



OFCCP SECTION 503 CHECKLIST

The Office of Federal Contract Compliance Programs (OFCCP) enforces affirmative action compliance required by federal contractors and subcontractors, including protecting individuals with disabilities (IWD) under Section 503 of the Rehabilitation Act of 1973, as amended. The regulations implementing Section 503 have been recently amended so that they track more closely the Americans with Disabilities Act, as amended (ADA). Covered federal contractors or subcontractors with 50 or more employees and a qualifying contract of \$50,000 or more must not only ensure that they do not discriminate against applicants or employees with a disability, but they must also engage in mandatory tracking, analysis and recordkeeping requirements. The following checklist will assist you with ensuring your practices are compliant:

- Review and update your job descriptions on a periodic basis. Are the basic qualifications clearly stated for the job? Have you ensured that any basic qualifications that relate to mental or physical health are essential for the performance of the job? **[Expect any qualifications—basic or preferred—that appear to require mental or physical standards will be closely scrutinized by the OFCCP. Basic qualifications may not screen out on the basis of disability unless job-related and consistent with business necessity.]**
- Ensure that your job postings or requisitions properly reflect the job description, which need not be included in its entirety. Any basic qualifications should be included in the job posting or requisition, but the job posting should also permit consideration of an applicant who may require a reasonable accommodation. **[Be sure any postings clearly state that you are an equal opportunity employment employer of individuals with disabilities.]**
- Develop relationships with organizations, such as vocational rehabilitation centers or other resources that can post your jobs to ensure you are meeting the OFCCP's outreach requirements. **[OFCCP will expect you to provide documentation of your interactions with the outreach resources you use. Do not expect the agencies to retain your job postings. You should structure your recordkeeping system to retain these records for three (3) years, and they may be retained electronically. You must annually assess the effectiveness of your outreach efforts and retain the written results of your assessment for three (3) years.]**
- As a best practice, review your electronic application system to ensure it is compatible with the assistive technology that individuals with a disability may be using. **[Coordinate this interoperability assessment with your IT team. If your applicant tracking system (ATS) is not compatible, determine the steps required to make it so.]**
- Ensure that your ATS system provides an alternate route for an applicant to submit an application. **[OFCCP wants to ensure that an ATS system is not the only method that an applicant can use, if he or she has a disability. Include the name/title and a telephone number as an alternative if an applicant requires an accommodation. This**

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may also assist persons with learning disabilities who may require additional time to submit an application and, as a result, the application process terminates because the employer's system "times out" during the application process.]

- Include the EO Clause in your ATS application materials. **[Add to your electronic application that you are an equal opportunity employer of individuals with disabilities.]**
- Update your contracts with the EO Clause, in bold, stating: **"This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities."** [Ensure you are in compliance.]
- Update your invitation to voluntarily self-identify. **[Using the form that will be provided by the OFCCP on its website, provide the form at each of the following stages:**
- **Pre-offer – offered when you request race, gender, veteran status**
- **Post-offer**
 - **Employees: Offer invitation the first year; every five (5) years thereafter; at least one reminder in intervening years.]**
- Determine whether you want to allow the permitted visual identification of applicants or employees who choose not to voluntarily identify. **[This may only occur when the disability is obvious (and the employer may not guess) or the disability is known.]**
- Collect mandatory data and conduct analyses annually. **[Number of IWD applicants; total number of applicants for all jobs; total number of job openings and jobs filled; number of IWDs hired; total number of hires.]**
- Annually, compare your ratio of IWDs with 7% goal imposed by the OFCCP. **[If you have more than 100 employees, do you have 7% or more of your employees identified as IWDs in each job group? If you have 100 or fewer total employees, do you have 7% or more of your total employees identified as IWDs? If not, review and update your outreach efforts.]**

For assistance in working with the regulations, conducting a compensation self-audit, or utilizing the OFCCP Compensation Directive, contact your regular Fisher Phillips attorney or one of these attorneys: Cheryl Behymer at 803-255-0000, cbehymer@fisherphillips.com or Tom Rebel at 404-231-1400, trebel@fisherphillips.com.

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