DOL Relaunches, Proposes Revisions to Affirmative Action Rules for Veterans and Disabled Workers

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The Department of Labor (DOL) is taking steps to revise and relaunch its affirmative action requirements for veterans and people with disabilities. President Donald Trump rescinded the longstanding, general-applicability affirmative action requirements for government contractors under Executive Order 11246 in his first week in office,[1] but the requirements specific to veterans under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)[2] and those specific to individuals with disabilities under Section 503 of the Rehabilitation Act of 1973 (Section 503)[3] remained in place–as they had to, because they are mandated by statute.

For the past five months, the DOL Office of Federal Contract Compliance Programs (OFCCP) paused all activities relating to VEVRAA and Section 503 affirmative action. On July 2, 2025, the agency issued a bulletin lifting the pause to resume enforcement activities.[4] The agency also issued proposed rules on July 1, 2025, that would make changes to the DOL's implementing regulations for VEVRAA and Section 503 affirmative action to align the regulations with the new administration's policies.[5] Additionally, the DOL is proposing to formally rescind the general affirmative action regulations addressed in EO 11246.[6]

What are the takeaways for government contractors?

- Unlike affirmative action requirements under EO 11246 relating to race and gender, affirmative action requirements regarding protected veterans and people with disabilities are statutory and will continue (subject to potential proposed changes regarding self-identification and utilization goal assessment for Section 503).
- Government contractor VEVRAA and Section 503 requirements are once again being enforced and will be enforced moving forward.
- Contractors and subcontractors should ensure they meet their contractual and regulatory affirmative action and non-discrimination obligations. This is a good time for contractors to review practices and procedures to ensure they are consistent with policy changes under the new administration and federal anti-discrimination laws.
- The DOL has stated that "workforce balancing" and "placement goals" may function as quotas and may be subject to enforcement scrutiny. Contractors should consider obtaining advice from counsel about these aspects of their programs.

Which companies are subject to VEVRAA and Section 503 affirmative action requirements?

- Section 503 generally applies to all companies with a government prime contract or subcontract valued over $15,000, unless the contract work is being performed outside the U.S. by employees recruited outside the U.S., or unless an exemption applies or waiver is issued.
- VEVRAA generally applies to all companies with a government prime contract or subcontract valued over $150,000 (subject to the same exceptions).

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- Affirmative action program requirements are triggered when a government contractor or subcontractor has 50 or more employees in addition to meeting the contractual dollar threshold, and Section 503 AAP requirements have a higher $50,000 contract value threshold.
- The requirements are implemented via equal opportunity clauses prescribed in the DOL regulation (separate implementing clauses for the two statutes), incorporated by reference in parallel clauses in the FAR.

What are the VEVRAA and Section 503 requirements, in brief?

- **Non-Discrimination**. The statutes and implementing regulations prohibit contractors from discriminating against individuals based on qualified protected veteran status or disability status, respectively. The requirements apply to applicants and employees, and they apply throughout employment to all employment practices, ranging from recruiting, to hiring, to compensation, to layoffs and terminations.
- **Notices**. Contractors are required to provide various prescribed notices regarding non-discrimination, equal opportunity and affirmative action in relation to the applicable status, including posting notices in conspicuous places, incorporating language in employment solicitation and advertisements, and notifying labor unions.
- **Flow Down**. Contractors must include the requirements in lower-tier agreements that meet the same applicability criteria.
- **Affirmative Action Program**. Contractors with 50 or more employees (and, for Section 503, a contract worth at least $50,000) are required to take steps to employ and advance in employment protected veterans and people with disabilities with a written affirmative action program meeting specified requirements, including outreach and positive recruitment, and annual assessment of the effectiveness of such efforts.
- **Unique Requirements for VEVRAA**.
    - **Employment Service Delivery System Listings**. A contractor is required to list all employment openings with an appropriate employment service delivery system (ESDS) in each state where it has establishments at least concurrently with other recruitment sources or efforts.
    - **VETS-4212 Reports**. Contractors subject to EEO requirements regarding protected veterans are also required to annually file the Federal Contractor Veterans' Employment Report, VETS–4212, which includes the number of protected veterans in the contractor's workforce by job category and hiring location, and the total number of employees and covered veterans hired during the reporting period.

What is the effect of the July 2, 2025 Secretary's Order 08-2025 lifting Section 503/VEVRAA abeyance?

