

Affirmative Action Programs That Withstand OFCCP Scrutiny

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Affirmative Action Programs That Withstand OFCCP Scrutiny

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Who Needs an Affirmative Action Program?

Coverage.

Not every company is legally required to have an affirmative action program (AAP). Some companies will voluntarily implement an AAP, and sometimes AAPs are required under state or local law. This presentation focuses only on AAPs required under federal law.

There are three federal laws that require companies to develop AAPs. Companies that have 50 or more employees and a federal contract or covered subcontract are required to develop and maintain AAPs if the contract(s) at issue reach or exceed the threshold under the law.

Laws Requiring AAPs.

The three federal laws that carry affirmative action components are as follows:

- Executive Order ("EO") 11246. EO 11246 requires federal contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of employment and there is no discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. A contractor must develop AAPs tracking their utilization of women and minorities if they have at least 50 employees and a single contract or subcontract of \$50,000 or more. See 41 C.F.R. § 60-2.
- Section 503 of the Rehabilitation Act of 1973 ("Section 503"). Section 503 prohibits discrimination on the basis of disability and requires covered contractors and subcontractors to develop an AAP for individuals with disabilities. The AAP requirement is triggered if the contractor has at least 50 employees and a single contract or subcontract of \$50,000 or more. See 41 C.F.R. § 60-741, Subpart C.
- The Vietnam Era Veterans' Readjustment Assistance Act of 1974 ("VEVRAA"). VEVRAA requires equal employment opportunity for protected veterans. A contractor must develop a VEVRAA AAP if it has at least 50 employees and a single contract of \$150,000 or more. See 41 C.F.R. § 60-300, Subpart C.

These laws are enforced by the Office of Federal Contract Compliance Programs ("OFCCP"), which is a division of the U.S. Department of Labor. OFCCP's current director is Ondray Harris, who was nominated by President Trump. OFCCP has six regional offices. The Midwest Region covers Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. There are also district offices throughout the country, though the 2017 Senate Appropriations bill strongly hinted that Congress at least believes consolidation is appropriate:

"The Committee strongly urges OFCCP to find efficiencies and cost savings, including the consolidation of offices, within its current budget structure. This should include a review of the current OFCCP office locations and infrastructure across the country and whether these offices align with current workload needs."

Sen. Rept. 115-150 (Sept. 7, 2017).



How Does a Company Prepare an Affirmative Action Program?

Starting Points.

The first thing a company generally needs to do to prepare an AAP is take a critical look at its current workforce and its current data collection and tracking practices. While there are available off-the-shelf AAP tools, an AAP will be most useful *and* best to withstand scrutiny from the OFCCP if it is developed and customized to reflect each particular contractor's organizational structure, policies, and goals.

Contractors need to develop a separate AAP for each physical location (or establishment) that has 50 or more employees. This means one government contractor can end up needing multiple AAPs, each separately subject to audit by the OFCCP. Each employee must be accounted for in one AAP, which means contractors must determine which AAP each person belongs in. Once employees are sorted into AAPs, the real fun (analysis) begins.

Deciding Who Goes in Which AAP.

The general rule is that each employee must be included in the AAP of the establishment at which he or she works. 41 C.F.R. § 60-2.1. There are nuances to this general rule, however:

- (1) Employees who work at establishments other than that of the manager to whom they report must be included in the AAP of their manager.
- (2) Employees who work at an establishment where the contractor employs fewer than 50 employees may be included under any of the following three options: (a) in an AAP which covers just that establishment; (b) in the AAP which covers the location of the personnel function which supports the establishment; or (c) in the AAP which covers the location of the official to whom they report.
- (3) Employees for whom selection decisions are made at a higher level establishment within the organization must be included in the AAP of the establishment where the selection decision is made.
- (4) If a contractor wishes to establish an AAP other than by establishment, the contractor may reach agreement with OFCCP on the development and use of affirmative action programs based on functional or business units. The Deputy Assistant Secretary, or his or her designee, must approve such agreements. Agreements allowing the use of functional or business unit affirmative action programs cannot be construed to limit or restrict how the OFCCP structures its compliance evaluations.

41 C.F.R. § 60-2.1(d)(1)-(4).



Components of an AAP.

Once a contractor has determined how many AAPs it needs and confirmed which employees go in which AAP, it's time to actually prepare the AAP. A large portion of the AAP is narrative and likely does not change from plan to plan (although it should be specifically tailored to your operations). The data, of course, will vary from plan to plan since different employees with different demographic data will be in each plan.

EO 11246 Obligations. An AAP under EO 11246 must contain the following components:

Organizational profile. An organizational profile "provides an overview of the workforce at the establishment that may assist identifying organizational units where women or minorities are underrepresented or concentrated." 41 C.F.R. § 60-2.11(a). The contractor must use either the organizational display (41 C.F.R. § 60-2.11(b)) or the workforce analysis (41 C.F.R. § 60-2.11(c)) as its organizational profile. 41 C.F.R. § 60-2.11(a). An organizational display looks somewhat like an organizational chart with information about the number of women and minorities in each position, for each department, on the chart. A workforce analysis looks more like a spreadsheet of titles by department within the organization, also with information about women and minorities in each role.

Job group analysis. Job group analysis is one of the most important (and challenging) components of an AAP. There is no one right way to group jobs together. The important thing is to ensure that the titles placed within the same job group are similar enough that the data on the employees in that group will not vary wildly.

In order to place current employees in job groups for the job group analysis, a contractor must combine job titles within its establishments that have "similar content, wage rates, and opportunities." 41 C.F.R. § 60-2.12. Once the job groups are determined, the contractor must state the percentage of minorities and the percentage of women it employs in each job group. 41 C.F.R. § 60-2.13. Typical job groups might include categories like executives, directors, managers, administrative professionals, sales, laborers, and operatives. Our preference is to use job group names that are meaningful and related to your organization structure, and not standard EEO-1 categories. In fact, the regulations only specifically allow contractors with fewer than 150 employees to use EEO-1 categories as their job groups. 41 C.F.R. § 60-2.12(e).

Contractors should keep in mind that putting employees into the same job group does not necessarily mean those employees are similarly situated as a matter of law. OFCCP will look for disparities assuming that employees within the same job group are similarly situated—at least, until proven otherwise. Careful consideration should be given to avoid compensation comparisons within job groups for jobs that are dissimilar and therefore could raise red flags for the OFCCP.

