

**NWX DOL ESA OFCCP (US)**

**Moderator: Brenda Stewart**  
**February 6, 2014**  
**1:00 pm CT**

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen only mode. I would like to now remind all participants that the call is being recorded. If you have any objections please disconnect at this time.

I would now like to introduce our host for today's call, Ms. Brenda Stewart. Ms. Stewart, you may begin the call.

Brenda Stewart: Thank you Operator and good afternoon everyone. Thank you for joining us today. My name is Brenda Stewart and I'm your moderator for today's webinar. I would like to welcome you to the third installment of OFCCP's Moving Toward Compliance series.

Now, throughout this series, we've been covering a variety of topics. They've been related to the recent changes in the regulations for Vietnam Era Veterans Readjustment Assistance Act as amended, or VEVRA and section 503 of the Rehabilitation Act. And we'll refer to that as Section 503.

Today's training will cover the new component of VEVRA AAP. Our goal is to enable contractors to create VEVRA AAPs that are in compliance with the

new VEVRA regs. Now before I introduce you to the presenters that you'll see on your screen shortly, I'd like to go over a few housekeeping rules.

First, questions can only be submitted through the WebEx Chat panel. And that should be directed to all panelists. If you send it only to the host, myself, then our subject matter expert panel will not be able to see the question. But these questions can be submitted at any time throughout the presentation.

The subject matter experts will be reviewing the questions, preparing responses and we'll discuss those at the conclusion of the presentation. And for those that need closed captioning services, please maximize the WebEx Media Viewer, so that you can see live transcribing. Next slide.

We have two presenters joining us. And you can see them right now on your camera. And if you can't, just send me a chat message so I can help you resolve your video issues. Leo Lestino is a Regulatory Analyst and Ebony Ross is an Equal Opportunity Specialist.

Both are from OFCCP's Division of Policy and Program Development in the National Office. Welcome Ebony and Leo.

Ebony Ross: Thank you.

Leo Lestino: Thanks Brenda.

Brenda Stewart: During this presentation Leo will be conducting a mock technical assistance meeting with the federal contractor. Now Ebony will be playing the role of the federal contractor's human resources manager.

Now during this meeting, Ebony will be directing questions to Leo to make sure she understands these new regulations to ensure she understands their impact on her employer and how to ensure they're properly implemented.

Today's panel of subject matter experts include Naomi Levin from the Branch Chief of our Policy Branch and Susan Chastain and (Kerry Bickerstaff) from the Department of Labor's Solicitor's Office. Welcome to our panel. Now I'll turn the presentation over to Ebony to get us started.

Ebony Ross: Good afternoon. The Moving Towards Compliance training series is designed to have contractors come into compliance with the new VEVRA and Section 503 regulations.

As part of that series, we've already conducted a webinar on collecting data which is now available on OFCCP's Web site. A couple of weeks ago Leo Lestino here, did an excellent presentation of a component of a new Section 503 AAP, which are also available on OFCCP's Web site.

Today we will discuss the components of a new VEVRA AAP. On February 20, 2014, we will have a training series on job listings and contracts. And finally, on March 6, 2014, we will have a training series on goals and benchmarks.

I'll now turn it over to Leo so that he can tell us what we're going to learn today.

Leo Lestino: Thanks Ebony. Good afternoon everyone and I'm so glad you're able to join us for this third training in our series of Moving Towards Compliance, where we've been continuing this ongoing discussion on how to comply with the new regulations issued by OFCCP.

Today's training we're focusing on the VEVRA AAP. What are the new components of the VEVRA AAP? And really our objectives are - next slide please.

Our objectives are to enable contractors to identify what's changed under the new VEVRA regulations and to know what you need to do to draft a compliant VEVRA AAP. This includes new documentation requirements, new assessments, new data collection requirements, etc.

And secondly, we want to provide you with information on what you need to do as a contractor, to be able to create that first VEVRA AAP after the March 24, 2014 effective date, which is what we're calling here at OFCCP, the transitional AAP.

So hopefully we'll achieve those training objectives for today. Next slide please. We - I'm sure you have heard of these dates repeatedly during the course of this series, and then all of the materials that OFCCP has published thus far and - but we want to repeat them here because they are important.

So on September 24, 2013, our agency published two final rules that changed the regulations implementing VEVRA as 41 CFR Part 60-300 and Section 503 of Part 60-741. These changes take effect 180 days after the September 24, 2013 effective date, which is March 24, 2013. Exactly.

And the third date that our contractors need to remember is whatever the start date of your next affirmative action program (cycle) is. Because contractors who have an AAP may maintain their current AAP and then come into compliance with the new subpart C requirements.

And we're talking about those subpart C requirements today for your VEVRA AAPs, right, during your next AAP cycle. So those are the three dates that are important to remember and keep in front of you at all times. Next slide please.

I think it's important, before we get into the new requirements of subpart C under VEVRA, that we highlight one of the changes in the definitions section of the new VEVRA regulations.

While this is not part of subpart C which is the crux of our discussion today, subpart C and really the rest of the new VEVRA regulations, repeatedly refer to protected veterans which is a newly defined term in the new VEVRA regulations.

In the current regulations there is no catchall term that is used to refer to all veterans that are protected by the nondiscrimination and affirmative action provisions of VEVRA. The regulations as they said right now, our current regs, list them repeatedly when referring to them, right?

So special disabled veterans, veterans of the Vietnam Era, recently separated veterans and the often confusing other protected veteran's category. Often, I think people thought that the other protected veteran's category was the (unintelligible)...

Ebony Ross: Right.

Leo Lestino: ...when it really isn't. And it had a very specific meaning. So to provide clarity, the new regs did two things. First, it replaced that other protected veteran category with what that phrase actually meant - active duty wartime or camping (unintelligible) veterans.

So no more other protected veteran category. That is now replaced by the active duty wartime or camping (unintelligible) category.

Ebony Ross: So Leo, does this now mean that I can just say protected veteran instead of listing all of the categories of veterans protected by the VEVRA?

Leo Lestino: Well that takes me to the second change...

Ebony Ross: Okay.

Leo Lestino: ...is that it defined - there was a new term in the new VEVRA regulations called Protected Veterans. And that describes any veteran in any category that is protected by VEVRA.

Ebony Ross: Got it.

Leo Lestino: So that new term of protected veteran, you can use that. And actually that things are much more consistent now in the way we refer to the categories so people or groups from the mid (list) that are protected by the loss enforced by the OFCCP, they're all protected now.

Ebony Ross: Okay.

Leo Lestino: So no more other protected veterans. We refer to them as protected veterans, all veterans that have rights under our laws and throughout subpart C and throughout the rest of our presentation today, that's what we mean when we refer to protected veterans. Next slide please.

Ebony Ross: Oh, can I take this one?

Leo Lestino: Yeah, sure.

Ebony Ross: Okay. So what we have on our monitor here are all the AAP components that must be a part of the VEVRA AAP under the new regulation.

And the first one is the policy phases, review of personnel processes, physical and mental qualifications, reasonable accommodation, anti-harassment procedures, (unintelligible) dissemination of policy, outreach and positive recruitment. Next slide please.

