. So that's if they have actual knowledge that somebody has a disability but are not guessing or if somebody has an obvious disability.

So we are using a guideline that is analogous to what we use on the executive order side when it comes to race and gender.

Margaret Kraak: Okay great. Thank you another staying with the form can an employer make the form into an E-version for posting online?

Naomi Levin: I would think so. I don't know why that would - I don't know why not.

Margaret Kraak: Okay thanks. Shifting there is a question about the linkage agreements. Is there any linkage requirement in the final rule?

Naomi Levin: No. There's not a linkage requirement in the final rule. What we did was retain the flexibility for contractors to choose their own sort of methods.

So there's the requirement to engage in recruitment, to analyze the success the effectiveness of each of your recruitment efforts, and to assess whether your efforts over all have been effective or not? And that's really what counts. And that's really what we're after.

And, you know, we're always available to help you in designing outreach and recruitment efforts. But really we're aiming to look for results as opposed to mandating the specific way in which to do outreach and recruitment.

Margaret Kraak: Okay thank you. So shifting back to the form can the contractor add the language say I decline to self-identify on the form?

Naomi Levin: Can who add that?

Margaret Kraak: Would a contractor...

Naomi Levin: No. The whole point of having a form is to have standardized language. And we've done that for a couple of reasons.

One is to sort of some people may react to the form by wondering why the contractor wants this information.

By having a standardized form it basically removes it. It's not the contractor asking it's this outside party asking.

It also removes the problem of having to figure out how to ask and not ask in the wrong way. So the purpose of having a standardized form is that it be standardized and should not be altered by contractors at all.

Margaret Kraak: Okay all right thank you. Another question about the self-identification is since the self-identification requirements are in Subparts C does that mean that a contractor is not required to begin soliciting disability data until the first full Affirmative Action Program cycle after the effective date?

Naomi Levin: That if they have a plan if they have an AAP in effect on the day of the effective date then they do not have to engage in Subpart C until the beginning of their next cycle. And that would include this.

Remember there's going to be a transition period. And basically the transition period there has to be a start somewhere.

And so that's what this is going to be. It's going to be a phased in transition period for all of us and you have to start someplace.

Margaret Kraak: Okay all right thanks. Shifting to the posting for a minute will the electronic postings of notices be acceptable for employees who are actually at the site or on site?

Naomi Levin: The posting requirement did not change with respect to what's required on site. But we recognize that there are not only teleworkers who don't come to the worksite other types of workers who don't work at the employee's worksite.

And so what we did was address that particular issue and the use of electronic posting to address the needs of those particular employees. But we did not change the way you meet the posting obligation as to employees in the workplace.

Margaret Kraak: Okay thank you. So I'm going to shift to another sheet of - hold on a minute. So we just got our first customer who is a contractor. So does this apply to subcontractors as well?

Woman: I think the - we get a couple of questions relating to subcontractors.

Margaret Kraak: Okay.

Woman: People wanted to know they were a subcontractor or they are just got their first government contract and they were wondering what they needed to do for the subcontractor.

Woman: Yes. If you're a subcontractor who meets the requirements for coverage you are a covered contractor. If you meet the requirement for AAPs you have an obligation to engage in that as well.

Woman: Right. And I'm going to say for somebody who may be new to this process which I gather from the questions.

So what that means is that the subcontractor needs - it needs to be - have a contract of at least \$10,000. That's the same as for a regular contractor.

And that the subcontracts that are going to be covered we defined that in our regulations. That did not change. It's the same under our - all of our programs.

So it's a subcontractor that's basically is either necessary to the performance of the government contractor under which any portion of the government contractors obligation to the government is performed.

So it's - so subcontractors in those situations will be covered. And that the contractor needs to include the EEO clause is what they need - that's there...

Woman: Right.

Woman: ...obligation with respect to their subcontractors is to include that EEO clause.

Woman: And if you are the - a new subcontractor since it sounds like we have at least some out there. There's a lot not only lots of information on our Web site.

But on our Web site you should be able to easily locate your local office or to give us a call and we will help you.

And the local office will be more than happy to provide you with technical assistance on what your obligations are under this or any of the other laws that we enforce.

And help get you, you know, up to speed, and comfortable, and informed of but what your obligations are and what you need to do.

Margaret Kraak: Okay great. Thank you. We actually have some - a very proactive question. Can a contractor begin using the new self-ID form now?

Naomi Levin: I wish I could say yes but it's not online yet. But as soon as it is once the law is effective you would be able to do that.

The law is not effective until 180 days after publication. So we'll certainly have the form online before then.