Availability analysis. Once the contractor has placed its own employees into job groups, the contractor is required to determine what the workforce within that job group "should" look like using data from the U.S. Census. This is called an availability analysis—essentially, how many women and minorities are "available" for jobs within the job group according to how they answered Census questions.



A contractor determines availability "to establish a benchmark against which the demographic composition of the contractor's incumbent workforce can be compared in order to determine whether barriers to equal employment opportunity may exist within particular job groups." 41 C.F.R. § 60-2.14(a). As with creating job groups, there is no exact science to determining availability. A contractor must determine the reasonable recruitment area from which to draw external (Census) data—i.e., where do the contractor's new hires come from in a particular job group? Lower-level jobs typically come from a smaller geographic area, while higher-level jobs often recruit more broadly.

For each job group, contractors must determine (1) the percentage of qualified minorities or women in the reasonable recruitment area and (2) the percentage of minorities or women internally available for promotion, transfer, or training. 41 C.F.R. § 60-2.14(b)-(c). Internal and external factors combined will give the contractor a percentage of women and minorities that are "available" for positions within each job group.

Comparing incumbency to availability. Once the contractor has developed its own job groups, it can determine its **incumbency/utilization** of women and minorities in each job group. The percentage of women and minorities currently in each job group is then compared to the **availability** of women and minorities in each job group using the method described above. 41 C.F.R. § 60-2.15(a).

If the percentage of minorities or women employed in a job group is less than the availability for minorities or women in a statistically significant manner, then a contractor must set placement goals. 41 C.F.R. § 60-2.15(b). The placement goal must equal the availability percentage for the job group. A placement goal is **not** a quota, but rather an aspiration that a contractor must make good faith efforts to meet. 41 C.F.R. § 60-2.16(e)(1). Placement goals also "do not create set-asides for specific groups" and cannot "be used to supersede merit selection principles." 41 C.F.R. § 60-2.16(e)(3)-(4). Importantly, a determination that a placement goal is necessary is not a finding or admission of discrimination. 41 C.F.R. § 60-2.16(b).

Other requirements. The above requirements are often the most time-intensive and data-intensive portions of the AAP. As discussed above, however, an AAP contains narrative as well as data components. An AAP must also include a statement of equal employment opportunity ("EEO") policy, information about the dissemination of the EEO policy, designation of an officer responsible for implementing the policy, and internal audit and reporting systems. See 41 C.F.R. § 60-2.10(b)(2) and 41 C.F.R. § 60-2.17.

Employers must maintain their current AAP and documentation of good faith efforts to meet any placement goals, and must preserve the AAP and documentation of good faith efforts to meet placement goals from the immediately preceding AAP. 41 C.F.R. § 60-1.12(b).



Section 503 and VEVRAA Obligations. As discussed above in the Coverage section, contractors with federal contracts that exceed the relevant thresholds must prepare AAPs not only for women and minorities under EO 11246, but for veterans and individuals with disabilities under VEVRAA and Section 503, respectively. AAPs for veterans and individuals with disabilities should contain the following components. See 41 C.F.R. §§ 60-300.40 *et seq.*, 60-741.40 *et seq.*

Invitation to self-identify. The AAP should confirm the contractor's process for inviting applicants and employees to voluntarily self-identify their disability and/or veteran status. See the section regarding hiring data below for more information.

Hiring benchmarks and utilization goals. As discussed below in the placement goals section, OFCCP sets the bar for utilization of individuals with disabilities and a hiring benchmark for protected veterans. The hiring benchmark for protected veterans is currently 6.4%, and the placement goal for individuals with disabilities is 7% in each job group. Contractors are required to set this benchmark and goal as part of the AAP for protected veterans and individuals with disabilities. Contractors must collect and maintain data sufficient to track their progress on the benchmark and goal.

Confidentiality. The contractor should confirm it will ensure that inquiries into the physical or mental condition of disabled applicants or employees and the information obtained from such inquiries or medical examinations are kept confidential except for legitimate business reasons in accordance with applicable law.

Review of Personnel Processes. The contractor should confirm it will annually review personnel processes to confirm that individuals with disabilities and protected veterans are not being disproportionately screened out. This review might include reviewing employment applications and other pre-hire forms, reviewing files for current protected veterans and individuals with disabilities to identify promotion opportunities, and ensuring that there are documented legitimate, non-discriminatory reasons justifying the contractor's failure to hire or promote a protected veteran or individual with a disability.

Review Job Qualifications. The AAP should state that the contractor will—and critically, the contractor should ensure that it actually does—review physical and mental job qualifications at least annually to ensure that if certain qualification standards tend to screen out qualified disabled individuals and veterans, they are job-related for the position in question and are consistent with business necessity and not a direct threat.

Reasonable Accommodation/Anti-Harassment Policies. The AAP should incorporate policies to ensure applicants and employees are provided with reasonable accommodations and will receive equal opportunity during employment. These policies likely already exist but should be reviewed in conjunction with the AAP.

Other Requirements. As with the EO 11246 AAP, AAPs for individuals with disabilities and protected veterans should reference how the AAP will be disseminated both internally and externally, outreach efforts (specific to protected veterans and individuals with disabilities), and training.



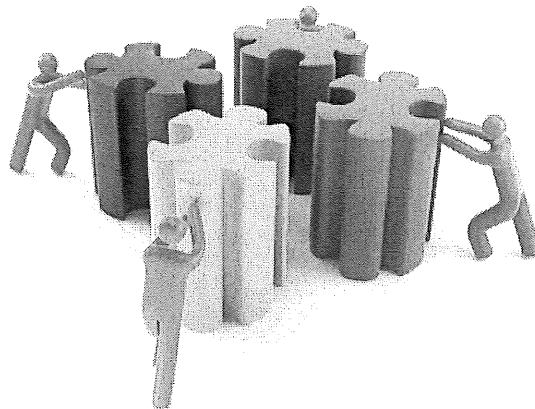
We Have a Placement Goal ... Now What?

Confirm Correct Job Groups/Availability.

As discussed above, having a placement goal does **not** mean a contractor is engaging in discrimination. Sometimes, particularly for smaller contractors or with a small number of employees in a job group, one person is the difference between having and not having a goal.