(Unintelligible) dissemination of policy and reporting system, responsibility for implementation, affirmative action planning, data collection and analysis and finally, benchmark for hire.

Leo Lestino: Absolutely. And we'll go back and do a section by section analysis of each of these components as we continue with our webinar.

Ebony Ross: Okay Leo. Now I've noticed that there's a lot of parity under the new regulations between Section 503 and VEVRA. Aside from the last requirement, the benchmark for hiring and the Section 503 national utilization goal, every time...

Leo Lestino: The components seem to be the same. Right?

Ebony Ross: They seem to be the same. Right.

Leo Lestino: Right.

Ebony Ross: And as a contractor, I have always done the VEVRA in Section 503 AAPs together. Can I still do that?

Leo Lestino: Ebony you are right. There is a lot of parity between the two regs and the required components of such as 503 and VEVRA AAPs. And nothing in the new regulations prohibits combining them.

Ebony Ross: Okay.

Leo Lestino: So contractors, can continue doing so as long as all of the requirements of both rules are met.

Ebony Ross: Got it.

Leo Lestino: I would say that because there are a lot of data and analysis requirements that differ between the two regs. We recommend separating them so that you as a contractor can give proper attention to each - that each AAP requires.

But there is nothing in the regulations that prohibits combining the two AAPs together as long as the requirements are met, of both regulations.

Ebony Ross: Got it. Thank you.

Leo Lestino: Yeah. So now let's go back and do a section by section look at each of these components. Next slide please. So let's start with the first section, the policy statement.

The policy statement section requires federal contractors to include their equal employment opportunity policy in the company's VEVRA AAP and ensure that applicants and employees who are disabled veterans, are provided the notice in a form that is accessible and understandable to the disabled veteran. Right?

This is required in the current regs and it is still required in the new VEVRA regulations.

The policy statement is required to state that the contractor will recruit, hire, train and promote persons of all job titles and ensure that all other personnel actions are taken without regard to status as a protected veteran and are based only on valid job requirements.

The policy is also required to state that employees and applicants will not be harassed or threatened because they've filed a complaint, assisted or participated in any activity related to equal opportunity for protected veterans or (unintelligible) packages made in (unintelligible) by regulations or loss requiring equal opportunity for protected veterans.

And I would refer you to 41 CFR 60-300.44A for the text of those required statements. And I'm sure that sounds very familiar because as it stands that's what's in our current regs.

Ebony Ross: Right.

Leo Lestino: So the question is what's new?

Ebony Ross: What's new?

Leo Lestino: What's new in the VEVRA regulation? What (seem)s is that now companies top executive leadership is required to demonstrate their support for the companies' VEVRA AAP in the policy statement. This makes sure that the policy communicates to employees.

The support for the AAP goes to the very top of the contractors of the organization. That means that if you're a federal contractor with a foreign based parent company, your company leadership that is based in the United States is required to indicate that support in the policy statement.

Next slide please. And for the review of the personnel processes section, this has largely remained unchanged from the current regs.

Contractors are still required as they've always been required, to periodically review their personnel processes to ensure that they are careful, thorough and systematic, that they don't stereotype protected veterans, that contractors design procedures that facilitate this required review.

The requirement is unchanged. It is still under new regulations. You, as a contractor, are still required to conduct this periodic review.

In the AAP, contractors should provide an indication of how frequently you conduct this periodic review, when you last did a review and when your next review is expected to occur. You should also include in your AAP a copy or a narrative of the procedures that you follow to renew this periodic review.

Now to - going towards the point of the procedures that you use, the new VEVRA regulations do retain Appendix C.

Ebony Ross: Okay.

Leo Lestino: Appendix C contains a set of procedures that contractors may choose to implement to comply with the requirements under this part. It is optional - you're not required to implement the procedures in Appendix C but you can choose to do so.

Whatever procedures you choose to implement, whether taken from Appendix C or otherwise, they have to be included in this section for AAP.

Ebony Ross: Got it. So Leo, can contractors conduct this periodic review for compliance with both VEVRA and Section 503 simultaneously?

Leo Lestino: Yes. Absolutely. As you are currently permitted under the current regs, to conduct this periodic review simultaneously between Section 503 and VEVRA, you are still permitted to do that under the new regulations.

Ebony Ross: Okay.

Leo Lestino: Next slide please. Let's move onto the physical and mental qualifications. In this section, the new regs retain what is required in the current regs so it's largely unchanged.

Contractors are required to adhere to a schedule for the periodic review of all physical and mental job qualification standards, to ensure that any qualification standards that tend to screen out disabled veterans, are job related and consistent with business necessity.

The kind of qualifications that may be suspect are blanket vision and hearing requirements, blanket (unintelligible) requirements, tests, etc.

These are the kinds of qualifications that may have a screening effect on disabled veterans and that you, as a contractor, would have the burden of showing is job related and is (business) necessity. This review has always been required and is retained in the new regulations.

Ebony Ross: Leo, job related and consistent with business necessity seems to be the same standard that are used in Section 503. Is it?

Leo Lestino: It is. It is likely that a qualified disabled veteran under VEVRA is also a qualified individual within the disability under Section 503. That is (unintelligible) for this section.

The job related and consistent with business necessity standards is interpreted in the exact same way as the standard under Section 503.

Ebony Ross: Thank you.

Leo Lestino: Next slide please. Reasonable accommodation - contractors have always been required to provide reasonable accommodation to employees and applicants who are qualified disabled veterans absent undue hardship. This requirement is retained in the new regulations.

However, time (unintelligible) how we discussed for Section 503, the new VEVRA regulations also provides the clarification that the obligation to provide reasonable accommodation for qualified disabled veterans, goes towards the obligation to not discriminate against them...

Ebony Ross: Okay.

Leo Lestino: ...the VEVRA regs. So those two are tied together into a much more stronger statement.

Ebony Ross: Right.

Leo Lestino: Also, like we pointed out in Section 503, under the new VEVRA regulations, you, the contractor, are required as a matter of affirmative action, that as an employee, as a known disabled veteran is having performance difficulties that may be related to that known disability.

You as a contractor, are required to inform disabled veteran employee of the performance issue as whether the issue is related to the disability and inquire whether the employee needs an accommodation. This is that same affirmative obligation that we discussed in the last webinar under Section 503.

It exists under the VEVRA regulations as well.

Ebony Ross: Leo, what if a disabled veteran employee is having performance difficulty? That the contractor is unsure if related to the disability. Should I assume that the difficulties are related to the disability and immediately offer an accommodation?

Leo Lestino: I understand your question and, you know, this - really this affirmative obligation is patterned after what would (unintelligible) in this situation.

If an employee is having a performance difficulty then we would (require) that the supervisor would confidentially go to that employee and discuss the difficulties and what possible solutions...

Ebony Ross: Okay.

Leo Lestino: ...there could be. Right.

Ebony Ross: Right?

Leo Lestino: It's a form of context. It's the same thing here. The contractor should not assume that the problem is related to the disability until they do that confidential conversation.

Ebony Ross: Right.

Leo Lestino: So no assumptions. You should have that confidential conversation with the employee. Ask if the performance difficulty is related to a disability. And then after that, offer an accommodation if necessary.