So I would encourage you basically you do not have to - you have the option of phased in compliance. If you don't wish to use that you can be up to speed and running with a 180 days and that's just fine with us. That's great.

Margaret Kraak: Great. So I'm going to move there are a number of questions about the effective date and how it affects affirmative action programs so I'm going to run through some of those.

So first was my company's AAP is in a calendar year cycle. If we update our AAP in December 2013 for calendar year 2014 does the AAP need to comply with the old existing rule or the new rule that is to be published shortly in the Federal Register.

(Jessica Lind): This is (Jessica Lind) and I'll answer that. As stated in the preamble to the final rules the phasing compliance provision of the final rule will permit a contractor to maintain its AAP which was developed under the old rule and in place on the effective date of the new rule until the end of that AAP cycle.

At the end of that cycle however when the contractor is reviewing and updating its AAP the contractor must then come into compliance with the new affirmative action requirements published in the final rule.

In your - in the particular case of this person who's asking the question if your AAP cycle ends in December 2013 which will occur before the effective date of this final rule which will likely be sometime in March 2014 then your AAP for the 2014 year need only comply with the old rule. The first AAP you develop under the new rule will be the AAP you develop in December 2014.

Margaret Kraak: Great. Thank you. So then the next one about the effective date is going to be my AAP cycle runs April 2013 through the end of March 2014. Will the old rule or the new rule apply to my next AAP cycle?

Suzan Chastain: Okay so we would - publication of the new rule like I said is expected to happen within two weeks hopefully because we - certainly within the coming days.

So the effective date for the new rule as I said before will likely occur sometime in March 2014. Your next AAP cycle is scheduled to be in an April 2014 if I understand the question correctly so therefore it must comply with the new rule.

Margaret Kraak: Okay all right thank you. We're going to do one more final one because this - there's - this is a real hot topic.

Woman: Okay.

Margaret Kraak: So my AAP cycle begins in February of each year in February 2014 will be old or the new rule apply to my AAP?

(Jessica Lind): Okay. So in this instance your AAP cycle will begin in February 2014 before the new rule becomes effective.

So your AAP may be created under the old rule and may be maintained until February 2015 when your next AAP cycle is scheduled to begin at which point the new rules will apply.

Margaret Kraak: Thank you. So we're - but we're going to stick sort of with the topic. We're going to go into the concept of grandfathering now.

So regarding the grandfathering of existing AAPs must the employer nonetheless begin asking for free offer self-ID of individuals with disabilities upon the rules effective date so that the - that when the next AAP plan date arrives in 2015 the employer can provide the new data analysis regarding application hires in its 2015 plan?

Woman: That's a great question. The requirement to invite self-identification is in Subpart C of the new rule. So the contractor would not be required to begin invitations to self-identify a pre-offer or from employees until the new affirmative action requirements kick in.

However contractors may certainly proactively begin inviting self-identification but are not required to. They are however required under the old rule to invite self-identification (unintelligible).

Margaret Kraak: Okay got it got it okay. Another question came in regarding the counting. So wouldn't companies be able to count a veteran with a disability and get both as - on their 8% veteran's requirement and on the 7% goal?

Woman: Yes.

Woman: Yes.

Woman: (Unintelligible) they're different laws. And they're different obligations. So if a veteran is a disabled veteran that means there a protected veteran under our veteran's law.

And so they would be counted and the, you know, considered when deciding when the employer's deciding whether they have done outreach and employment opportunities for protected veterans.

Assuming they're also an individual with a disability which they probably are under Section 503 in the ADA then they would be considered under our Section 503 utilization analysis as a person with disability.

Woman: And let me just say a lot of the disabled veterans have some very serious disabilities too. So that wouldn't be something that would surprise you to have people...

Woman: Right.

Woman: ...see.

Margaret Kraak: Okay all right. We got a couple of questions about the self-ID forms. Is it going to be possible to - or will there be two different self-ID forms veterans and Section 503 or is it possible to combine the forms?

Woman: Now for VEVRAA for veterans we have sample language included in the final VEVRAA rule. So there is some flexibility in the language you can use and we have model invitations there.

For 503 we will have a standardized form. Now whether you provide those two items together is a different question.

But the 503 forms will be one form for 503 and for VEVRAA there are sample invitations that you may use or may modify as appropriate.

Margaret Kraak: Great okay. A question came in about the EEO the EEO clause. So does the EEO clause have to be posted on every position or can't it be on the home landing page when searching for jobs?

Woman: I wanted to - there was - there were a few questions that people seemed to be conflating that EEO clause which is the clause that goes in the contract and the notice that's provided to...