Sometimes a goal appears because a contractor simply can and should do better at increasing the percentage of women or minorities in a job group. Sometimes, however, a placement goal—particularly one that seems unreasonably high to the contractor who knows the industry and workforce—means the job group and/or availability analysis was done improperly. Contractors should review the job titles in groups where the contractor has goals to confirm that employees are grouped with others who have "similar content, wage rates, and opportunities." 41 C.F.R. § 60-2.12(b). Contractors should also assess how they determined availability for any job group in which there are goals to confirm that the U.S. Census Occupation Code used, recruitment area selected, and any weighting of internal versus external availability were appropriate. If the original analysis was flawed, the contractor may consider revising the AAP.

Importantly, while availability and goals for female and minority utilization will vary from AAP to AAP, placement goals for individuals with disabilities are set by OFCCP at 7% **in each job group**. OFCCP has also set a hiring "benchmark" for veterans, which is currently 6.4%. This means, according to OFCCP, 6.4% of company-wide hires in any given year should be protected veterans.



Don't Just Sit There!

While a contractor does not have a legal obligation to *meet* a placement goal, a contractor does have an obligation to make *good faith efforts* toward meeting a goal. This means a contractor puts itself at risk if it identifies goals but then does not take specific, documented action to improve utilization of the underutilized group.

Typical good faith efforts include reaching out to local women's and minority trade groups and colleges for referrals; looking critically at the current workforce for diverse employees who may be promotable, and providing training sessions targeted at women, minorities, individuals with disabilities, and protected veterans. The regulations also identify ways to make good faith efforts to reach veterans and disabled applicants, such as:

- Reaching out to a State Vocational Rehabilitation Service Agency, state mental health agency, or state disability agency.
- Partnering with the nearest Department of Veterans Affairs regional office.
- Establishing work-study programs with diverse students.
- Working with local centers for independent living.

See 41 C.F.R. § 60-741.44(f); § 60-300.44(f). What a contractor *cannot* do is simply continue the same good faith efforts year after year if the contractor continues to have the same goals year after year, despite those efforts. In an audit, OFCCP will ask contractors what they have done to attempt to remedy existing placement goals, and contractors will want to be prepared with a mountain of good faith effort paperwork.

Engaging in outreach and recruitment without documenting your efforts will not help in the event of an audit. It is smart to keep an overview of recruitment efforts as part of the AAP itself—essentially, a list of what the contractor has done to try to increase utilization of women, minorities, protected veterans, and individuals with disabilities. The contractor must also keep documentation confirming everything on the list, such as a flyer from a job fair that lists the contractor as a participant, or emails with a recruiting resource at a veterans' organization.

The outreach and recruitment exhibit to the AAP can look something like as follows:



**Exhibit to Affirmative Action Program
2018 Community Outreach and Recruitment Efforts**

Recruitment Sources

Minority	Contact Name	Phone Number/Email
Minneapolis Urban League		
Hispanic Chamber of Commerce Minnesota		

Women	Contact Name	Phone Number/Email
Society of Women Engineers		
Dress for Success Twin Cities		

Protected Veterans	Contact Name	Phone Number/Email
Department of Veterans Affairs (VA), Vocational Rehabilitation and Employment Service		
RecruitMilitary		

Individuals with Disabilities	Contact Name	Phone Number/Email
Centers for Independent Living		
Employer Assistance and Resource Network (EARN)		

Employment Service Delivery System (ESDS)	Contact Name	Phone Number/Email
Minnesota Department of Employment and Economic Development (DEED)		

Job Fairs	Contact Name	Phone Number/Email
Minneapolis Veterans Job Fair		
Urban League Diversity Job Fair		

Community Outreach Activities and Sponsorships

Sponsorship/Event	Contact Name	Phone Number/Email
Minneapolisdiversity.com		
Disability Mentoring Day (American Association of People with Disabilities (AAPD))		



What Do We Do With All This Hiring Data?

Importance of Collecting Data.

Oftentimes poor results (i.e., statistically significant hiring disparities against protected groups) are more a result of problems in data collection or retention than problems in the actual hiring decisions or composition of the workforce. Contractors should ensure that they are properly requesting self-identification of the following classes at the proper times. While self-identification is always voluntary and an employee or applicant can refuse, the contractor should ensure that they are always requiring a response to a self-identification question—even if that response is "I choose not to self-identify."

- **Gender:** Contractors must invite all applicants to voluntarily self-identify their gender.
- **Ethnicity and Race:** Contractors must invite all applicants to voluntarily self-identify their ethnicity and race. The current list of race and ethnicity to track and identify in the analyses is: Hispanic or Latino, White (Not Hispanic or Latino), Black or African American (Not Hispanic or Latino), Native Hawaiian or Pacific Islander (Not Hispanic or Latino), Asian (Not Hispanic or Latino), Native American or Alaska Native (Not Hispanic or Latino), and Two or More Races (Not Hispanic or Latino). See 41 C.F.R. § 60-2.11.
- **Disability:** Contractors must invite applicants to voluntarily self-identify as individuals with disabilities at the pre-offer stage and again post-offer. 41 C.F.R. § 60-741.42. Contractors must also survey their existing workforce regarding their disability status once every five years, and contractors must remind their employees that they may voluntarily update their disability information at any time at least once between five-year intervals. Critically, contractors **must use OFCCP's prescribed form** for all of these inquiries. The form was recently updated, and contractors must ensure they are using the correct version, which has the expiration date of 1/31/2020. The form is available here: https://www.dol.gov/ofccp/regs/compliance/sec503/self_id_forms/selfidforms.htm.
- **Veteran Status:** Applicants must be asked whether they identify as a protected veteran *before* the applicant is made a conditional offer of employment. Applicants must be asked to self-identify their veteran status again post offer, but this time they must be asked to voluntarily self-identify which *category* of protected veteran they identify as. 41 C.F.R. § 60-300.42.



Because hiring is one area in which a contractor must not discriminate, contractors must analyze their hiring data to confirm that there are not statistically significant different hire rates for different genders or ethnicity/races. It is strongly recommended that contractors evaluate the selection rate by gender and each race and ethnicity group to confirm whether the difference in selection rate is statistically significant.

Contractors should be particularly cognizant of any job groups in which there is current underutilization (a placement goal) **and** a statistically significant disparity in hiring. If a contractor has a goal in a job group, yet still hires a significantly lower percentage of applicants that are women or minorities despite that goal, OFCCP will dig further into that job group.