Ebony Ross: Got it. Thank you for clarifying that.

Leo Lestino: Sure. Next slide please. The anti-harassment procedure section is largely unchanged. Contractors are still required to develop and implement procedures to ensure employees are not harassed on the basis of their status as a protected veteran.

The anti-harassment procedures that you as a contractor, develops, needs to be included in this portion of your AAP.

Ebony Ross: Right.

Leo Lestino: So if you develop - once you develop your procedures to combat harassment in the workplace, they need to be included here.

Ebony Ross: Okay.

Leo Lestino: Next slide please. So now let's discuss one of the big changes as under 41 CFR 60-300.44S.

Ebony Ross: Okay.

Leo Lestino: And 44S really has two parts, the external dissemination of policy and the positive outreach and recruitment part. Right?

Ebony Ross: Right.

Leo Lestino: Let's take the external dissemination of policy first.

Ebony Ross: Okay.

Leo Lestino: The current regulations recommend and I want to highlight that, the current regs recommend that contractors send written notification of the company's affirmative action and equal opportunity policy to all subcontractors including vendors and suppliers. What has changed? Exactly.

Ebony Ross: Right. What's new?

Leo Lestino: What's new under the regulations is that recommendation is now going to be a requirement. Contractors are now required under the new VEVRA regulation, to send that written notification of its company approved absent policy to its subcontractors.

Also, contractors - you as a contractor are required to document that you have satisfied that notification requirement.

Ebony Ross: So Leo, what kind of documentation of this notification requirement should contractors keep?

Leo Lestino: Okay. So as a contractor the regs don't actually ask for a specific kind of documentation. Anything that would show that notice was provided to the subcontractor would suffice...

Ebony Ross: Okay.

Leo Lestino: ...for this part. Examples of acceptable documentation may include copies of the notices that you send to the subcontractor, or some kind of sign acknowledgment from the subcontractor that they did receive a copy of the policy and the notice from the prime contractor.

Ebony Ross: Got it.

Leo Lestino: Next slide please. Let's now go to the second part of 44S which is the outreach for positive recruitment.

Ebony Ross: Yes.

Leo Lestino: Contractors have always been required to engage in outreach and recruitment efforts to identify and attract protected veterans to their workforce. This requirement is retained.

Ebony Ross: Right.

Leo Lestino: Contractors are still required to conduct that outreach and positive recruitment. In fact - and you do.

Ebony Ross: We always do.

Leo Lestino: I'm sure. In fact, the new regulations provides contractors with an updated list and its updated and expanded list of resources, to assist you in fulfilling your outreach and recruitment obligations. And that's actually in paragraphs F1 and F2 of 60-300.44S.

Ebony Ross: Okay.

Leo Lestino: This will allow you and the contractor to choose the specific resources that you believe will be most helpful in identifying and attracting qualified protected veterans, given your particular needs and circumstances.

Contractors - you as a contractor, have the flexibility to find the most effective mix of resources for your particular needs.

Ebony Ross: Okay.

Leo Lestino: What we want to highlight now is what's changed, right?

Ebony Ross: What's changed?

Leo Lestino: That's...

Ebony Ross: Right.

Leo Lestino: ...the ongoing conversation is what has changed under the new regulations. There are a lot of great changes. The new regs now requires contractors to conduct an annual self-assessment of your outreach and recruitment activities and to document that assessment.

This assessment requirement will ensure that you as a contractor, are thinking critically about your recruitment and outreach efforts and you implement modifications as necessary, to meet your obligations.

Ebony Ross: Well Leo, can you provide more detail on this assessment requirement?

Leo Lestino: Sure.

Ebony Ross: Practically speaking, how might contractors conduct and document this assessment?

Leo Lestino: That - that's an excellent question. And let's look at what the regs actually say as to how contractors should conduct this assessment.

Ebony Ross: Okay.

Leo Lestino: Right? The new reg states that at minimum, contractors should document that criteria that it used to evaluate the effectiveness of each effort and the conclusion as to whether each effort was effective.

So this tells us that the AAP should at minimum, list each and every outreach effort or activity that the contractor engaged in during the prior AAP cycle. And that the AAP should contain a list of the criteria that the contractor used in evaluating the effectiveness of its efforts. So let's talk about this criteria...

Ebony Ross: Yes.

Leo Lestino: ...because you're required to list that in your AAP, that you used in evaluating the effectiveness of your efforts. Right?

Ebony Ross: Right.

Leo Lestino: The regs make a very specific requirement that one of those criteria has to be the data collected under 41 CFR 60-300.44K.

Ebony Ross: Forty-four K data.

Leo Lestino: The 44K data. And that is a new section we actually made a webinar on data collection under 44K. That - and that is now in - on the OFCCP Web site. That was the first webinar that we did. We encouraged you to visit that to review the information there.

So for the criteria, going back to the criteria for evaluation, that 44K data for the current year and the two most recent previous years, has to be one of the criteria that you use in evaluating the effectiveness of your outreach and recruitment efforts.

That data conveys applicant and (unintelligible) methods, right...

Ebony Ross: Right.

Leo Lestino: ...for protected veterans. So you have been - you show that you use that in your evaluation. Finally, the regs are required that the contractor reach a conclusion as to whether the effort that they're evaluating, was effective or not.

That tells us that for each effort the contractor should provide an evaluation and a conclusion of effectiveness based on the criteria that the contractor has set.

If the contractor concludes that your total, overall efforts, right, are not effective, you as a contractor are required to identify and implement alternative efforts...

Ebony Ross: Okay.

Leo Lestino: ...like those provided in the list of resources at paragraphs F1 and F2 of the regs.

Ebony Ross: Okay. So Leo, let me make sure that I have this right.

Leo Lestino: Sure.

Ebony Ross: I want to make sure that I get it right because I definitely want to make sure that my company and the other companies out there comply...

Leo Lestino: Right.

Ebony Ross: ...with the new regulation.

Leo Lestino: Sure.

Ebony Ross: So at a minimum, the AAP should contain a list of the outreach and recruitment activities undertaken by the contractor?

Leo Lestino: Right.

Ebony Ross: Okay. Two, a list of criteria the contractor used in the assessment which must include that 44K data that you just mentioned.

Leo Lestino: Right.

Ebony Ross: And finally, an evaluation of each effort used in the criteria and the conclusion as to whether it was effective.

Leo Lestino: Right.

Ebony Ross: And then if the contractor concludes that its overall effort...

Leo Lestino: Right. The overall efforts.

Ebony Ross: ...are not effective then the AAP should identify alternative efforts that the contractor plans to implement?

Leo Lestino: That's exactly it.

Ebony Ross: Okay. And so then can I ask you a follow up question?

Leo Lestino: Sure.

Ebony Ross: So if I conclude as a whole, that my outreach and recruitment efforts are ineffective...

Leo Lestino: In totality.

Ebony Ross: ...in totality...

Leo Lestino: The overall. Right.

Ebony Ross: ...the overall effort, then the regs actually require me to try something else?

Leo Lestino: Exactly. That is why this assessment is valuable. It will enable you as a contractor to know what's working, right, and to spend resources more wisely, by only investing in efforts that actually achieve the desired result of identifying and recruiting qualified, protected veterans.

