SUMMARY OF THE OFCCP’S FACT SHEETS:
OFCCP’s Final Rules on
Section 503 of the Rehabilitation Act of 1973 and
Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA)

Background

Summary of Final Rules
Section 503 prohibits employment discrimination against individuals based on disability by federal contractors and subcontractors. Section 503 also requires that federal contractors and subcontractors take affirmative action to recruit, employ, train, and promote qualified individuals with disabilities.

VEVRAA requires employers doing business with the federal government to take affirmative action to recruit, hire and promote categories of veterans covered by the law, including disabled veterans and recently separated veterans (i.e., those still within the three-year period beginning from the date of discharge or release from active duty). Under VEVRAA, it is also illegal for these federal contractors and subcontractors to discriminate against protected veterans when making employment decisions on hiring, firing, pay, benefits, job assignments, promotions, layoffs, training and other employment related activities.

Need for the Final Rules
Section 503- The framework articulating contractors’ Section 503 responsibilities has been in place since the 1970’s. However, both the unemployment rate of working age individuals with disabilities and the percentage of working age individuals with disabilities that are not in the labor force remain significantly higher than for those without disabilities. A substantial disparity in the unemployment rate of individuals with disabilities continues to persist despite years of technological advances that have made it possible for people with disabilities to apply for and successfully perform a broad array of jobs.

The OFCCP views the new Section 503 regulations as an important tool for reducing barriers to equal employment opportunity for individuals with disabilities, and addressing income inequality and poverty.

In addition, the Final Rule implements changes necessitated by the passage of the ADA Amendments Act (ADAAA) of 2008. The ADAAA amends the definition of disability in Section 503 to the same extent that it amends the ADA, and became effective on January 1, 2009.

VEVRAA- The framework articulating a contractor’s responsibilities with respect to affirmative action
has remained unchanged since the VEVRAA implementing rules were first published in 1976. The OFCCP feels the existing VEVRAA rules were inadequate for addressing the alarming rates of veterans’ unemployment. Increasing numbers of veterans are returning from duty in Iraq, Afghanistan, and other places around the world, and many face substantial obstacles in finding employment once they leave the military.

The annual unemployment rate for post-September 2001 veterans, referred to as “Gulf War-era II veterans,” is higher than the rates for all veterans and for nonveterans. Although progress has been made in the employment of veterans, the number of unemployed veterans still remains too high and substantial disparities in unemployment and pay rates continue to persist.

To address existing disparities, OFCCP is strengthening the regulations implementing VEVRAA by making affirmative action requirements more specific and by requiring contractors to establish benchmarks to measure their progress toward achieving equal opportunity for protected veterans. The OFCCP believes the VEVRAA Final Rule also makes it easier for veterans to find and apply for the jobs that federal contractors list with job agencies.

**Highlights of the Final Rules**

**Section 503 Final Rule**

- Establishes, for the first time, a 7% utilization goal for individuals with disabilities. This utilization goal, applied at the job group level, is not to be used as a quota or a ceiling that limits or restricts the employment of individuals with disabilities. Instead, the goal is a management tool that informs decision-making and provides real accountability. Failing to meet the disability utilization goal is not a violation of the regulation and it will not lead to a fine, penalty or sanction.

- Requires contractors to invite applicants to voluntarily self-identify as an individual with a disability at the pre-offer stage of the hiring process, in addition to the existing requirement that contractors invite applicants to voluntarily self-identify after receiving a job offer.

- Requires contractors to invite incumbent employees to voluntarily self-identify on a regular basis (i.e., every five years) and to remind their employees at least once between these invitations that they may self-identify their disability status at any time. The status of employees may change and a regular invitation to self-identify provides employees a way to self-identify for the first time, or to change their previously reported status. Providing a regular invitation should contribute to increased self-identification rates.

- Requires contractors to maintain several quantitative measurements and comparisons for the number of individuals with disabilities who apply for jobs and the number of individuals with disabilities they hire in order to create greater accountability for employment decisions and practices.

- Requires prime contractors to include specific, mandated language in their subcontracts in order to provide knowledge and increase compliance by alerting subcontractors to their responsibilities as federal contractors.

- Implements changes necessitated by the passage of the ADA Amendments Act (ADAAA) of 2008 by revising the definition of “disability” and certain nondiscrimination provisions of the implementing regulations.

**VEVRAA Final Rule**

To address existing disparities, OFCCP is strengthening the regulations implementing VEVRAA by making affirmative action requirements more specific and by requiring contractors to establish benchmarks to measure their progress toward achieving equal opportunity for protected veterans. The VEVRAA Final Rule also makes it easier for veterans to find and apply for the jobs that federal contractors list with job agencies.
• Requires that contractors, for the first time, annually adopt a benchmark based on the national percentage of veterans in the workforce (currently 8%), or their own benchmark based on the best available data.

• Requires that contractors maintain several quantitative measurements and comparisons for the number of veterans who apply for jobs and the number of veterans they hire. Having this data will also assist contractors and OFCCP in measuring the effectiveness of contractors’ outreach and recruitment efforts.

• Requires contractors to list their job openings with the appropriate state employment service agency. Contractor job listings must be provided in a format that the state agency can access and use to make the job listings available to job seekers.

• Requires prime contractors to include specific, mandated language in their subcontracts alerting subcontractors to their responsibilities as federal contractors.

• Clarifies the contractor’s mandatory job listing requirements and the relationship between the contractor, its agents, and the state employment services that provide priority referral of protected veterans.

For more information, see www.dol.gov/ofccp.