



THE
OFCCP
INSTITUTE

**Meeting with The White House's
Office of Management and Budget and Office of Information and
Regulatory Affairs**

Agenda

November 15, 2013

I. Initial Concerns on the Proposed Section 503 Form.

- Readability of the proposed Section 503 “Voluntary Self-Identification of Disability” form.
 - Standard readability metrics indicate the proposed form is written at a level that requires a *post-college* reading level.
- Limited selection of responses for individuals (applicants and employees) responding.
 - No option on proposed form to state that an individual does *not* have a disability.
 - Can applicants and employees have an option indicating simply “I do not wish to self-identify”?
- Failure to require the individual completing the form to identify him or herself or indicate the date of the self-identification.
 - As required by the regulation, federal contractors need identifying information to assess their utilization of individuals with disabilities by job group.
 - A “date” field should be included so that if an individual changes his or her response, or fills out the form at a later time, changes can be tracked and contractors will be able to ensure they have the most current data.
- “Reasonable Accommodations” addressed on the form should be restricted to those needed to complete the form itself, not potential future accommodations an applicant may need if they become an employee as indicated with the use of the phrase “work procedures.”
 - A place should be provided so that contractors can advise applicants and employees where and how they can request a reasonable accommodation.
 - The regulations require that a company provide the name, title, phone number and email address of the individual responsible for accepting requests for a reasonable accommodation. (Appendix B 41 C.F.R. § 60-741).
- Consider creating two forms, one pre-offer and one post-offer/employee.
 - Separate accommodations incident to the individual’s status as applicant or employee or post-offer would be more appropriate.
 - Separate description of contractor obligations with respect to when they are required to solicit the voluntary self-identification would be better defined.
- How should contractors interpret the differences in the phrase “ensure equal employment opportunity” in the third section of the form and the phrase “provide equal opportunity” in the first section of the form and explain that difference to employees and applicants?

- The Confidentiality portion of the form should be expanded to provide a more explicit explanation of the confidentiality standards applicable to federal contractors.
- Provisions do not conform to applicable statutory and regulatory requirements.
 - Inclusion of an opportunity for an individual to state that they are disabled based on a previous disability.
 - States that contractors are required to invite employees to self-identify every year which is inconsistent with the five year regulatory requirement. See 41 C.F.R. § 60-741.42 (c).
 - Definitions differ from those contained in Section 503, the regulations, the ADA and "reasonable accommodation" is not adequately defined.

II. Revised Scheduling Letter

- Anticipate that OFCCP will submit a revised scheduling letter to OMB that includes requests for different information or reports from those contained within the final Section 503 Regulations.
 - Current revised scheduling letter before OMB (Control No: 1250-0003) does not encapsulate the changes made in the new VEVRAA and Section 503 Regulations and presents significant compliance hardships for federal contractors.

Good Afternoon, Chad:

Thank you again for taking the time to meet with the OFCCP Institute this morning regarding the Department of Labor's Office of Federal Contract Compliance Programs' proposed Section 503 Disability Identification form (ICR Ref. No. 201307-1250-001; OMB Control No. 1250-0005; Form No. cc-305).

As discussed, we had previously provided some "confidentiality language" to the Department of Labor that we had proposed for the form at issue, it is written at an 8.5 readability level. The language is below:

"You can answer or not; no matter what you choose, it won't count against you in any way. The health information you give us will be confidential—as required by law – and will be used only as required by law. The only people who will know it will be EMTs or safety workers, authorized government agents, and your supervisors – if they need it because of **your** accommodations or work restrictions."

Thank you, and please do not hesitate to contact me should you have any questions,

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