Ebony Ross: Got it.

Leo Lestino: I also want to point out that the new regulations also require contractors to document all outreach and recruitment activities and to retain that documentation for three years.

Ebony Ross: For three year?

Leo Lestino: Three years. So let's take a look at what this would actually look like at a - in a VEVRA AAP.

Ebony Ross: Okay.

Leo Lestino: Let's take a look at a sample...

Ebony Ross: Hold on.

Leo Lestino: ...table. Next slide please. So here is a sample. Now I want to reiterate that the regs don't require contractors to have a table that looks like this in the AAP. The regs don't specify a format for how contractors document their assessment. But this is a sample.

This is one way that a contractor might choose to document their assessment of the outreach and recruitment activities. Right?

Ebony Ross: Right.

Leo Lestino: So in this particular instance the contractor decided to document their assessment in the form of a table. And in this table they listed the outreach and recruitment activities that they undertook for the prior AAP cycle.

Ebony Ross: I see that.

Leo Lestino: They provided the date of the activity. The contractor in this instance, provided a description of the activity and an evaluation as to the effectiveness of the activity and a conclusion. So take for example the first row where they list the job openings for the local veteran advocacy group.

This particular contractor did that. They conducted an evaluation where they saw that they received 32 applications from protected veterans of which four were hired. So based on that, they decided that this is an effective activity.

Ebony Ross: Okay.

Leo Lestino: So this is an example where they evaluated and they gave a conclusion of effectiveness, effective or not, successful or not.

Ebony Ross: Got it.

Leo Lestino: And at the bottom of the table they provided the criteria that they used for their evaluation. So in this instance the contractor - the criteria used was that the activity attracted qualified applicants who are protected veterans. Did the activity result in the hiring of protected veterans?

And those are all criteria coming from 44K data.

Ebony Ross: Right.

Leo Lestino: Right?

Ebony Ross: Right.

Leo Lestino: And did the activity extend the contractor's outreach to protected veterans in the community?

Ebony Ross: Got it.

Leo Lestino: So this is the criteria that this contractor used. Again, this is just a sample. And you're not required to have this in this particular format. But it is one way of documenting that assessment.

Ebony Ross: Okay. Well Leo, the table is beautiful.

Leo Lestino: I'm glad you find it useful.

Ebony Ross: But however Leo, you know, in the first year...

Leo Lestino: Right.

Ebony Ross: ...I as a contractor might not have any of this 44K data to conduct this assessment. I mean I'll try to...

Leo Lestino: Right.

Ebony Ross: ...but I may not have implemented procedures to begin tracking the applicant and hiring metrics, to conduct the required necessity. Will I be cited for noncompliance if I don't have any of this data?

Leo Lestino: That is a - that's a good question. And as we mentioned earlier, and we'll discuss in detail later, and we'll repeat again and again, this first AAP developed after the effective date, is what we will consider a transitional AAP.

Ebony Ross: Transitional AAP.

Leo Lestino: Transitional AAP. Contractors will not be cited for noncompliance with the requirements of the subpart C if they can show that they acted reasonably under the circumstances.

So OFCCP does not expect to see a full assessment of outreach and recruitment activities in that transitional AAP, since really there most likely, will not be complete data from which to conduct a full assessment. Right?

If you as a contractor can provide some kind of acknowledgment that you know of the assessment requirement and that you will or plan to, institute procedures so that you can have the documentation of your assessment in the future, that would be enough.

What this does not mean however, is that contractors wait until your next AAP cycle to conduct outreach and recruitment.

Ebony Ross: Oh, of course not.

Leo Lestino: Right. Because you - in the current regs you're required to conduct outreach and recruitment and that is retained in the new regulations.

Ebony Ross: Thank you.

Leo Lestino: I want to make sure that that's...

Ebony Ross: Oh yeah. We definitely do that. That was very helpful. Thank you.

Leo Lestino: You're welcome. Next slide please. Internal distribution of policy - so in the current regulations, contractors are required to develop some procedure to distribute your affirmative action policy to your employees.

The new regulations make some more specific requirement for contractors to distribute their affirmative action policy to - internally by incorporating it in either your policy manual or make it otherwise available to employees by other means.

Ebony Ross: Okay. So Leo, what if I have an internet site, okay?

Leo Lestino: An internet site? You mean a site that you just use...

Ebony Ross: For my employees.

Leo Lestino: ...for your employees? It's...

Ebony Ross: Right. Can a contractor post a policy on the site instead of incorporating it into the policy manual?

Leo Lestino: Contractors may post a policy on a company intranet site but this will only fulfill the requirement of this part if all employees can access the intranet site.

Ebony Ross: Oh, okay.

Leo Lestino: And sometimes an intranet site has limited permissions for certain employees and not for others.

Ebony Ross: Right.

Leo Lestino: Well if you post your policy on your intranet site that site has to be accessible for all employees for it to fulfill their obligations under this part. The AAP must state if the policy is posted on the intranet site and provide that link, right?

Ebony Ross: Okay.

Leo Lestino: Contractors can also use a combination of means. For example, email, intranet posting, corporate mail delivery, distribution during training sessions or orientations, as long as that combination of methods makes the policy in actuality, available to all employees.

Ebony Ross: Got it.

Leo Lestino: Also, I want to point out, that there is a new provision to the new regulations that contractors who are parties to collective bargaining agreements, have to notify your union officials of that affirmative action policy and request their cooperation. That is a new requirement in the new regs.

Ebony Ross: Okay.

Leo Lestino: Next slide please. The audit and rewarding system - contractors have long been required to design and implement an audit and reporting system to

measure the effectiveness of their AAPs and to take action to bring deficient programs into compliance.

This has always been required and it is still required in the new regulations.

The AAP should contain - your AAP should contain some kind of description of this internal audit and reporting system, specify the frequency of reports and audits and state that the contractor will take necessary corrective actions as problems are discovered.

Ebony Ross: Okay.

Leo Lestino: So what's changed?

Ebony Ross: What's new?

Leo Lestino: Well what's new under the new regs is that this requirement now has some teeth.

Ebony Ross: Okay.

Leo Lestino: By requiring that contractors document the actions that they take to comply with these sub audit and reporting requirements.

What this allows contractors and OFCCP to do, is it allows us to effectively assess whether the contractor is meeting its affirmative action obligations, including whether deficiencies have been identified and corrected.

Ebony Ross: Okay. So Leo, what specific steps and procedures should be included in assess audit and reporting system and what - how should this documentation look in AAP?

Leo Lestino: Well let's look at the - what the regs actually say, right?

Ebony Ross: Right.

Leo Lestino: The new regs don't actually specify the exact procedures for the contractor to follow to conduct their sub audit and reporting. Rather, what the new regs provide are a list of requirements that you see in the slide that the audit and reporting system needs to meet.

Ebony Ross: Okay.

Leo Lestino: So your audit and reporting system needs to measure the effectiveness of your AAP, indicate any need for remedial action, determine the degree to which the contractors' objectives have been reached.

Determine whether known protected veterans have had opportunity to participate in all company sponsored educational, training, recreational and social activities. And measure your compliance with the AAP specific obligations.

With these requirements in mind, you as a contractor, have the flexibility...

