

The Office of Federal Contract Compliance Programs (OFCCP) governs and enforces 3 affirmative action laws: Executive Order 11246 (Minorities and Women), Section 503 of the Rehabilitation Act of 2003 (Individuals with Disabilities or IWD), and the Vietnam Era Veterans Readjustment Assistance Act, as amended by the Jobs for Veterans Act (VEVRAA) (Veterans). **Under these laws, certain federal contractors must complete annual Affirmative Action Plans (AAPs); a tool designed to ensure equal employment opportunity.**

Federal contractors with 50 or more employees and at least \$50,000 in federal contracts must develop a written AAP for minorities, women, and IWD. Federal contractors with 50 or more employees and at least \$100,000 in federal contracts must develop an AAP for Veterans.

This handout provides a summary of the content that qualifying contractors must include in their AAPs, and an easy to use checklist of the related data contractors must collect and maintain.

I. Plan Narrative

The first component of an AAP is the narrative, which reflects the policies and procedures necessary for executing a plan. The plan narrative will outline an organization's programs, policies, and procedures for proactively recruiting, hiring, and promoting women, minorities, IWD and veterans to ensure that all individuals have equal opportunities in employment. A company's narrative should include information about a company's commitment to EEO, personnel policies that promote diversity, non-discrimination, and reasonable accommodation policies. It should detail top executive support of the plan and designate which company representative will be responsible for its implementation. The narrative will also highlight improvements that a company can make by identifying problem areas (such as disparate pay or recruitment), action-oriented programs, and internal audit and reporting systems.

II. Statistical Analysis Regarding Women and Minorities

The statistical component of an AAP calculates an *available* percentage of minorities and women within different job groups of a workforce and compares them against the company's *incumbent* workforce. This portion of the AAP entails several analyses (including an "organizational plan," "job group analysis," and "availability analysis") and helps companies determine whether barriers to equal employment opportunity exist within their organizations. Once a company has identified disparity, they must establish placement goals, or objectives, which can be reasonably attained by the organization (i.e., by engaging in good faith efforts to recruit and hire women and minorities).

III. Statistical Analysis Regarding IWD and Veterans

An AAP must also include quantitative analyses related to IWD and veterans. This analysis must include applicant and hiring data for IWD and veterans, as well as data comparing incumbency to workforce availability. Like with women and minorities, contractor must strive to reach hiring goals. Disability goals are based on a fixed goal, currently 7%, whereas the veterans hiring benchmark is focused on the hiring rate of veterans over the previous plan year.

Creating an AAP can be an overwhelming endeavor. For more information about the specific OFCCP requirements, please contact natallah@pilieromazza.com.

CHECKLIST OF AAP-RELATED DATA CONTRACTORS MUST COLLECT & MAINTAIN **Maintain Required Records**

Contractors must preserve any personnel or employment records for a period of not less than **two (2) years** from the date of the making of the record or the personnel action involved, whichever occurs later. Contractors with fewer than 150 employees, or who do not have a government contract or subcontract of at least \$150,000, only need to keep records for **one (1) year**.

Examples of records that must be maintained include:

- Job descriptions
- Job postings and advertisements
- Records of job offers
- Applications and resumes
- Interview notes
- Tests and test results
- Requests for reasonable accommodations
- Results of physical examinations
- Written employment policies and procedures
- Personnel files

For any record contractors maintain, they must be able to identify the gender, race, ethnicity, disability and veteran status of each employee and, where possible, the gender, race, and ethnicity, disability and veteran status of each applicant or Internet applicant, whichever is applicable to the particular position.

 Collect & Maintain Employee Data

The three sets of data that you must gather for each AAP that you complete are listed below:

1. Workforce data: Most of the statistical reports in your AAP are based on a snapshot of your workforce as of the beginning date of your AAP year. The snapshot should include all employees covered by affirmative action regulations. In addition to employee names, your file must contain information associated with each employee.

Data to collect includes:

- Employee ID
- Name
- Race/Gender/Disability/ Veteran status
- Job Title
- Department
- EEO-1/Job Group
- Wage/Salary
- Location
- Hire Date

2. *Personnel activity / data for adverse impact reports:* The adverse impact data that you gather should include personnel activities from the year prior to your current AAP year. Each activity must include the gender, race, disability and veteran status of employees.