Importance of Good Disposition Coding.

Contractors are only required to track **applicants**—meaning that anyone who does not fall into the legal definition of applicant can and should be removed from AAP data. The regulations define a person as an "internet applicant" only when all of the following criteria are met:

- The individual submits an expression of interest in employment through the Internet or related electronic data technologies;
- The contractor considers the individual for employment in a particular position;
- The individual's expression of interest indicates the individual possesses the basic qualifications for the position; and,
- The individual at no point in the contractor's selection process prior to receiving an offer of employment from the contractor, removes himself or herself from further consideration or otherwise indicates that he or she is no longer interested in the position.

41 C.F.R. § 60-1.3. Contractors must develop disposition codes that explain the reasons why each potential applicant did or did not progress further in the application process. Some reasons for rejection will take a candidate out of the "internet applicant" definition and, generally, the fewer applicants – the less likelihood for problematic data (and the smaller potential class of alleged discrimination victims).

Based on these definitions, have you reviewed your applicant data to confirm you have determined who is and who is not an applicant? Following are some common scenarios that create common data errors that can be the difference between a finding of discrimination or a clean audit!



Common Disposition Coding and Tracking Mistakes:

- *Not capturing the right data.* Are you matching up your applicants to the hires for the reporting period? Do not just pull all applicants for the year period because they may not actually be linked to *hires* in the reporting period. For example, an employee hired on January 2, 2017 probably applied in 2016 (as did other candidates considered for that position). Likewise, someone who applied December 31, 2017 was likely not hired in 2017 so should be reflected in the 2018 analysis with the other applicants associated with that 2018 hire.
- *Taking the easy way out.* Simply coding everyone who was not hired for a position as "more qualified applicant selected" is not a good idea. This does not give enough information to know whether each candidate was truly an "applicant" within the meaning of the law of information to defend the selection decision in an audit. For example, someone else could have been more qualified because the candidate at issue was not even *minimally* qualified (not an "applicant"). If you do not have more detailed disposition codes, train your recruiters to add comments in the applicant tracking system to give more detail on the reason the applicant was not selected and at what stage in the process they were removed (or withdrew) from consideration.
- *Not getting credit for your offers.* Failing to code candidates who rejected job offers as "selected" for analysis purposes. For OFCCP purposes, **an offer equals a selection or a hire**. Think about this from an analysis standpoint . . . a contractor could not have discriminated against a candidate based on a protected class if the contractor did, in fact, want to hire the candidate but the candidate did not start in the position for other reasons (e.g., rejected the offer, didn't show up for the first day of work, failed the drug screen, etc.).
- *Leaving people out.* All candidates must have a disposition code that explains why that candidate was not ultimately hired (or should be coded as "hired"). Recruiters must be trained to code all candidates in real time with the hiring process. It is very difficult to recreate hiring decisions after the fact, and particularly hard to do so in the context of an OFCCP audit when the decisions at issue were made years before.
- *Including candidates not really "considered" (over-reviewing applications).* If a requisition is open but a hiring decision has already been made, recruiters should be instructed to **stop reviewing** applications. Any applicant whose materials are not reviewed at all is not "considered" for a particular position and is therefore not an "applicant." These candidates should be coded as something like "not reviewed" or "applied after selection decision made" so that they are not deemed applicants in your statistical analysis.
- *Not cleaning up duplicates.* If Candidate A applies to seven different requisitions, the reason for her non-selection might be different for each requisition. Make sure the code properly identifies why Candidate A was not selected *for each specific position*. If Candidate A applied for the *same* position seven times, make sure all but one data line are removed for analysis purposes or that the other six applications are clearly marked as duplicates.



Is The Trump Administration OFCCP Really Going to Pursue Audits?

While contractors have generally welcomed President Trump's pro-business mentality, contractors should not expect OFCCP to disappear overnight. In fact, earlier this year, OFCCP sent out approximately one thousand notices to government contractors and subcontractors to inform them that they may be subject to an audit of their AAPs. The notices, called Courtesy Scheduling Announcement Letters (CSALs), are dated on or about February 1, 2018, and are intended to provide advance notice to contractors of upcoming audits. The last major round of CSALs went out in February 2017.

Although a CSAL does not commence an audit, any company that has received a CSAL would be wise to prepare as though their affirmative action and employment practices are going to be audited in the coming months. Even if a contractor does not receive a CSAL, the OFCCP may still select that contractor for audit without advance notice. Following is an example CSAL:

U.S. Department of Labor

Office of Federal Contract
Compliance Programs
500 Conkling Avenue, N.W.
Washington, D.C. 20216



January 31, 2018

Parent: [REDACTED]

Facility: [REDACTED]

Dear Human Resources Director:

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is sending this letter as a courtesy to advise you that the above-listed establishment has been identified for scheduling of a supply and service compliance evaluation during this scheduling cycle. The listed establishment has been selected for scheduling based on your company having a federal contract or subcontract that satisfies the requisite financial thresholds for establishing OFCCP coverage. This letter is intended to facilitate your complete, accurate and timely production of materials and information when the listed establishment receives an Office of Management and Budget (OMB) approved scheduling letter, which will initiate a compliance evaluation by OFCCP. In order to facilitate communication within your organization, please transmit this letter to the appropriate Human Resource Department at your company.

This courtesy notification is not required by law or regulation. As a condition of receiving a covered federal contract or subcontract, employers have an ongoing duty to maintain any personnel or employment records they make or keep, generally for at least two years, regardless of whether they are subject to a compliance evaluation. In addition, Executive Order 11246 (E.O. 11246) and Section 503 of the Rehabilitation Act of 1973 (Section 503) require that federal contractors and subcontractors develop, maintain and update annually a written affirmative action program (AAP) for each of its establishments within 120 days of the commencement of such contract (if the contract is \$50,000 or more and the contractor has 50 or more employees), while the contract remains in effect. See 41 C.F.R. § 60-2.1(e) (E.O. 11246); 41 C.F.R. § 60-741.40(b) (Section 503).

Under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 38 U.S.C. § 4212 (as amended), a contractor with 50 or more employees and a federal contract of \$150,000 or more, which was entered into or modified on or after December 1, 2003, is required to develop and maintain annually a written AAP, while the contract remains in effect. See 41 C.F.R. § 60-300.40(b); Ronald Reagan National Defense Authorization Act, 41 U.S.C. 1908;



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Federal Acquisition Regulation, Inflation Adjustment of Acquisition-Related Thresholds, 80 FR 38293 (2015).