Ebony Ross: Okay.

Leo Lestino: ...to design an audit and reporting system that would best help you meet these requirements. So let's take a look at what documentation of a sub audit might look like. Right?

Ebony Ross: Right.

Leo Lestino: Next slide please. Again, this is a sample.

Ebony Ross: Okay.

Leo Lestino: The new regs don't specify a particular format for documenting the sub audit and reporting system. And it doesn't specify that a table like this exists in your AAP. It is just one way...

Ebony Ross: Okay.

Leo Lestino: ...that a contractor might document a sub audit. And in this instance, the contractor decided to document their sub audit in the form of a table.

And in this instance, the contractor listed for example, the AAP components on the - in the first column; the specific requirements for that component in the second column; a date of when they last reviewed or inspected and whether they complied or not...

Ebony Ross: Okay.

Leo Lestino: ...with the requirements or that particular component. And then if they discovered during their sub audit that they needed to conduct any kind of remedial or follow up actions they will list that in the fourth column.

Ebony Ross: Got it.

Leo Lestino: In this particular table. Again, it's just a sample but it is one way that a contractor might demonstrate that they are monitoring and looking at their AAP critically and that they are seeing if they comply with the requirements and the objectives of their AAPs. Next slide please.

Now while the new VEVRA regulations don't require, and I want to make sure that that's clear, the new VEVRA regulations don't specifically require contractors to monitor all of your personnel activity in this way, monitoring personnel activity is one way that the contractor can measure the effectiveness of an AAP and determine whether there are any problematic trends that are developing.

For example, monitoring all personnel activity may more readily indicate if protected veterans are not being promoted compared to the rest of the workforce in the establishment. Or whether protected veterans are being terminated in higher numbers, as compared to that establishment's workforce.

These are the kinds of trends that would be helpful for a contractor to see during a sub audit, to determine whether they need to do any kind of remedial action.

Ebony Ross: Got it. So Leo, I understand that this table is just a sample, is not a requirement...

Leo Lestino: Exactly.

Ebony Ross: ...as part of the AAP sub audit. So am I, you know, am I required to start tracking personnel activity like this?

Leo Lestino: There's no - again, there's no requirement in the regs that personnel activity be tracked in this way. What is ultimately required in the new regulations is that a contractor has an audit and reporting system that meets the requirements that we discussed before.

Ebony Ross: Okay.

Leo Lestino: Again, this tracking of personnel activity is one way that a contractor can design an effective sub audit system that meets that requirement.

Ebony Ross: Okay.

Leo Lestino: One way. Next slide please. The new regs didn't revise this section of the AAP requirements. Under subpart C contractors are still required to designate unofficial responsible for implementing the AAP in this section and that official's identity needs to appear in all communications about the AAP.

Ebony Ross: And my company lets me.

Leo Lestino: Exactly. There you go. There you go. Next slide please. There are - the same thing here. There are no revisions to the trading requirements.

The new regulations retain the requirements that contractors provide equal employment opportunity and affirmative action training for employees involved in personnel processes including recruitment, screening, selection, promotion and disciplinary actions.

And, you know, with the new regs coming it's a good time to do that training.

Ebony Ross: Yes, definitely.

Leo Lestino: Next slide please. So during the first installment of this webinar series, we've discussed in detail, the data collection requirements of 60-300.44K. So we won't repeat that discussion here.

You could access a recording of that webinar on the OFCCP Web site and the link should be coming up in your chat boxes right now. So please visit the link that you see on your screens so you can review the new data collection requirements.

In sum, contractors are required to document the number of applicants, the number of applicants is self-identified as protected veterans.

The total number of job openings and jobs filled, the total number of applicants for all jobs, the number of protected veteran applicants hired and the total number of applicants hired. Next slide please. Again, we showed this table during the last webinar.

This is what that applicant and hiring data might look like, again not required that it be in the form of a table. There's nothing in the regs that require you to have a table that looks like this but it is one way of showing that data that you collected.

Ebony Ross: Okay. Well, you know, again Leo, in the transitional AAP...

Leo Lestino: Okay.

Ebony Ross: ...I will likely not have complete data for 2014. We need some time to begin implementing procedures...

Leo Lestino: Right.

Ebony Ross: ...you know, to be able to collect this data. Should I be worried about being cited for noncompliance.

Leo Lestino: Not in that traditional AAP Ebony.

Ebony Ross: Okay.

Leo Lestino: So don't worry.

Ebony Ross: Thank you.

Leo Lestino: As you stated earlier, we don't expect transitional AAPs to have complete data. And by complete, I mean that some may only have certain categories of data...

Ebony Ross: Okay.

Leo Lestino: ...but not have others like the total number of protected veterans that self-identify or the total number of jobs filled. It could also mean that some may only have partial year data.

Ebony Ross: Okay.

Leo Lestino: For example, only for the last three, four or five months of 2014. It may even not have any data yet for this section.

Contractors will not be cited for noncompliance with the requirements of subpart C including having the 44K data, in the transitional AAP, as long as you acknowledge the new requirements and that you tell us that you've begun to take steps to...

Ebony Ross: Okay.

Leo Lestino: ...come into compliance.

Ebony Ross: Thank you.

Leo Lestino: Sure. Next slide please. So I want to let you all know that on March 6th we are going to host an entire webinar dedicated to discussing utilization analysis under Section 503 and benchmarks under VEVRA. So we won't go into too much detail here with regard to benchmarks under VEVRA.

As a brief overview, the new VEVRA regulations requires contractors to set an annual hiring benchmark using one of two methods. Contractors can either absolve the national percentage of veterans in the civilian labor force, publish and update it annually on OFCCP's Web site.

Or establish your own benchmark using the factors outlined in the new VEVRA regulations. Once the benchmark is established, contractors must apply the benchmark to the establishment.

Ebony Ross: Okay.

Leo Lestino: In doing so, you do, you apply that to your workforce and your - in the establishment.

Ebony Ross: Okay.

Leo Lestino: In the VEVRA AAP, the contractor should provide the benchmark that you establish. If you set your own benchmark, some kind of narrative documenting your consideration of each of the five factors.

The AAP should also show the contractor's application of the benchmark to the establishment and the results of that application. The benchmark is just a yardstick to help you as a contractor, measure your progress.

Ebony Ross: Okay.

Leo Lestino: Because I'm sure you want to measure your progress...

Ebony Ross: Yes, definitely.

Leo Lestino: ...in hiring protected veterans. And OFCCP will not cite contractors or subject them to an enforcement action for failing to meet the benchmark. So practically speaking, what should you use this benchmark for?

Well, you as a contractor should use this benchmark in your assessment of your outreach and recruitment efforts.

Ebony Ross: Okay.

Leo Lestino: If your overall outreach and recruitment efforts are not helping you meet the benchmarks that you set, using one of those two methods that we just described, then it could - it might signal that an adjustment in your recruitment strategy is necessary.

Ebony Ross: Okay.

Leo Lestino: But again, to be clear, the regs provide you as a contractor maximum flexibility in using this benchmark as a yardstick, by not prescribing the actions that you need to take as a contractor, if your benchmark is not achieved.

