

**TINA WILLIAMS:** ... available to contractors to support your compliance effort. We'll then finalize the training with opening up through the chat room the Q&A portion.

As we dive right into the workplace inclusion, I want to let you know that OFCCP is committed to the focused review program – specifically Section 503. And we're committed to ensuring equal employment opportunities and eliminating discrimination in the workplace of federal contractors.

As we work together to ensure contractor compliance, we at OFCCP must also exhibit workplace free of determination that promotes diversity and inclusion of all.

This includes not just complying with the law, such as making reasonable accommodations to known disabilities of an otherwise qualified individual but striving to go beyond the requirements of law and making OFCCP an inclusive and welcoming environment for all.

It is the best practice for leaders to demonstrate a companywide commitment to workplace inclusion. And I mention that because as we launched this program, we wanted to show that we stand by these efforts. And our director – Director Craig Leen – made it important to start messaging these efforts to the staff within our own agency by way of either a video that he put together about reasonable accommodation. He joined our sister agencies in discussing the importance of an inclusive workplace. And we created and launched a Section 503 landing page which is available right now for you to view.

And one impactful way for you to do this in your own businesses is to send these similar messages to your workplace to identify the importance of workplace inclusion.

At the start of the fiscal year, we came up with a number of four guiding principles. The acronym is CERT. These four interrelated driving principles were created to ensure that we provided a quality workplace when enforcing Executive Order 11246, Section 503, and VEVRAA.

The pinnacles are certainty, efficiency, transparency, and recognition. As we begin with certainty – which is the first pinnacle – it is OFCCP's goal to provide certainty the contractors by following the rule's law principle and ensuring that the agency sets clear expectations.

Some examples of our efforts that we've made that support this goal in the directive that we issued over the last year such as the transparency directive, the focus review directive, and more recently the compliance review procedure directive. It's important to know that these directives we're clearly implemented in an effort to ensure that we were consistent throughout the agency. And we wanted to state that by putting forth these directives and letting you know where we stood in terms of providing information and sharing information.

The next slide is efficiency – the second driving principle for OFCCP. It is our goal to conduct compliance reviews and compliance assistance in an efficient and more focused manner. Our goal is to increase the number of compliance evaluations by conducting not only compliance reviews as we've seen on the corporate scheduling announcement list which was published to the FOIA reading room and made available, but we are also connecting compliance checks in addition to the focused reviews.

By scheduling more evaluations and using a variety of investigative procedures to conduct these evaluations, all OFCCP will be able to better focus its resources and more efficient in ensuring contractor compliance.

The next pinnacle is recognition. OFCCP is committed to recognizing the best practices of federal contractors and subcontractors. In July, the agency announced – in collaboration with the Office of Disability Employment Policy (ODEP) – the Excellence in Disability Inclusion Award, also known as the EDI Award. This program is intended to recognize the best practices of contractors in creating inclusive environments for individuals with disabilities.

If you have such a program or you know of an organization with great inclusive programs, please don't hesitate to apply. We extended the deadline this year and the nominations are due by November 1, 2019. You can go directly online to [www.dol.gov/EDIaward](http://www.dol.gov/EDIaward). If you have any questions about the award, please don't hesitate to contact our Help Desk or contact the Deputy Director Harvey Fort of policy. They would be more than happy to assist you with providing any information. Or feel free to reach out to any of your staff in ODEP.

**LISA JORDAN:** Just quickly. Sorry, Tina. This is Lisa. I'm the host for this. So we're getting some feedback in chat that people are having a hard time hearing, that there is some static or interference. If you're listening through the computer – meaning it's being streaming – you might want to revert to calling into the teleconference. And Operator if you can just check online to make sure that the phone line is also clear and there's no interruption, we'll deeply appreciate it.

But if you're having trouble listening over your phone, you will want to have to call into the conference line. The clarity will definitely be better. Thank you.

**COORDINATOR:** The audio lines sound loud and clear.

**LISA JORDAN:** You can continue.

**TINA WILLIAMS:** Yes. Okay. If you continue to have any issues, please notify us through the chat room and we'll be happy to assist and clear up any technical issues that we're having.