This notification is not all-inclusive. Therefore, it is possible that other establishments within your company may be selected for a supply and service compliance evaluation during this scheduling cycle. For example, company establishments that have been acquired through recent mergers and acquisitions by your firm may not be included in this notification. In addition, this notification does not include any establishment of your company that has been selected for an evaluation because of a contract award notice (i.e., pre-award review); monitoring activity during a conciliation agreement; credible reports of an alleged violation of a law or regulation, including complaints filed with the agency; or as part of the agency's Functional Affirmative Action Program (FAAP), or other agency initiative, approved by the Director of OFCCP.

I encourage you to take advantage of OFCCP's technical assistance materials which can be found on OFCCP's website at <http://www.dol.gov/ofccp/> under the "Federal Contractor Corner" section, including information about OFCCP's laws and regulations, policy directives, technical assistance guides, and answers to frequently asked questions. The website also has information about compliance assistance seminars hosted by our local OFCCP offices that are available for your firm's representatives to attend free of charge (see the "Attend a local seminar or workshop" link in the "Contact Us" section of OFCCP's website). OFCCP's District Office staff will contact you to offer technical assistance prior to sending the scheduling letter.

If you have any other questions about the compliance evaluation process or would like to receive individualized compliance assistance, please contact your nearest OFCCP regional office for further information. You can find a list of OFCCP's regional offices on our website at <http://www.dol.gov/ofccp/contacts/regkeyp.htm>. Our regional offices also provide compliance assistance at the corporate level for establishments covered by this letter and any other facilities you may wish to include.

Sincerely,



Ondray T. Harris
Director



Five (Relatively) Quick Things To Do in Anticipation of an OFCCP Audit

1. **Read your AAP.** Sounds simple, but you would be surprised how many companies never actually read the plan until an OFCCP investigator asks a question. Know where your goals are, and know what specific, documented steps you have taken in order to improve utilization in areas where you have goals. If there are not any specific, documented steps already taken—get going! But do not over-commit. If you are not actually doing everything in your plan, evaluate whether it is required, just a best practice, or perhaps an aspirational goal. If it is not required and you are not currently doing what your AAP says, take it out before you submit it in an audit.
2. **Is your AAP Signed?** Confirm that the top executive in the company has signed your AAP. A Human Resources official is not sufficient (though a Human Resources official can certainly be your EEO officer).
3. **Take a look at your website (OFCCP will!).** Make sure your website is up to date for an OFCCP audit. This includes:
 - Confirming that your EEO tagline appears prominently on any Careers page (or wherever candidates go to apply for a position).
 - Ensuring there is a link to the "EEO is the Law" poster, which includes the federal subcontractor supplement.
 - Having information on how to request a reasonable accommodation easily located, including an email address and phone number for a contact individual.
 - Making sure any pictures on your website demonstrate commitment to diversity. Employees pictured on a Careers page should be different genders, ethnicity and races, veteran status, and disability status, to the greatest extent possible, without misrepresenting your workforce.
 - Actually apply for a job! OFCCP may do it too. Make sure your application is forcing a response on the voluntary self-identification questions.
4. **Posters?** Ensure that your employment posters are current and that they are accessible to both employees *and* applicants. (See the full list, AAP Action Checklist, Attachment 1.)
5. **Compensation.** Audit your compensation for race- and gender-based disparities. Although a full-blown statistical regression analysis is admittedly not a "quick" fix (but is recommended before any audit), contractors can still do a quick analysis of job groups and job titles looking for differences in pay of 2% or \$2,000 (an initial test OFCCP may use). Contractors should ensure that any differences at this level can be explained by **documented** legitimate, non-discriminatory criteria such as length of service with the company, length of time in position, skills/responsibilities, or job performance.



Are You Prepared to Respond to the OFCCP's Initial Notice of Audit Letter?

The countdown begins. You receive the notice of audit and you have 30 days to respond. Attachment 3 is a copy of the OFCCP's form notice of audit (Scheduling Letter and Itemized Listing). Review the form to test whether you have the information necessary to timely respond to the OFCCP. At first glance, this doesn't look too hard, just three questions, right? But note the itemized listing asking **22** specific questions (with subparts) related to your AAP.

Ask yourself the following questions to test your readiness:

- Where is my AAP? Seriously—make sure you have it and that you know *which year (or years) the OFCCP is asking for*. Make sure it includes Executive Order 11246, Section 503 (disability), and Section 4212 (VEVRAA) affirmative action requirements.
- Have we timely filed EEO-1 reports? And, where are copies?
- What were our placement goals in our most recent AAP (or the AAP at issue)? Do we have a significant number of recruitment and outreach efforts documented that we can present to the OFCCP to show good faith efforts toward making those goals?
- Have we properly tracked our employment activity? Can we quickly assemble applicants, hires, promotions, and terminations data for the requested audit period?
- Do we have employee level compensation data for all employees? Does it include not only base salary but bonuses, incentives, commissions, merit increases, locality pay and overtime? Do we have policies on compensation?
- Do we have reasonable accommodation policies and documentation of any accommodation requests received and their resolution?
- When did we last train hiring managers regarding our AAP? Have we presented the results of our most recent AAP (or the AAP at issue) to executive management?
- Have we done an assessment of our personnel processes, including an assessment of physical and mental qualifications, and what were the results of that assessment?

According to the OFCCP's initial audit letter:

"We estimate that the average time required to complete this information collection is 27.9 hours per response, including the time for evaluating instructions, searching existing data sources, gathering and maintaining the data needed, and completing and evaluating the collection of information."



ATTACHMENT 1

AFFIRMATIVE ACTION CHECKLIST



AFFIRMATIVE ACTION CHECKLIST

YEARLY REQUIREMENTS

- Update AAP (based on plan year)
 - Verify still a covered government contractor
 - Report on prior years goals
 - Job Group analysis
 - Workforce analysis
 - Availability/Utilization analysis
 - Applicant flow analysis
 - Adverse impact analysis
 - Establish a hiring benchmark for protected veterans (either the current national percentage of veterans of 6.4% or state-specific percentages)
 - Establish a 7% utilization goal for qualified individuals with disabilities in each job group in the AAP
 - Other changes as needed (i.e., salary grade or job group revisions, change in responsibility, recruitment area, etc.)
- Update AAP Notebook (1 year record retention for 150 employees or less; 2 years for 150 employees or more; 3 years for records relating to self-assessment of outreach and recruiting efforts and data collection analysis).
- File EEO-1 Report by March 31 each year.
- File VETS-4212 Report by September 30 each year.
- Verify all appropriate and up-to-date posters and policies are posted (must post in line of sight of employees and applicants).