It is just a tool designed to help you measure your progress in employing protected veterans.

Ebony Ross: Got it.

Leo Lestino: March 6th please make sure that you mark that on your calendar. The registration for that will open shortly.

Ebony Ross: Okay.

Leo Lestino: So make sure that you know that that's coming. We will hold an entire webinar for benchmarks and utilization analysis under Section 503. Next slide please.

So now that we've done an overview of the new requirements for VEVRA AAPs under the new regs, let's discuss what contractors are actually required to do for that first AAP after the effective date, right?

Ebony Ross: Right.

Leo Lestino: And we call this a transitional AAP. As we've already indicated, contractors are able to delay compliance with the AAP requirements of subpart C until

your first AAP is due following the March 24, 2014 effective date. What does this all mean in practical service?

Ebony Ross: Please tell us.

Leo Lestino: Next slide please. First of all, and I'm sure that this is readily apparent to many of you. But I want to make sure that you understand, although contractors can delay compliance we don't recommend that you wait until your next AAP cycle to begin implementing the procedures.

Can you see how to implement the procedures through the (unintelligible) compliance?

Ebony Ross: Of course.

Leo Lestino: We recommend that all contractors begin complying with subpart C of the new regulations before the issuance of (unintelligible) AAP and we strongly encourage contractors to take these steps as soon as practicable after the effective date.

To begin coming into compliance we recommend that starting on March 24, you as a contractor, invite applicants to voluntarily self-identify as a protected veteran at the pre and post offer stages.

And, you know, for more details on this, invitation to self-identify, that first webinar that we hosted, is posted on the Web site so you can view that webinar again.

Second, ensure that outreach and recruitment efforts are documented and retained. That you should document the actions that you take to comply with the audit and reporting system applications.

And that you should implement procedures to assess and document the effectiveness of your outreach and recruitment efforts annually.

Ebony Ross: Okay Leo. I have to mention here again that I won't have complete data to conduct this outreach and recruitment assessment for that first AAP after the effective date. Will that be a problem?

Leo Lestino: In the transitional AAP, no. We understand you can - that you probably will only be able to do a very cursory and limited assessment, if any, of your outreach and recruitment efforts.

What we will look for is some kind of indication that the contractor knows of the new assessment requirement and has or will implement procedures to be able to conduct this assessment properly in the future.

You can also begin establishing the criteria that you use - that you will use in reviewing and evaluating your outreach efforts.

Ebony Ross: Okay.

Leo Lestino: Again, we won't - we expect most of this will likely be in narrative form. But no, we will not - it will not be a problem because we understand it's a traditional AAP. You won't have complete data to conduct an outreach and recruitment assessment.

Ebony Ross: Got it. Thank you.

Leo Lestino: Next slide please. Contractors should begin training - should also continue training employees. And HR and others who are involved with personnel activities, to implement procedures to comply with the new regs.

You should begin implementing procedures to properly comply with the data collection and analysis requirements for training to new applicants and hires. You should ensure that your equal opportunity policy statement is compliant for the requirements of the regs and show/stop executive support for AAP.

Ensure that applicants and employees, who are protected veterans, have access to your personnel processes. And establish a hiring benchmark and apply that benchmark to your workforce at each establishment.

Ebony Ross: Okay.

Leo Lestino: As we stated earlier, we will discuss that in greater details on the goals and benchmarks webinar on March 6th.

Ebony Ross: March 6th.

Leo Lestino: Next slide please. So in practical terms, your transitional AAP must, inside the requirements, right...

Ebony Ross: Right. What other ones?

Leo Lestino: This means that your transitional AAP should comply with all existing obligations that are not new.

This includes periodically reviewing personnel practices, reviewing job qualification standards, making reasonable accommodations available, developing harassment policies, engaging in outreach and having procedures for distributing information on equal opportunity and affirmative action efforts. Right?

Ebony Ross: Right.

Leo Lestino: Those are all the existing obligations that are not new. You need to be in compliance with those. Secondly, your transitional AAP should address everything that you've done, to come into compliance with the new requirements that take effect on March 24, 2014.

Ebony Ross: Okay.

Leo Lestino: Those new subpart C requirements that we've been discussing.

Ebony Ross: Yes.

Leo Lestino: And finally, if you have not been able to come into full compliance with the new requirements, your AAP, your transitional AAP, should discuss the steps that you plan to take in the future, to come into compliance.

Ebony Ross: So Leo, how should this discussion look and where should I place it in the AAP?

Leo Lestino: Good question. There's no specific place that we require this discussion to happen in the AAP. You can discuss these steps in narrative form and create a section in your transitional AAP, titled compliance with deregulations.

Ebony Ross: Okay.

Leo Lestino: Alternatively, you can put this discussion on - in the review of personnel processes section.

Ebony Ross: Okay.

Leo Lestino: It really doesn't matter where you put it in your AAP, as long as it is in the AAP.

Ebony Ross: Okay.

Leo Lestino: This discussion of - that you've complied with all existing obligations, that you've addressed what you've done to come into compliance and that you - if you haven't come into full compliance that you discuss, you tell us the steps that you're planning on taking to come into compliance.

Ebony Ross: Okay. Good to know.

Leo Lestino: Again, we understand that this is a transitional AAP, this first one, for most contractors. And we view this as an opportunity for technical assistance. You will not be found in violation if you act reasonably. And please, don't hesitate to reach out to your compliance officers and ask a question...

Ebony Ross: Okay.

Leo Lestino: ...during your compliance evaluation.

Ebony Ross: Okay.

Leo Lestino: Next slide please. That was a lot of information in a short span of time. I will turn it back over to our moderator, Brenda Stewart. Thank you for joining us.

Ebony Ross: Thank you.

Brenda Stewart: And thank you Ebony and Leo. That was a lot of information. You were right, Leo, it was very engaging. Ebony you had quite a few questions. And I'm sure that our participants today, have quite a few questions. Some have come in through the chat box.

And our subject matter experts have started looking at these questions and developing responses. If you have not already done so, you can begin to submit your questions through the WebEx chat box. We will attempt to get to as many as our time will allow.

But be mindful, we cannot get to all of them. So if we don't get to yours, we'll have some contact information that you can use to follow up with us at a later time. So starting with the first question - what do you do with the VEVRA hiring benchmark? How do you determine if you've met it?

(Kerry Bickerstaff): I'll take this. This is (Kerry) from (unintelligible) office. The, you know, whether or not you meet the benchmark is - I mean first of all, you establish the benchmark as we've said in one of two ways.

You - it takes you to the national percentage that OFCCP will publish or come up with your benchmark using the five factor analysis. So whatever your benchmark is, then you would look at the hiring data that you've accumulated for the year.

If, you know, the percentage of protected veterans that you've hired meets, you know, is equal to or above your benchmark, then you have met your benchmark. But I think it's - again, we want to emphasize that that's not the be all and end all.

That's not how, you know, compliance is going to be measured necessarily. And contractors aren't going to be cited simply for not meeting that benchmark.

We want contractors to go through, you know, as we talked about earlier, the process of doing this annual assessment to really look at the different recruitment and outreach effort that the contractor's done in trying to see whether or not some of those have had, you know, have had impact and have been effective and tailor their outreach and recruitment going forward, accordingly.