So I was just mentioning the EDI award and how you can contact the agency defined out not only more information about the award itself but also how to apply to the award.

Transparency – which is the fourth pinnacle. OFCCP has made great strides over the course of this fiscal year to ensure its work is transparent. The transparency supports to both certainty and efficiency pinnacles.

Again, as I remind you these are all interrelated and they rely on each other to be successful.

Examples of the efforts that we've made include the directives we mentioned previously as well as our Freedom of Information Act library. We have posted our scheduling lists as well as our conciliation agreements by fiscal year. We are also issuing and posting opinion letters. The letters respond to fact-specific questions related to compliance. There are some already posted in the FOIA reading room.

If you have a question that you would like to receive an opinion letter on, please again do not hesitate to contact the OFCCP Help Desk and/or the Deputy Director Harvey Fort of policy. They will take on your question and we will consider it and consider issuing an opinion letter.

We continue to improve our transparency. For example, one upcoming enhancement is our Help Desk. We will be able to create a publicly facing Help Desk where contractors can ask questions of OFCCP experts and the questions and answers will be available for everyone to see.

We recently launched this. We've received a lot of information as far as people registering to participate in this effort. And you're going to start seeing us actually post questions that we'd like to also receive back on in an effort promote discussions throughout the contracting community, our legal community, et cetera.

So do not hesitate to go to that portal, raise a question that you'd like to engage or have us engaged upon. We'll be more than happy to do so. I think it will be a lively opportunity. We're looking forward to any robust discussions that take place.

Having move forward after highlighting the four pinnacles of the agency, we're going to get to the crux of this training and what is probably most important to you. At this time some of you may have already been scheduled for a Section 503 focused review. We wanted to give you information as to what you can anticipate happening at the on-site review.

The labor participation rate for persons with disabilities is 21.3% versus 68.7% of those without a disability. The unemployment rate for those with disabilities is 7.2% versus 3.6% of those a without disability. The wage gap is even greater. The wage gap for persons with disabilities is 79.5%, which is staggering.

We request this data from our colleagues at BLS and the information is posted on their website. And we utilized that to sort of track where we are in our workforce. And the numbers themselves are staggering not only to the agency but to Director Leen.

And that sort of serves as the blueprint for how we thought we could make a difference in terms of what our efforts were within our authority and purview.

As we moved forward, we issued the August 2018 directive – specifically 2018-04 announcing the focused reviews. And the focused reviews will not just be the Section 503. There will be three components to the focused reviews. We are just starting with the Section 503.

And the reviews will be a portion again of a neutrally selected system that we used to schedule the other evaluation. And in March of 2019, we selected and posted the CSAL list to the FOIA reading room. And that list included 500 Section 503 focused reviews which will be on-site at the headquarters facility.

The focus reviews are one of the investigatory procedures that the agency intends to use to evaluate the contractors' combined efforts. The focused reviews are authorized under each of the regulations enforced by the agency.

As you look at the slide that's on the screen, you'll see the three authorities there. We have the Executive Order 11246; we have VEVRAA, and Section 503. Each other regulations define a focused review of sorts and again we're starting with the Section 503 and we will move to the next focused review which will be VEVRAA. We anticipate releasing the VEVRAA scheduling list on Veteran's Day. And that will be another 500 focused reviews to take place at corporate headquarters.

Specifically, a focused review is essentially an in-depth look at one or more components of a contractor's organization or one or more aspects of a contractor's employment practices. All OFCCP's current focused reviews will be examining contractor compliance with Section 503 of the Rehabilitation Act.

OFCCP will examine the Section 503 affirmative action program and the supporting documentation. That's what we will be looking at.

Furthermore, OFCCP's focused reviews are going to be conducted at the headquarters facility and will include a mandatory on-site. I repeat this will be a mandatory on-site at the headquarters facility. We are going to come on-site to ensure implementation of the Section 503 requirement.