Woman: The EEO poster.

((Crosstalk))

Woman: Well there's an EEO poster. But then there's also a notice that then is to go on job openings.

Woman: Right.

Woman: Right. And so the EEO clause the contract clause does not need to go on job posting. But one of the requirements is that of the EEO clause is that in all solicitations are advertisements placed by or behalf of the contractor.

Basically there needs to be a tagline...

Woman: Right.

Woman: ...on that announcement that the contractors an EEO employer. And this is an obligation that has existed...

Woman: Right.

Woman: ...under the executive order for many, many years. All we're doing now is adding disability and actually protected veterans...

Woman: Ray.

Woman: ...under our other laws.

And so that needs to be on every basically announcement that would be done but if there's one sort of - so that's...

Woman: Yes. The EEO clause goes in the contract. And that's a statement of the obligations of a contractor or a subcontractor. And that's what that is. So we'll describe their obligations.

A separate thing entirely is what Suzan and what we always refer to around here as the tagline that you see a newspaper, adds, and in job announcements

that says we are an equal opportunity employer. We do not discriminate on the basis of. And we're saying now you have to add disability to that tagline.

The third thing of course is the EEO poster that you see this that says equal opportunity is the law. And that primarily describes for employees the protections of the law that they have and the obligations in a general way of employers and contractors not to engage in discrimination. So there's a sort of all three separate things.

Margaret Kraak: Okay. Okay we had a follow up question on the EEO clause as well. Do contractors now have to have separate EEO clauses for each separate regulation for 60-300, 60-741 and then of course the executive order regulations?

Woman: So actually right now there are separate EEO clauses is which I was referring to which are the actual contract clauses. Now the contractor has a choice currently under all of our laws.

They can either include verbatim the whole lengthy clause or they can incorporate by reference was what it's called which means typically just including the citation to the regulation.

Well one of the - and that's the current requirement under all three laws and those are obviously separate clauses and separate regulations.

One of our concerns so with both the - our Section 503 rule and the- and our new VEVRAA - if VEVRAA rule is that simply if a contractor chooses not to have the entire lengthy contract clause that incorporates by reference that really does not provide much information to a contractor or a subcontractor about exactly what that clause means.

And so we have - if they - for both of these sets of regulations if the contractor includes its to have a briefer incorporation by reference they need to use specific language that not only sites to the regulations but also explains for example in the case of Section 503 generally what 503 is. It involves nondiscrimination and affirmative action for disability.

So those separate clauses would need to be incorporated in the contract if someone chooses now to incorporate by reference.

Margaret Kraak: Great, great and then one last question. So -- and you may have gone over this I think we did before -- but what is the status of the rules?

((Crosstalk))

Woman: Where are they? Where are they now? When did they...

Woman: The rules...

Woman: Yes.

Naomi Levin: The final rule was announced on Tuesday by Vice President Biden. It has cleared OMB which is what it must do. When a rule clears OMB its next step is to go to the Federal Register.

All the Federal Register does is put it in the right format and publish it. That is their role and what they do. So once it has cleared OMB it is basically good to go and the government is ready to have it go.

So the rule is now posted on our Web site. But as I said the 180 day period has not yet started toward the effective date because that date is geared to publication in the register.

So what this is is it's basically an additional grace period is what it amounts to of these couple of weeks before publication.

So it allowed us to be able to get that rule out to you a few days sooner and to do a Webinar like this. And begin the process of having everybody sort of get familiar with the new rule while we wait for publication.

So that's the status of it. The 180 day period has not yet started. But the rule has been formally cleared for publication.

Margaret Kraak: Great thank you Naomi. Now I'll turn back over to Lisa now.

Lisa Jordan: Thank you. As you can tell that was a really rich discussion even among us as we're answering your questions.

And I would say we had close to over 200 questions that came through over the chat. And if we didn't get to your question we do have a record of that question. And we are using those questions to help us develop our frequently asked questions and other materials.

I just want to remind people say you just not - you didn't get enough today and you want to send more people to learn more about these roles this one in particular will be a repeat Webinar on September the 18 at the same time 2:00 o'clock Eastern Standard Time. And so that offset invitation and announcement will go out as soon before that Webinar starts.

So at this time I want to conclude. And thank our presenters for a very informative presentation. And it's really exciting here to have these revised regulations.

And at that point time unless anyone else from our presenters here would like to share any final words or anyone on the phone we will conclude this session. And we thank you again for attending and staying with us. And thank you for your time.

Coordinator: Thank you for your participation. This concludes today's conference call. You may disconnect at this time.

END