The current list includes: EEO is the Law; EEO is the Law Supplement; OSHA; Wage & Hour; Polygraph Protection; FMLA; USERRA; Notification of Employee Rights Under Federal Labor Law; Notice of Employee Whistleblower Rights; state anti-discrimination, workers compensation and unemployment, if required
- Post notice regarding access to AAP (recommend including with EEO Policy) and AAP policy statement on bulletin boards and electronically. Ensure notice is available to applicants as well as employees.
- Send letters to community agencies and employment agencies.
- Yearly reminder notices to supervisors and managers (recommend conducting training regarding the company's affirmative action obligations regularly).



- Send notice to union, if applicable.
- Verify Service Contract Act compliance, if applicable.
- Review job postings and job descriptions to ensure basic qualifications are appropriate (and not over restrictive so as to unnecessarily disqualify individuals with disabilities).
- Review wages and compensation data for disparities based on protected status and take appropriate action to remedy any disparities uncovered (recommend conducting this review under attorney-client privilege).
- Conduct self-assessment of the effectiveness of the company's outreach and recruiting efforts to protected veterans and individuals with disabilities, considering, for example:
 - (a) whether current efforts attracted qualified applicants with disabilities or who were protected veterans;
 - (b) whether individuals with disabilities or protected veterans were hired as a result of the company's efforts;
 - (c) whether the efforts expanded the company's outreach to individuals with disabilities or protected veterans in the community; and
 - (d) whether the efforts increased the company's ability to include individuals with disabilities or protected veterans in the workplace.
- Conduct data collection analysis of applicants, job openings, jobs filled, number of applicants who are qualified individuals with disabilities and qualified protected veterans, and number of qualified protected veterans and individuals with disabilities hired.
- Send notice to vendors, suppliers, and subcontractors of affirmative action efforts and request appropriate action on their part.
- Send notice to the state unemployment security commissions notifying them:
 - (a) that the company is a federal contractor subject to VEVRAA;
 - (b) that the company desires priority referrals of protected veterans;
 - (c) of the name and location of each hiring location in the state; and
 - (d) of the contact information for the hiring officer at each location, including the identity of any third party search companies.



CONTINUOUS REQUIREMENTS

- Incorporate EEO Clause and Executive Order 13665's prohibition on discriminating against applicants or employees for inquiring about, disclosing, or discussing pay information into covered contracts and subcontracts. The language **must** be in bold pursuant to Section 503 and VEVRAA.

As a federal contractor, the Company shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a); and 29 CFR Part 471, Appendix A to Subpart A incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin or any other protected class covered under federal or state law. The regulations also protect applicants and employees from discrimination for inquiring about, disclosing, or discussing pay information. Moreover, if applicable, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

- Incorporate the following specific, OFCCP-prescribed language into employee handbooks and disseminate a copy to all employees and applicants, either electronically or by a posting a copy of the provision in conspicuous locations accessible to both employees and applicants:

PAY TRANSPARENCY NONDISCRIMINATION PROVISION

The contractor will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information. 41 CFR 60-1.35(c)

- Include EEO or EOE statement in all advertising for open positions. This language must specifically include a statement of EEO or EOE for veterans and individuals with disabilities, e.g., "Equal Opportunity Employer—minorities/females/veterans/individuals with disabilities/sexual orientation/gender identity."
- List all open positions with the state's employment service delivery system (ESDS).
Per 41 CFR. §60-300.5(a)(6), contractors need not list:
 - (1) Executive and senior management positions;
 - (2) Positions that will be filled from within the contractor's organization; and
 - (3) Positions lasting three days or less.



- Notify community agencies of available employment opportunities and search for recruitment sources to target females, minorities, veterans, and individuals with disabilities, and post open positions with such sources if available (in the event of an audit, required to provide documentation of outreach efforts).
- Maintain applicant flow data on minorities, females, veterans, and individuals with disabilities.
- Invite employees and applicants to self-identify as follows:
 - (a) At the *pre-offer* stage for sex, race, and veterans status on separate forms and for disability status using the OFCCP-prescribed form.
 - (b) At the *post-offer/new hire* stage for veteran status in one form, and for disability status using the OFCCP-prescribed form.
 - (c) *During employment* every five years for disability status using the OFCCP-prescribed form.
 - (d) *At least once between five-year intervals*, remind employees that they may voluntarily update their disability status at any time.
- Maintain records of efforts to accommodate qualified individuals with disabilities. (Reminder: Keep self-identification forms and medical records confidential and separate from the applicant and personnel files.)
- Ensure that information about how to request a reasonable accommodation both in the application process and during employment is clearly documented, including ensuring clear information on the company website about how to request an accommodation in the application process.
- Implement policy to ban text messaging while driving, if required by government contract.
- Utilize E-Verify, if required. (Applies to most federal contracts of \$100,000 or more and subcontracts of \$3,000 or more, and generally provides for an initial 90-day timeframe to initiate the verification process. The rule took effect September 8, 2009.)
- Ensure that existing PTO or sick leave policies provide employees with at least one hour of sick leave for every 30 hours worked, up to 56 hours in a year or at any point in time, and that sick leave otherwise complies with Executive Order 13706. (Applies to employers entering into new contracts covered by the Service Contract Act or Davis-Bacon Act on or after January 1, 2017.)
- Review policies, job titles, and health care plans and confirm compliance with revised EO 11246 sex discrimination regulations effective August 15, 2016. <https://www.dol.gov/ofccp/SexDiscrimination.html>



ATTACHMENT 2

AAP DATA QUALITY CHECKLIST



AAP Data Quality Checklist

Below is a list of common data errors and a checklist to confirm the data is complete before preparing affirmative action programs.