The focused review will look at the compliant with the VEVRAA requirements as we move toward the VEVRAA focused reviews. And as we move toward the Executive Order compliance, we're deciding now which components and aspects of the Executive Order we will focus on. But as we decide what that is, that information will be released at a later date.

As you look at the chart that's presented before you now, you'll see a series of efforts and action steps are used when we conduct our review. The focused reviews have a sequential process that includes scheduling desk audits on-site, off-site analysis, and resolution. A lot of this should not be new to you. A lot of these steps are very similar to what you see now at apply and service evaluations and reviews.

So some of this you should already have an understanding of and some level of familiarity.

The infographic in this slide shows the activities under each of the steps in the process. And again for those of you that already participated in a compliance review in the past, you will notice that many of the activities that are listed for the focused review are very similar to what we already do in our standard compliance evaluation.

For instance, the scheduling – we select the cases neutrally, we send a scheduling letter, we place the call within 15 days. As we move forward to the desk audit, we review the AAP, we look for efforts of inclusion, accessibility, we create the on-site date, we create a plan, interview plan.

And as you can see as you continue to go through the infographic, you'll see stuff with the same steps for the on-site once we get there to your facility, to the off-site, and the resolution.

You heard be present at the national ILG conference I mentioned at that time that we were also going to make available to the contractors – again touching back to one of the four guiding principles of transparency, certainty, and efficiency – we're going to provide to the contractors and have posted by the end of next week to our landing page a sample SCER and a sample on-site plan which will give you an idea of what you can expect when the compliance officers and staff come on-site.

We wanted to be as transparent as possible in identifying to you what it is, we'd be looking for, what types of questions we could perhaps ask once we get on-site, what type of interviewees we'd need to speak with. So that information again will be posted by the end of next week. If you haven't already gone to our landing page, I certainly suggest that you do so now. We have a number of FAQs. We have best practices. We have sample disability and inclusion programs. We've also identified contractor resources.

When you think about focused reviews, however, it's important to understand that a focused review really lends itself to more of an efficient process because compared to the standard compliance reviews, the scope of the focused review is much narrower. Okay?

When we start with the Section 503, that's what we're looking to. We're looking to the component that needs to be present in your compliance efforts as it relates to Section 503.

On the next couple of slides, I'm going to discuss some of the items compliance officers will examine during a focused review. Again, some of these may already be familiar to you as they should because they also exist in our standard compliance review.

First, OFCCP will conduct a desk audit of your written Section 503 affirmative action program, also known as the AAP, to ensure that it complies with the requirement. You may have noticed in the scheduling letter we also asked for your Executive Order AAP. We will only be using the Executive Order AAP to compare the job groups in a Section 503 AAP. We will not – I repeat we will not – be analyzing your Executive Order AAP.

I am certain that once I open up the chat room that I'm going to receive a lot of questions on this. Perhaps why are we asking for it then if we're not going to analyze it. And we do understand the scope of the question and perhaps we may decide that there is another way to receive that information. But as it stands right now, we are going to request it.

What I will ask is that if you have another way that we could perhaps consider the information that's included. Please provide that information in the chat room at the end of the training session. I am certainly amenable to exploring other alternatives because the goal is to basically ensure that you are in compliance. And if there is a way that we can do that, we are open to that.

The compliance officers will be conducting it on-site. And the purpose again is to determine how a contractor implements their Section 503 AAP throughout their establishment and corporate headquarters. The on-site the compliance officer will check our postings and notices to ensure they are available and accessible to all employees.

The compliance officers will also look at your application process, your employee orientation, and how and when you invite applicants and employees to self-identify as a person with a disability.

During the focused reviews, we encourage you to highlight for the compliance officer your best practices. We have about 12 or so listed right now. I just made a request to add a few more. But we are open again to receiving any best practices that you may have implemented in your facilities that some of the other members of the contracting community can adapt.

