

OFCCP Announces Final Rule to Improve Job Opportunities FOR INDIVIDUALS WITH DISABILITIES



By Nadine Vogel

On August 27, 2013, the U.S. Department of Labor's Office of Federal Contract Compliance Programs announced a Final Rule that makes changes to the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended.

As many of you are well aware, Section 503 prohibits federal contractors and subcontractors from discriminating in employment against individuals with disabilities (IWDs), and requires these employers to take affirmative action to recruit, hire, promote, and retain these individuals.

The Final Rule went into effect March 24, 2014.

Highlights of the Final Rule are as follows:

- **Utilization goal:** The Final Rule establishes a na-

tionwide **7% utilization goal** for qualified IWDs.

Contractors will apply the goal to each of their job groups, or to their entire workforce if the contractor has 100 or fewer employees. Contractors must conduct an annual utilization analysis and assessment of problem areas, and establish specific action-oriented programs to address any identified problems.

- **Data collection:** The Final Rule requires that contractors document and update annually several quantitative

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comparisons for the number of IWDs who apply for jobs and the number of IWDs they hire. Having this data will assist contractors in measuring the effectiveness of their outreach and recruitment efforts. The data must be maintained for three years to be used to spot trends.

• **Invitation to self-identify:** The Final Rule requires that contractors **invite applicants to self-identify as IWDs at both the pre-offer and post-offer phases of the application process**, using language prescribed by OFCCP. The Final Rule also requires that contractors invite their employees to self-identify as IWDs every five years, using the prescribed language. This language will be posted on the OFCCP website (coming soon).

• **Incorporation of the EO clause:** The Final Rule requires that specific language be used when incorporating the equal opportunity clause into a subcontract by reference. The mandated language, though brief, will alert subcontractors to their responsibilities as Federal contractors.

• **Records access:** The Final Rule clarifies that contractors must allow OFCCP to review documents related to a compliance check or focused review, either on-site or off-site, at OFCCP's option. In addition, the Final Rule requires contractors, upon request, to inform OFCCP of all formats in which it maintains its records and provide them to OFCCP in whichever of those formats OFCCP requests.

• **ADAAA:** The Final Rule implements changes necessitated by the passage of the ADA Amendments Act (ADAAA) of 2008 by revising the definition of "disability" and certain non-discrimination provisions of the implementing regulations.

These new rules are groundbreaking. Understanding how they impact your business, though, may be overwhelming for some companies as they involve so many areas of the business. For example, they require specific training for anyone involved in talent acquisition; website accessibility, especially of the careers portal; delineation of the essential job functions within job descriptions; and much more.

Schedule a phone meeting with Nadine Vogel today to have your questions answered about these new rules, or for information on planning or executing your 503 compliance strategy. To make your appointment, call Eileen Silverstein at 973-813-7260 x301 or email her at Eileen@consultspringboard.com. **PDJ**

Nadine Vogel is the CEO of Springboard Consulting LLC. Founded in 2005, Springboard is recognized as the expert in mainstreaming disability in the global workforce, workplace and marketplace. Serving corporations and organizations throughout the U.S., Canada, Europe and Asia, Springboard has become a trusted partner in disability issues and initiatives across virtually every business category. Nadine is also the author of DIVE IN, Springboard into the Profitability, Productivity and Potential of the Special Needs Workforce.

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