Gather the following activities to prepare compliant adverse impact analyses:

- Applicants
- Hires
- Promotions From (and Within)
- Promotions To
- Terminations

More specifically, contractors are required to annually document:

- The number of applicants who have self-identified as protected veterans or IWD or who are known to be protected veterans or IWD;
- The number of total job openings and the total number of jobs filled;
- The total number of applicants for all jobs;
- The number of applicants who are protected veterans or who have disabilities and were hired, and;
- The total number of applicants hired.

Having this data assists contractors in measuring the effectiveness of their outreach and recruitment efforts. This documentation must be maintained for a period of **three (3) years**.

3. *Last year's goals:* Collect this data if applicable (i.e. if this is not the first year you are implementing an AAP).



AAP Retention Requirement

Maintain current and immediately preceding years' AAPs and documentation of good faith efforts to reach placement goals.



Invitation to Applicants and Employees to Self-Identify

Pre-Offer

At the Pre-Offer stage, contractors must ask applicants to voluntarily identify their race, gender, protected veteran and disability status. Disability status must be solicited using the mandatory language and format prescribed by the OFCCP.

Post-Offer

During the Post-Offer stage, contractors on-boarding a new employee will need to ask again for race, gender, veteran and disability status. At this point, employers have a choice of how they can collect veteran information on their employees. They can either collect specific veteran categories OR simply ask if the employee is a protected veteran or not. Disability status must again be asked using the OFCCP's form. OFCCP provides an OMB approved [form](#) on its website.

Note: Contractors may visually determine race and sex when applicants decline to self-identify.

Resurveying Your Workforce

Contractors must also resurvey their current workforce using the new forms for veterans and IWD. After the initial resurvey, contractors must resurvey the workforce every 5 years to solicit disability status. Additionally, at least once during the intervening period, contractors must remind their employees that they can update their disability status at any time.

 Keep Self-Identification Forms in a Separate File

Completed self-identification forms must be kept in a separate “data analysis file.” Disability-related data must be stored securely, apart from other personnel information, so that confidentiality is maintained and access to this data must be limited solely to contractor personnel who have a need to know the information for the purpose of complying with OFCCP’s regulations. The contractor must not keep the disability self-identification forms in the employee’s medical file.

 Post Notice of AAP for IWD and Veterans

The IWD and Veterans portion of the AAP must be available for inspection to any employee or applicant. A notice identifying the location and hours during which employees and applicants have access to the IWD and Veterans AAP must be posted.

Note: No similar requirements exist for the AAP Women & Minorities narrative and statistical materials.

 Maintain List of Recruitment Sources

Identify diverse recruitment sources for each job opening, particularly for those job groups where goals exist. When an opening occurs, record specific sources utilized and attach supporting documentation. This form can be completed for each job opening. Make contact with minority, women, IWD and veterans’ organizations, and document results. Those contacts that do not provide good referrals should be dropped, and alternatives should be chosen.

Remember to also list all suitable employment openings (all positions except executive and top management, those positions that will be filled from within, and positions lasting three days or less) with the state or local labor department.

 File an Annual EEO-1 Report

The Standard Form 100, Employer Identification Report (EEO-1 Report) requires that employers report on the number of employees by race, ethnicity and gender for each of nine job categories. The EEO-1 Report must be filed annually, not later than September 30. The Joint Reporting Committee (JRC), which is comprised of representatives from the Department of Labor and the EEOC, handles the processing of EEO-1 Reports. EEO-1 Reports may be filed electronically through a secure web-based internet or may be filed in paper format.

Note: Companies may not use or add any Race/Ethnicity categories other than those used on the EEO-1 Survey Form. All employees must be accounted for. There are no “OTHER” or “UNKNOWN” race/ethnicity categories. The Survey does not collect data on Veteran Status.

File an Annual VETS-4212 Report

Contractors or subcontractors with a federal contract or subcontract of \$100,000 or more entered into or modified on or after December 1, 2003, are required to complete and submit the [VETS-4212 Report](#) showing the aggregate number of protected veterans hired or employed during the reporting period who are disabled veterans, recently separated veterans (3 years), other protected veterans, and Armed Forces Service Medal veterans. The VETS-4212 Report may be completed online.