Please send that information directly to me or you can send it through the Help Desk. I will give all of my contact information at the end of the training. And I've had contractors reach out to me to ask to have their disability inclusion programs listed, best practices that have served them well, and we are now getting ready to add another list of employees and contractors to our landing page. If you think that you're doing something that's working for you, please forward that information.

When reviewing your outreach and recruitment activity, the compliance officer will look at each event

and see if you've done the required amount. We'll also look to ensure you've reviewed the totality of the event of the AAP.

We've gotten a lot of questions about outreach activity and events and I'll go into that a little bit in just a moment. But we really are looking to see if the event is focused on employment and employment opportunities. We're also going to be looking to see how you're affecting the event – if you're determining that the event was effective and how you documented the effectiveness of that event. And what the conclusion was – whether it was some sort of internal intended outcome that you wanted to reach in terms of how many people participated in the event, whether or not it was in terms of how many applications you were seeking to receive or posting.

It all needs to be interrelated. You certainly cannot participate in outreach activity that really serves no purpose. Not only serving a purpose in terms of what it is you're trying to achieve, but serving a purpose in terms of are you even documenting those efforts – and not just the date and time but the participants, the intended audience, what the intended outcome is, what your goals may be in terms of this job fair or outreach activity that you have in terms of going to school.

And these are just the examples. They are not something that you need to do. It's just an example of how you can identify some of those efforts and what you are trying to attain.

Some are the elements again that you may wish to consider when assessing the effectiveness of your outreach – are there a good number of referrals and hires from the organization or event? And I just touched on that a moment ago.

Will the event or organization help you long-term to identify candidates? Do you have a disability employee rights group? Do you use the DOL self-identification video to encourage applicants and employees to self-ID? When were your disability-related policies last updated? Do your policies comply with Section 503 and the Americans with Disabilities Act, the ADA? These are questions that you need to be asking yourself.

Another thing that you need to think about is being aware of flexible leave policy. Now, I know because I'm very familiar with some of your challenges we are challenged with having people self-identify. You cannot force people to voluntarily self-identify. We are cognizant of that. We understand that some of these things are out of your control. With those efforts that are very much so within your control, I want you to focus on that.

Speaking of the self-identification form, the agency is currently working on revising the self-identification form. We received a lot of comments from our stakeholder community and we adopted some of those comments and we're going to be making changes to the form itself to be user-friendly, to be very clear in what the purpose of the form is. And we're trying to think of ways to assist you in encouraging employees to self-identify – especially those employees within a federal contract workspace.

It is a benefit to have employees self-identify. And so we're trying to think of ways to partner with you all to help you in doing that. We've considered a number of videos that we're going to be working on and additional best practices that will also help you to encourage your own staff to self-identify.

When you begin to look at the application process, the compliance officer will ask to walk through the

applicant experience. If the applications are accepted at the establishment, they will ask to see that location. They will also ask to see where applicants are introduced. The purpose is to see the actual locations and see if they are accessible.

When you think of an individual that may be in a motorized chair, do you have a location that is accessible do a person in a motorized chair? Will they be able to go on a ramp? Will they be able to have elevator access? Is there an opportunity for them to use a key pass at their level? Now, some of these things are not necessarily covered under OFCCP's authority but these are definitely things that you should consider especially when identifying best practices.

You wanted to have the application process as inclusive as you possibly can because it sets the tone and it sets the stage for what your workforce will probably look like. It will also set the tone and set the stage for what happens if someone is to be hired by your company. If a person feels that the application process was difficult – it was not the most user-friendly, if it was an online application process let alone an in-person process – then chances are that they may have difficulty if they are an individual with a disability.

Once they become an employee, will they be able to receive accommodations that they may need to help them effectively perform their job? So those are just some things that you wanted to think about and consider when you think about what does the application process look like from an applicant standpoint.

Additionally, the agency is going to ask to look at your online application system to ensure it is accessible. Is it compliant with the posting requirement? The compliance officer will ask to speak with the individual who manages the portal and will check to ensure that completing the self-identification form is voluntary. And again, filling out the self-identification form is voluntary. It is not mandatory. An employee does not have to do that. But you want to encourage them to do so.