- **Complaints**.
    - Any pending complaints against government contractors alleging discrimination based on disability or protected veteran status that have been held in abeyance "will immediately resume being processed as appropriate and affected parties will be promptly notified of this development."
    - New complaints under VEVRAA and Section 503 will be processed normally as well.
- **Pending Audits**. The OFCCP will be "administratively closing" all pending compliance reviews (i.e., audits). The DOL explained that this is because the "compliance review significantly entangled [now-rescinded] EO 11246 reviews with those related to Section 503 and/or VEVRAA." The agency "will take no further action relating to the scheduling list released in November 2024."

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- **Affirmative Action Program Certifications**. The DOL says that the Section 503 and VEVRAA "AAP certification period will remain closed at this time."
- **Veterans Affairs Health Benefits Program (VAHBP)**. The OFCCP extended an existing moratorium exempting VAHBP providers from enforcement of Section 503 and VEVRAA obligations and scheduled compliance reviews through May 7, 2027 (excluding non-discrimination obligations and complaint investigations).
- All other Section 503 and VEVRAA obligations remain in effect.

How would the proposed rules change the requirements?

- The proposed rule for the VEVRAA implementing regulations would primarily make administrative changes, removing cross-references to regulations to now-rescinded EO 11246 and relocating coverage of administrative enforcement proceeding procedures.
- The proposed rule for the Section 503 implementing regulations would make similar administrative changes as well as two notable substantive changes: (1) It would rescind the requirement that contractors invite job applicants and employees to self-identify disability status; and (2) it would rescind utilization analysis and utilization-goal requirements.
- Historically, the OFCCP required federal contractors to set an "aspirational" 7 percent utilization goal for individuals with disabilities in each job group as part of their affirmative action plans. The purpose of the goal was "to establish a benchmark against which the contractor must measure the representation of individuals within each job group in its workforce, or within the contractor's entire workforce." To help achieve these metrics, contractors were required to invite employees to self-identify as an individual with disabilities. In addition to encouraging self-identification, contractors had to conduct an annual utilization analysis and identify areas of improvement to equal employment opportunities and develop action-orientated programs to mitigate any problem areas. Now, the DOL explained that these regulatory requirements are not required by the statute, and they risk inducing contractors to use quotas to meet utilization goals and are inconsistent with the Americans with Disabilities Act (ADA), which precludes employers from asking job applicants about disability status or the nature or severity of a disability, and restricts the circumstances in which companies can ask employees about their disability status.
- Importantly, the Section 503 self-identification benchmarks the DOL proposes to eliminate are distinct from the self-identification functions of the VEVRAA, which will continue. The outreach and recruitment efforts and hiring benchmarks for protected veterans will remain unchanged as well.

Comments for both proposed rules are due Sept. 2, 2025 (the standard 60-day public comment period applies).

What other developments will affect government contract equal opportunity obligations and enforcement of those obligations?

- On July 1, 2025, DOL issued a proposed rule to rescind the implementing regulations for EO 11246, in accordance with EO 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" (Jan. 21, 2025), which rescinded EO 11246 itself.[7]
- The Trump administration's 2026 budget proposed to eliminate the OFCCP altogether. The administration's proposal contemplates moving enforcement of affirmative action and equal opportunity to the Veterans' Employment and Training Service (VETS) for VEVRAA and to the Equal Employment Opportunity Commission (EEOC) for Section 503.[8]

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[1] EO 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity” (Jan. 21, 2025), https://www.govinfo.gov/content/pkg/FR-2025-01-31/pdf/2025-02097.pdf.

[2] 38 U.S.C. § 4212.

[3] 29 U.S.C. § 793.

[4] Department of Labor, Secretary’s Order 08-2025, “To Lift the Abeyance on OFCCP’s Processing of the Section 503 and VEVRAA Components of Open Compliance Reviews or Complaint Investigation” (Jul. 2, 2025), https://content.govdelivery.com/accounts/USDOLOFCCP/bulletins/3e7c4a3.

[5] 90 Fed. Reg. 28,485 (Jul. 1, 2025), https://www.federalregister.gov/documents/2025/07/01/2025-12006/modifications-to-the-regulations-implementing-the-vietnam-era-veterans-readjustment-assistance-act.

[6] 90 Fed. Reg. 28,494 (Jul. 1, 2025), https://www.federalregister.gov/documents/2025/07/01/2025-12233/modifications-to-the-regulations-implementing-section-503-of-the-rehabilitation-act-of-1973-as.

[7] 90 Fed. Reg. 28,472 (Jul. 1, 2025), https://www.federalregister.gov/documents/2025/07/01/2025-12276/rescission-of-executive-order-11246-implementing-regulations.

[8] Department of Labor, FY 2026 Budget In Brief (May 30, 2025), https://www.dol.gov/sites/dolgov/files/general/budget/2026/FY2026BIB.pdf, at 26.

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