Brenda Stewart: Thank you (Kerry). Next question. When using the alternative five factor percentage when analyzing the veteran hires, is it possible to use only the percentage available in the states where they do their recruiting? Or do they need to show all five factors?

(Kerry Bickerstaff): Yeah, I'll take that. The regs, if the contractor is going to use the five factor test they do need to at least consider each of those five factors. Now how the contractor weights those various factors, we've left flexibility there. So that is - that's - the contractor can weight them accordingly.

But they do need to at least look at and consider each of those five factors.

Naomi Levin: This is Naomi Levin. Let me also add, we basically want you to tell us your methodology. So we state three - you must consider these five factors but the

flexibility is in how you weight them, what you do. So you need to tell us your methodology.

What you considered, how you did it. But it is - it's not like a fixed blueprint for exactly how you do that. And let me also remind everybody that the benchmark - the hiring benchmark is what you plan to hire for next year.

So you would be looking at the composition of your current workforce and seeing - using that benchmark as the yardstick against that and setting your benchmark for what you plan to hire the next year.

Brenda Stewart: Okay. Thank you Naomi. So we have some questions about people that are creating their affirmative action program for the first time. Will they need to submit their AAP to OFCCP on March 24th or do they just need to keep their AAP on file until it's requested?

Naomi Levin: Please don't submit your AAP to us on March 24th. Please don't do that. The rules go into effect that day. But contractors do not just all send us - your AAP is not something that you routinely send us like a tax return or something like that.

You have to have one every year. If you need assistance in how to do that, contact the local OFCCP office. They'll be more than happy to help you. But that's something that you keep, you develop, you use.

And should we come and tell you we're going to do a compliance evaluation then we will ask you for your AAP. So the short answer is unless we ask you for it you do not need to send it to us.

Brenda Stewart: That's a very emphatic answer. Definitely do not submit it. Okay. What does executive support look like or an executive signature?

Naomi Levin: We do not require that there be an executive signature. The rule requires us to be executive support. And that's basically so everybody knows that the support to the affirmative action program comes from the top. And, you know, this is not just something that, you know, your manager is requiring.

The message comes from the top. There are a lot of ways to do that. One of them is certainly having a signature and the rules don't preclude that. But we don't mandate that either. So it could be on behalf of CEO, (Kerry Bickerstaff). We are telling you this, this and this.

So there are a lot of ways to do that. Again, you have flexibility for how you do that. But it's not required to have a signature. Certainly that's one way to demonstrate support.

Brenda Stewart: Okay. Next question - are the subcategories of protected veterans, required to be analyzed by contractors? Or are they required to be reflected in any way in the AAP? Or is the subcategory data only used by contractors for the - that 100 form?

(Kerry Bickerstaff): The short answer is that no, the subcategories of protected veterans don't need to be analyzed. You don't need to, you know, look at the hiring for each subcategory. The real reason that that information is collected is because of the Vets 100 form.

Brenda Stewart: Okay. All right. A question about the affirmative action program again - the one that this particular person has, runs from January 2014 to the end of the

calendar year. However, they would like to begin phasing in some of the new requirements.

Can they do so even if their transitional AAP would not be required until 2015?

Naomi Levin: After March 24th by all means. In fact we encourage that. We have FAQs on our Web site, a couple of them actually, about this. And we encourage people to start sooner rather than later if they can, and do what they can, once the regs are effective.

And the reason for that is because this is one, you know, this is all - a learning time for all of us.

And if you start early that basically gives you time to work out any bugs that you have in what you're doing, to get any questions you may have answered or work through, so that just basically gives you a lot of lead time to exactly sort out what you're going to do and how you're doing it, to work it through and to get any assistance you might need.

So you're again, as you heard, you're not required to start but by all means, we certainly encourage that. Once the regs are effective by all means begin doing whatever you can.

Brenda Stewart: Thank you Naomi. We've talked about some of the categories of protected veterans. This one is asking about the new four types of protected veterans and how they correspond to the types reported on that Vets 100 form.

(Kerry Bickerstaff): Well just to clarify, the category - the people who are protected has not changed. So there's no new protected veterans as a result of this regulation.

There were two little changes that were made to the definition - to the protected veteran categories.

One was simply renaming one category so the category that was previously other protected veteran is now active duty wartime or campaign veteran. Just to add some clarity to what that category actually meant.

But the veterans that it covers are - it's exactly the same. It's just a change in title alone. And then we added the sort of overarching protected veteran category which just covers anyone in any of the four categories.

So currently there - so there will be a little bit of a difference at least for a while, between the Vets 100 form and the categories in the VEVRA regs just reflecting what I just said. So the previous other protected veterans, that will still be on the Vets 100 form for a while.

That is synonymous with the active duty wartime or campaign management training with VEVRA regs.

Naomi Levin: And let me - I keep hearing forms. Let me take an opportunity here. We've been seeing a lot of questions come by asking about the VEVRA self-ID form and this and that. So let me clarify all of the sort of questions about forms and where they are and where they're not.

Okay, under Section 503 we do in fact have a form which is a form - it's a mandated form that you will be required to use for making self-ID. That is posted now on our Web site. On the VEVRA side of the house, we have samples, model questions, a model self-ID question that you may use.

There is not a mandated form.

(Kerry Bickerstaff): And that's found in Appendix B of the regulation. So if you go to the, you know, the final rule that was posted on OFCCP's Web site it's there in the actual text of the regulation. So if you look to Appendix B that's where the VEVRA self-ID model form is.

Naomi Levin: And so if you're designing one or tweaking one yourself, in the text of the regulation describing the obligations to a by self-identification, we will see some broad criteria that the self-ID form you use must have. All of those are met in the sample.

But it tells you basic things like saying you're a federal contractor and describing who's covered. So there are some basic parameters that any self-ID form for veterans must have. But we do not mandate a specific form. As (Kerry) mentioned, we do have a model but that's what it is.

It's a model. You may use it or you may design something a little different.

Woman: Okay. And could I just add - one of the questions that we got, asked whether contractors could actually, if they designed their VEVRA indication self-identify, could they also include information that's on race and gender, there as well?

So there's discretion. As long as the VEVRA model fulfills VEVRA then that would be fine to include your race and gender indication on that same form. And in fact the VEVRA rule coordinates the timing for solicitation of race and gender data under the executive order with the information, under VEVRA.

But again, the 503 form, that's different. That's a prescribed form as we...

Naomi Levin: Yeah. That's...

Woman: ...talked about.

Naomi Levin: ...a standalone...

Woman: Right.

Naomi Levin: ...mandated form for 503 and this is not a 503 session but there are specific times when you are to use it. And there are reasons why there is a specific mandated form. But that's the only one where we have prescribed an actual form and provided it for you on the Web site.

Brenda Stewart: Okay. Thank you for that clarification about the form because we've gotten quite a few questions about that. The next question - is the actual self-audit required to be included as part of the AAP?

In the slides it says that the documentation must be maintained as an employment record. Is that accurate?

(Kerry Bickerstaff): I think no, we don't anticipate that the entire audit system be included in the AAP. I think that the intention is that however that is supporting data. So there is, you know, when your AAP is requested it - the supporting data to that AAP may ultimately also be requested by OFCCP.

