

The Higher Ed federal government contractor may be subject to Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and each of their implementing regulations. Together, they require a government contractor to take affirmative action to employ and advance in employment qualified women, minorities, individuals with disabilities, and protected veterans.

Under the Executive Order, the starting point in fulfilling the affirmative action requirements is the establishment of percentage placement goals in job groups where the incumbency of women or minorities is less than would reasonably be expected given their availability. According to the implementing regulations: "Placement goals serve as objectives or targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work." 41 C.F.R. § 60-2.16(a).

Under Section 503, the new regulatory scheme establishes an "aspirational" utilization goal of 7% for employment of qualified individuals with disabilities; contemplates "outreach and positive recruitment activities . . . that are reasonably designed to effectively recruit qualified individuals with disabilities"; and requires an annual assessment of the effectiveness of the efforts. 41 C.F.R. §§ 60-741.44(f) and 741.45.

Under VEVRAA, the new regulatory scheme contemplates "outreach and positive recruitment activities . . . that are reasonably designed to effectively recruit protected veterans"; establishes an annual hiring benchmark equal to the national percentage (7.2%) of veterans in the civilian workforce or some other percentage, calculated by the contractor and reflecting the availability of qualified protected veterans; and requires an annual assessment of the effectiveness of the efforts. 41 C.F.R. §§ 60-300.44(f) and 300.45.

During Compliance Evaluations conducted by the U.S. Department of Labor's Office of Federal Contract Compliance Programs, the government contractor is required to report on its progress against any established placement goals under its Executive Order Affirmative Action Plan and may be asked to "demonstrate that it has made good faith efforts to . . . expand employment opportunities, and produce measurable results." 41 C.F.R. § 60-2.17(c). Also during Compliance Evaluations, the government contractor is routinely asked to produce evidence of: (i) outreach to organizations which serve individuals with disabilities and veterans; and (ii) efforts to recruit qualified individuals with disabilities and protected veterans. Failure to do so, or inadequate efforts, can result in the issuance of a Notice of Violations, and relief through a Conciliation Agreement with a reporting period.

Your HERC membership can enable your Institution to demonstrate that it is engaging in good faith affirmative action efforts, including outreach, should it be audited by OFCCP because –

- Your regional HERC provides information about itself and its services to many organizations representing women, minorities, individuals with disabilities, and veterans.
- Your regional HERC's Job Board reaches many women, minority, disability, and veteran groups.
- Your regional HERC and the Central HERC attend numerous diversity Conferences and Job Fairs on behalf of their members.
- Your regional HERC and the Central HERC engage in advertising targeted to publications and sites drawing a diverse pool of applicants.
- Your regional HERC and the Central HERC establish partnerships with organizations with diverse constituents to bring visibility to HERC member jobs.

Your HERC membership also enables your Institution to tap into a myriad of resources now available by reason of the April 29, 2013 Alliance Agreement between your Central HERC and the U.S. Department of Labor's Office of Disability Employment Policy. The agreed-upon alliance activities are intended to "promote recruitment, hiring, retention and advancement of individuals with disabilities, including veterans with disabilities, in higher education."

Your HERC's reach can assist your Institution even if it is not a federal government contractor. Removing any barriers for women and minorities and expanding the employment opportunities of qualified individuals with disabilities and protected veterans makes for good business. Your HERC can assist your Institution in recruiting to this end.