All Data Reports

- Confirm necessary data points are included
- Check that all fields are populated (no blanks) and data is congruent

Employee Roster Snapshot Data

- Verify hire dates are consistent with snapshot date
- Verify job titles are accurate as of the snapshot date
- Ensure supervisors are also listed on the snapshot as employees
- Ensure data points such as location and department are clearly identified and consistent (no department/location codes unless code key provided)

Promotions

- Confirm effective dates are within range (i.e. January 1 – December 31)
- Verify that promotions are clearly identified (if list includes transfers, demotions, pay changes, etc.)

Terminations

- Confirm effective dates are within range (i.e. January 1 – December 31)
- Confirm terminated employees are not also listed on the snapshot (if so, update snapshot)

Applicant Tracking Data

- Ensure all applicants are included for each position *hired* during time period
- Confirm each position hired has a unique requisition number
- Confirm each requisition has a hire or offer (ideally only one hire per requisition)
- Remove duplicate candidates to same requisition (or mark as duplicates)
- Update unknown race/gender fields for hired candidates
- Confirm hire dates are accurate and new hires are listed on the roster snapshot (and vice-versa)
- Ensure location of the hire is identified and consistent for all applicants to requisition
- Ensure all applicants have the correct final disposition code and that the code is consistent with the notes/comments



ATTACHMENT 3

SAMPLE OFCCP SCHEDULING LETTER AND ITEMIZED LISTING (INITIAL AUDIT NOTICE)



FIGURE F-2: OFCCP SCHEDULING LETTER AND ITEMIZED LISTING

OMB NO. 1250-0003
Expires OMB Approved Expiration
Date

VIA CERTIFIED MAIL
(NUMBER)
RETURN RECEIPT REQUESTED

(Name of contractor official)
(Title of contractor official)
(Establishment Name)
(Street Address)
(City, State, Zip Code)

Dear (Name of contractor official):

The U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), selected your [Insert: establishment, functional unit, or corporate headquarters] located at

_____ for a [Insert: compliance evaluation or corporate management compliance evaluation (CMCE)]. We are conducting this [Insert: compliance evaluation or CMCE] under the authority of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973,³²⁵ the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974³²⁹ and their implementing regulations in 41 CFR Chapter 60.³³⁰ In addition to determining your compliance with these authorities, we will also verify your compliance with the regulations issued by the Veterans' Employment and Training Service (VETS) requiring contractors covered under Section 4212 to file an annual report on their employment and hiring of protected veterans.³³¹

A compliance evaluation is initiated as a compliance review. The compliance review may progress in three phases: a desk audit, an on-site review, and an off-site analysis. OFCCP describes the phases of a compliance review in its regulations at 41 CFR Chapter 60.³³² For the desk audit, please submit the following information.

³²³ 29 U.S.C. § 793 (2006).

³²⁵ 38 U.S.C. § 4212 (2006).

³²⁹ E.O. 11246, as amended, 3 CFR 339 12319 (1965); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (2006); Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212 (2006).

³³¹ The VETS regulations require Federal contractors to submit either or both the VETS-100 and the VETS-100A Federal Contractor Report on Veterans' Employment. See 41 CFR § 61-300.10.

³³² 41 CFR §§ 60.1.20(a), 60-300.60(a), and 60-741.60(a).

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1. a copy of your current Executive Order Affirmative Action Program (AAP) prepared in accordance with the requirements of 41 CFR § 60-1.40, and 41 CFR § 60-2.1 through § 60-2.17;
2. a copy of your current Section 503 and Section 4212 AAPs prepared in accordance with the requirements of 41 CFR § 60-741.40 through § 60-741.44 and 41 CFR § 60-300.40 through § 60-300.44, respectively; and
3. the support data specified in the enclosed Itemized Listing.

Please submit your AAPs and the support data specified in the enclosed Itemized Listing to the address listed on page one of this letter as soon as possible, but no later than 30 days from the date you receive this letter. Pursuant to 41 CFR § 60-1.12(c), failure to preserve complete and accurate records constitutes non-compliance with your obligations as a Federal contractor or subcontractor. Once the evaluation begins, you are required to maintain all personnel and employment records described in the regulations enforced by OFCCP until the final disposition of the evaluation.²²³

We encourage you to submit your information in an electronic format to reduce the amount of time it takes to complete our evaluation of your [Insert establishment, functional unit, or corporate headquarters]. Should you opt to email your submissions, use email address _____

You should be aware that OFCCP may initiate enforcement proceedings if you fail to submit AAPs and support data that represent a reasonable effort to meet the requirements of the regulations in 41 CFR Chapter 60.

Rest assured that OFCCP considers the information you provide in response to this Scheduling Letter as sensitive and confidential. Therefore, any disclosures we may make will be consistent with the provisions of the Freedom of Information Act.²²⁴

Please contact _____ at _____ if you have any questions concerning the compliance evaluation.

Sincerely,

(Name of District Director)
District Director

Enclosure (1)
Itemized Listing

²²³ 41 CFR §§ 60-1.12(a), 60-300.80(a), and 60-741.80(a).

²²⁴ 41 CFR § 60-1.20(g); Freedom of Information Act, as amended, 5 U.S.C. § 552 (2009).



ITEMIZED LISTING

Executive Order 11246

1. An organizational profile prepared according to 41 CFR § 60-2.11.
2. The formation of job groups (covering all jobs) consistent with criteria given in 41 CFR § 60-2.12.
3. For each job group, a statement of the percentage of minority and female incumbents as described in 41 CFR § 60-2.13.
4. For each job group, a determination of minority and female availability that considers the factors given in 41 CFR § 60-2.14(c)(1) and (c)(2).
5. For each job group, the comparison of incumbency to availability as explained in 41 CFR § 60-2.15.
6. Placement goals for each job group in which the percentage of minorities or women employed is less than would be reasonably expected given their availability as described in 41 CFR § 60-2.16.

Section 503

7. Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified individuals with disabilities (IWDs) as described in 41 CFR § 60-741.44(f).
8. Documentation of all actions taken to comply with the audit and reporting system requirements described in 41 CFR § 60-741.44(h).
9. Documentation of the computations or comparisons described in 41 CFR § 60-741.44(k) for the immediately preceding AAP year and, if you are six months or more into your current AAP year when you receive this listing, provide the information for at least the first six months of the current AAP year.
10. The utilization analysis evaluating the representation of IWDs in each job group, or, if appropriate, evaluating the representation of IWDs in the workforce as a whole, as provided in 41 CFR § 60-741.45. If you are six months or more into your current AAP year on the date you receive this listing, please also submit information that reflects current year progress.