So you need to maintain that audit reporting system accordingly and be ready to provide an opinion since it's requested.

Naomi Levin: Right. So that's a whole audit. Just the question we're hearing about that summarizes your activities. And that would be supporting data. Correct.

Brenda Stewart: Okay. So if someone posed a requisition for job title and they hire five people from the pool of candidates that they receive, do they consider that five job openings or just one?

(Kerry Bickerstaff): It would be five job openings. I don't - you can't have more hires than openings I think. So if you had five openings you would have five hires.

There's the possibility that if you posted a requisition, you said that you were going to hire five people and you only hired four then you might have fewer filled than open but not the reverse.

Naomi Levin: Right. Otherwise you could have one requisition with 150 jobs and that's just not one job however many of those you had filled.

Brenda Stewart: Exactly. So if a contractor prepares a data table of applicants and hires, will OFCCP conduct a disparity analysis on the data? And further, will OFCCP's exact pay for any statistically significant disparity?

Naomi Levin: I think this is asking will we sort of typically treat VEVRA data the same we might treat race and gender data. The uniform guidelines in employee selection procedures or a (unintelligible) do not apply to VEVRA. They do not apply to 503.

So the analysis we've been using would be sort of more nuance than just a sort of statistical analysis. We just don't have the same kind of data that we do available in the context of race and gender to do those same kinds of things.

So ordinarily, we're not going to just be doing a statistical analysis for the purpose of determining you have a net availability. That's not going to be like that. You know?

((Crosstalk))

Woman: ...clear in the preamble to the VEVRA rule that OFCCP would not be doing those impact ratio analyses under VEVRA that you aren't maybe familiar with under the executive order.

Brenda Stewart: Okay. Going back to benchmarks again, does the benchmark need to be applied to each job individually or to the overall workforce?

(Kerry Bickerstaff): No. It doesn't need to be applied to each job group individually. That's 503 and so that might be part of the confusion. Under 503, assuming you're a contractor with more than 100 employees, the utilization goals that you would have would apply to each job group.

For VEVRA it's a hiring benchmark so it's looking just at hiring data. And that is applied on an establishment by establishment basis, not to each job group at the establishment.

Naomi Levin: And we do have an FAQ, a frequently asked question, I believe posted on this same issue that basically says exactly what (Kerry) just said. Imagine that.

(Kerry Bickerstaff): And I think that's probably a - I mean for those of you who have not looked at the FAQs, a lot of the questions that we've gotten today have actually been addressed by those FAQs. And so it is - it's a good resource. It's a growing resource as we get more questions.

So please do check that out.

Naomi Levin: Well yes. And obviously we can't get to everybody's questions today but some of them may yet appear again and get answered as FAQs. So we do pay attention to those - all of the questions, not just the ones we actually answer today.

Brenda Stewart: Exactly. And I've shared the link in the chat box to everyone, to the page where the FAQs are posted. So please feel free to click on that link and go right to that page. Okay. So some suggested resources for veterans' outreach. Can we get some?

(Kerry Bickerstaff): Well there are some provided in the actual text to regulations. If I point you to .44F2 there are examples there of outreach and recruitment activities. Some of those were - are in the existing regulations. A couple of them are new.

Among the new ones are looking at the Department of Defense's Transition Assisted Program or TAP. And also looking at the employer resources section of the National Resource Directory.

That is a Web site that is maintained by a few different federal agencies and provides really good resources for, you know, groups of veterans and organizations that serve veterans that may be helpful.

I think that I'll turn it over to Naomi to talk a little bit about - I know that OFCCP will also be looking into, you know, potentially providing more resources. But that's something that we need to flesh out a bit more.

Naomi Levin: Yeah. We are continuing to provide all kinds of resources on the landing pages for both regulations. There'll be resources relating to recruitment and outreach. The FAQs, as was just mentioned, are a living thing, and growing as will be the resource list.

There still will - remains to be up there, a VEVRA benchmark database. So I mean there are more things coming. We're getting them out to you as fast as we can, along with trainings like this. So by all means, yes.

(Kerry Bickerstaff): Yeah. The regulations - the resources list of the regulations are definitely a good starting point.

Brenda Stewart: Okay. So if someone receives an unsolicited resume do they have to track and send the indication to self-identify for purposes of the applicant tracking requirement?

(Kerry Bickerstaff): I mean in short, the answer would be whatever you do under race/gender is what you would do for veterans. We just - specifically in the rule we try to harmonize the requirements of VEVRA with the requirements under the executive order.

So if normally you would consider those unsolicited resumes and consider those as people that you would look at as potential applicants, then - and you would say the race/sex self-ID data to them then you would do the same thing with VEVRA.

If you don't do it for them and you don't consider those unsolicited resumes then you would not.

Brenda Stewart: Okay. And continuing with that applicant tracking process, if a job opening that was posted is then closed and no one is hired during the planned period, do they still count these openings for the new reporting requirements?

(Kerry Bickerstaff): Probably. I think I would probably need to know a little bit more about it but I would think that yes, that would be an opening because there was a job posted, there was a job open. But then it just would not count as a job filled for your reporting purposes.

Brenda Stewart: Okay. Now aside from using the subcategories of protected veteran - say a veteran or other protected veteran, recent separated veteran or armed forces service medal veteran - for the Vets 100 form, what other uses do the subcategory data have?

(Kerry Bickerstaff): The primary use is really for the Vets 100. The Vets 100 form requires that information be collected. And so that is - that's the primary use. You know, it's - certainly we - if contractors can come up with other uses for it that is fine. But it's - for our purposes that's the main purpose.

Naomi Levin: Yeah. Our regulations treat all protected veterans alike. So there's no distinction between them. Outreach and recruitment goes to protected veterans. It doesn't single out one category. Or say you have to, you know, make separate efforts to different categories.

So our rules treat all protected veterans exactly the same.

Brenda Stewart: Okay. Well that is the conclusion of our Q&A portion of the webinar. If you could go to the next slide. You'll see where we have displayed our contact information.

If we were not able to get to your question or your question is really - is something that's too detailed to really go over during the webinar, these are the appropriate places to use to get clarification or to get the answers.

And again, as Naomi mentioned, our FAQs, our landing pages on the Web site, are constantly updated and more information is added. Next please. And you can see on this slide that our Web site contains a variety of resources on the new FAQs - on the new regs, including the FAQs.

We have the contractor resources that will continually be updated, the FAQ sheet. And that's where you'll also find the webinar slides from today as well as previous webinars. We'll have the presentations there as well as the recording.

Please give us about a week to get today's presentation and recording posted. You'll see the registration link for the upcoming webinars as well.

In closing, I want to make sure I thank Ebony and Leo, our presenters for today, for such a great discussion; and our subject matter experts for their expertise in addressing your questions. And thank you to everyone that tuned in for today's session.

We hope you join us again on our February 20th - the next webinar is again our Moving Towards Compliance series. And you should be able to go to our Web site to register for that within the next week where the registration link will appear.

Thank you everyone for such an interactive, engaging session and have a great day.

Coordinator: This concludes today's conference. Please disconnect at this time.

END