We're also going to be looking to see that the demographic information is maintained separately from the application. We will also request copies of the applications, screening questions, and onboarding forms. This all goes into your HR practices, what type of policies do you have in place, what do you do when you onboard an employee. It just gives us more information about what your application process looks like.

As we are reviewing the application and onboarding forms to determine if there are any pre-employment medical inquiries, as a reminder that type of inquiry is not permitted before an offer of employment. I'm going to repeat that. Pre-employment medical inquiries are not permitted before an offer of employment.

The medical inquiries, the medical exams are used as a compliance officer will ask for more information regarding the purpose of the exams, who has access to the information from the examination, and how that information is maintained and whether any applicants that were eliminated were done so for not successfully passing a medical exam.

Let's go forward now to the self-identification process. I know this is one of the largest challenges for federal contractors. We are completely cognizant and aware of that. And as I mentioned earlier, we're going to try our best to assist you and partner with you in finding ways to encourage employees to self-identify and even applicants to self-identify.

The reviewing the contractor's self-identification procedure, OFCCP will check the form to ensure it is compliant. The compliance officer will also ensure that applicants are invited to self-identify pre-employment and post-offer.

Additionally, the compliance officer will be checking to make sure employees were offered the invitation when the contractor was covered by the requirement and at least once every five years since that time.

While we were at the national ILG conference recently a few weeks back, we had contractors come up to us and employees as well that shared with us that they had never been offered the opportunity to self-identify. And so that's just something for you to consider when you think about the timelines and the time frames that made me this wasn't something that you did when certain staff were there but this certainly serves as an opportunity to think about messaging campaigns that you can begin to implement and deploy within your establishment, an opportunity to allow employees to self-identify now.

You do not have to wait to start some sort of messaging campaign. You may find that it will be best serving for you to be very clear what your message is.

Further, the compliance officer will ensure that the contractor reminded employees that they can self-identify at least once during the five-year period. So they cannot only just do it then; they can do it whenever they feel the need to do so. An employee's circumstances can certainly change during the course of a five-year period where they may have to self-identify prior to. And they are allowed to do so.

Finally, OFCCP will check to ensure that completed forms are confidential and maintained separately from the personnel and medical folders, that the demographic information is maintained in a separate demographic folder.

As we prepare to move on to the reasonable accommodation, I am going to turn this over to my colleague Nakisha Pugh. Nakisha Pugh is the branch chief of staff with OFCCP. Nakisha?

**NAKISHA PUGH:** Okay. Thank you, Tina. Hello everyone. So what is a reasonable accommodation? A reasonable accommodation is any change to a job, the application process, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform the essential job functions, or enjoy access to equal benefits available to other employees in the workplace.

As Tina spoke when we were talking about the application process, it may be making that application location accessible to someone in a wheelchair or with a vision impairment.

Another example is an employee with a vision impairment who relies on a guide dog to get around. You may have an allotted office space that does not accommodate the guide dog. So an accommodation for that employee may be providing a larger workspace so that the employee and the guide dog can be accommodated.

The intent of reasonable accommodation is to help the employee effectively do their job. Providing a reasonable accommodation should not cause undue hardship for the employer. During the focused review, the compliance officer will determine if the contractor has a policy or procedure for addressing requests for a reasonable accommodation.

It is at this point that the CO may ask to see a list of individuals who have requested an accommodation. They may ask to see the policy. They may ask to speak to those persons who makes the decisions regarding those reasonable accommodations. Sometimes we find that without best practices there may be a different review level. The manager may not make those decisions. It may go to a higher review. So we will ask those types of questions during the on-site to just determine how you are actually implementing the reasonable accommodation policies.

The CO may also ask to interview individuals, managers, and non-managers who are involved in the process. So in addition to speaking to those reasonable accommodation officials, the compliance officer is going to want to ask to speak to some employees as well. And these may be employees who have requested an accommodation or employees who have not requested an accommodation.