Section 4212 (VEVRAA)

11. Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified protected veterans as described in 41 CFR § 60-300.44(f).

Figure F-2 | 416



12. Documentation of all actions taken to comply with the audit and reporting system requirements described in 41 CFR § 60-300.44(h).

13. Documentation of the computations or comparisons described in 41 CFR § 60-300.44(k) for the immediately preceding AAP year and, if you are six months or more into your current AAP year when you receive this listing, provide the information for at least the first six months of the current AAP year.

14. Documentation of the hiring benchmark adopted, the methodology used to establish it if using the five factors described in § 60-300.45(b)(2). If you are six months or more into your current AAP year on the date you receive this listing, please also submit information that reflects current year results.

Support Data

15. Copies of your Employer Information Report EEO-1 (Standard Form 100 Rev.) for the last three years.³³⁵

16. A copy of your collective bargaining agreement(s), if applicable. Include any other documents you prepared, such as policy statements, employee notices or handbooks, etc. that implement, explain, or elaborate on the provisions of the collective bargaining agreement.

17. Information on your affirmative action goals for the immediately preceding AAP year and, where applicable (see below), progress on your goals for the current AAP year.³³⁶

For the immediately preceding AAP year, this report must include information that reflects:

- a. job group representation at the start of the AAP year, (i.e., total incumbents, total minority incumbents, and total female incumbents);
- b. the percentage placement rates (% goals) established for minorities and women at the start of the AAP year; and
- c. the actual number of placements (hires plus promotions) made during the AAP year into each job group with goals (i.e., total placements, total minority placements, and total female placements. For goals not attained, describe the specific good faith efforts made to achieve them.

If you are six months or more into your current AAP year on the date you receive this listing, please also submit information that reflects progress on goals established in your current AAP year, and describe your implementation of action-oriented programs designed to achieve these goals.³³⁷

³³⁵ 41 CFR § 60-1.7.

³³⁶ 41 CFR § 60-1.12(e), 41 CFR § 60-2.1(c) and 41 CFR § 60-2.16.

³³⁷ 41 CFR § 60-1.12 and 41 CFR § 60-2.17(c).

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18. Data on your employment activity (applicants, hires, promotions, and terminations) for the immediately preceding AAP year and, if you are six months or more into your current AAP year when you receive this listing, provide the information in (a) through (c) below for at least the first six months of the current AAP year. You should present this data by job group (as defined in your AAP) or by job title.³³³

- a. Applicants and Hires: For each job group or job title, this analysis must consist of the total number of applicants and the total number of hires, as well as the number of African-American/Black, Asian-Pacific Islander, Hispanic, American Indian/Alaskan Native, White, and the number of female and male applicants and hires. For each job group or job title applicants for whom race and/or sex is not known, should be included in the data submitted.

However, if some of your job groups or job titles (most commonly, entry-level) are filled from the same applicant pool, you may consolidate your applicant data (but not hiring data) for those job groups or titles. For example, where applicants expressly apply for or would qualify for a broad spectrum of jobs (such as "Production," "Office," etc.) that includes several job groups, you may consolidate applicant data.

- b. Promotions: For each job group or job title, provide the total number of promotions by gender and race/ethnicity.³³⁹ Also, include a definition of "promotion" as used by your company and the basis on which they were compiled (e.g. promotions to the job group, from and/or within the job group, etc.). If it varies for different segments of your workforce, please define the term as used for each segment. If you present promotions by job title, include the department and job group from which and to which the person(s) was promoted.
- c. Terminations: For each job group or job title, provide the total number of employee terminations by gender and race/ethnicity. When presenting terminations by job title, include the department and job group from which the person(s) terminated.

19. Employee level compensation data for all employees (including but not limited to full-time, part-time, contract, per diem or day labor, temporary) as of the date of the workforce analysis in your AAP. Provide gender and race/ethnicity information and hire date for each employee as well as job title, EEO-1 Category and job group in a single file.³⁴⁰ Provide all requested data electronically, if maintained in an electronic format. See Note 1, below.

³³³ 41 CFR § 60-1.12, 41 CFR § 60-2.11-12, 41 CFR § 60-2.17(b)(2) and (d)(1), and 41 CFR §§ 60-3.4 and 3.15.

³³⁹ The term "race/ethnicity" as used throughout the Itemized Listing includes these racial and ethnic groups: African-American/Black, Asian Pacific Islander, Hispanic, American Indian/Alaskan Native, and White.

³⁴⁰ 41 CFR § 60-2.17(c)(3) and (d).

Figure F-2 | 418



- a. For all employees, compensation includes base salary and or wage rate, and hours worked in a typical workweek. Other compensation or adjustments to salary such as bonuses, incentives, commissions, merit increases, locality pay or overtime should be identified separately for each employee.
- b. You may provide any additional data on factors used to determine employee compensation, such as education, past experience, duty location, performance ratings, department or function, and salary level/band/range/grade.
- c. Documentation and policies related to compensation practices of the contractor should also be included in the submission, particularly those that explain the factors and reasoning used to determine compensation.

20. Copies of reasonable accommodation policies, and documentation of any accommodation requests received and their resolution, if any.

21. Your most recent assessment of your personnel processes, as required by 41 CFR § 60-300.44(b) and § 60-741.44(b), including the date the assessment was performed, any actions taken or changes made as a result of the assessment, and the date of the next scheduled assessment.

22. Your most recent assessment of physical and mental qualifications, as required by 41 CFR § 60-300.44(c) and § 60-741.44(c), including the date the assessment was performed, any actions taken or changes made as a result of the assessment, and the date of the next scheduled assessment.

NOTES

NOTE 1: If any of the requested information is computerized, you must submit it in an electronic format that is complete, readable, and useable. Please use caution when submitting large electronic files. Check with the OFCCP Compliance Officer and your system administrator to ensure adherence to administrative and system guidelines.

Note 2: According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1250-0003. We estimate that the average time required to complete this information collection is 27.9 hours per response, including the time for evaluating instructions, searching existing data sources, gathering and maintaining the data needed, and completing and evaluating the collection of information.

Send any comments concerning this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Federal Contract Compliance Programs, Room C-3325, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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