Some of these questions that may be asked may include what happens if an employee asks for a reasonable accommodation. What is the process to request a reasonable accommodation? What was the resolution of each reasonable accommodation requested during the review period? Who made the decision whether to grant or approve the reasonable accommodation request? And what was the length of time between the reasonable accommodation request and the decision?

This is not an exhaustive list of questions that may be asked. But this is sort of to give you a taste or an idea of some of the things that you may be asked during an on-site as it relates to reasonable accommodations.

As we shift gears, we're going to move on to talk about some of the best practices for building an inclusive work environment. There are a number of best practices highlighted on our Section 503 focused review landing page and on the Section 503 page of our website. And again, if you have some excellent best practices that you would like to share with OFCCP, we invite you to share with those and we can share them on our landing page as well.

Among the best practices included include centralizing how reasonable accommodations are processed and provided, meaning that there is a central repository for accepting reasonable accommodation requests and approving those requests. This move the process from your local managers to corporate or headquarters where there can be broader solutions and funding.

Another best practice top leadership support for disability inclusion. This one support will help in recruiting and encouraging individuals to self-identify.

One of the ways that we've seen top leaders demonstrate their support for disability inclusion is by issuing an annual statement in order to communicate to our employees that disability inclusion is something important and valued within the company.

You also may want to coordinate with your state and local rehabilitation agencies. This is a tremendous resource for contractors for recruiting individuals with disabilities as well as providing reasonable accommodations.

Another best practice that we found is having accessible online recruiting tools and flexible work policies will make your workplace more appealing the persons with disabilities.

Other best practices include mentoring programs, employee resource groups, and sponsoring disability

inclusion programs.

There are a number of resources available to support contractors as they build an employee inclusive workforce. We'll begin by discussing EARN. EARN is the employer assistance and resource network can disability inclusion. It is designed to help employers recruit, hire, retain, and advance people with disabilities.

In addition to housing webinars and other events, EARN also maintains a website AskEARN.org. And this website provides information on recruiting and hiring, retention and advancement, laws and regulations, creating an accessible and welcoming workplace, and federal contractor requirements. The website also offers a variety of resources to assist state and federal government agencies in making their workforce more inclusive and reflective of the citizens they serve.

Some of the resources offered by EARN include a primer on disability inclusion, online training center, inclusion at work, small business and disability, steps to success, and a fact sheet on self-identification of disability.

We also wanted to highlight the mental health toolkit. And this is also available on EARN's website. It is a resource for fostering a mentally healthy workplace. It is a gateway to background tools and resources that can help employers learn more about mental health issues and cultivate a welcoming and supportive work environment for employees who may be facing mental health issues.

It also presents in easy to follow framework for fostering a mental health-friendly workplace. Also built around the four A's – awareness, accommodation, assistance, and access.

And last, we will discuss the job accommodations network or JAN as most of us know it by. And the job accommodations network is a leading source of free, expert, and confidential guidance for workplace accommodations and disability employment issues working to practical solutions that benefit both employer and employee. JAN helps people with disabilities and has their employability and shows employers how to capitalize and the value and talent that people with disabilities add to the workplace.

One thing that we found that using JAN and I found it to be a nice tool to have is that you can actually put in going to the JAN website put in a disability and it will offer potential accommodations that may be available for employees with disabilities. So I think it's a nice tool to use when you may not know what an employee needs or how to accommodate an employee need because the employees themselves may not be able to verbalize what did they actually need. So it's a way that you can work together with them in an interactive discussion.

JAN's trusted consultants offer one on one guidance from workplace accommodations, The Americans with Disabilities Act and related legislation, and self-employment and entrepreneur options for people with disabilities. Assistance is available both over the phone and online.

Those who can benefit from JAN's services include private employers of all sizes, government agency employee representatives and service providers as well as people with disabilities and their families. JAN has a nice video on outreach and it is called "JAN is here for YOU!" to learn how JAN works.

So now we understand that you've been putting your questions into the chat and we appreciate you doing that. We're going to take a 10-minute break. We're going to gather your questions and will be

back to answer your questions shortly.