

Quick-Reference Compliance Guide to Section 503 of the Rehabilitation Act of 1973

Who is considered a...

Qualifying federal contractors are primary or secondary recipients of federal contracts in excess of \$10,000; excluding federally assisted construction contracts.

Qualified individuals with disabilities (**IWDs**) are those who:

- Have a physical or mental impairment that substantially limits one or more major life activities of the individual; or
- Have a record of such an impairment; or
- Are regarded as having such an impairment.

What does Section 503 require of qualifying federal contractors?

- Nationwide 7% utilization goal for qualified IWDs, applied to job groups, or the entire workforce if the contractor has 100 or fewer employees.
- Document and update annually quantitative comparisons of hiring data.
- Invite applicants and employees to self-identify as an individual with a disability, in the prescribed manner during specific periods of employment.
- Include specific mandated language in subcontracts to alert subcontractors.
- Allow the OFCCP to review documents related to reviews or investigations.
- Adopt the revised definition of “disability” and nondiscrimination provisions.
- Contractors with at least 50 employees and a contract of \$50,000 or more, must develop and maintain a written affirmative action plan within 120 days.

What procedures must qualifying contractors follow?

In recruitment:

Contractors must post [five Equal Employment Opportunity \(EEO\) notices](#):

1. Include the EEO clause in subcontracts, labor agreements, & purchase orders.
2. Post the “EEO tagline” in all job ads and solicitations, notifying candidates they shall be considered without regard to their “disability” or protected veteran status.
3. An “[EEO Is the Law](#)” poster, available on the Department of Labor’s Website.
4. A separate EEO/Affirmative Action (AA) policy statement including support from the top U.S. Official, posted in an accessible manner and format.
5. Your standalone EEO policy, which may extend protections not covered by AA.

Regarding a person’s disability status:

Decisions for employment or benefits shall not be based upon a person’s status as or relationship with a person with a disability.

Disability status is considered protected and confidential medical information, which may not be included in an employee’s non-medical file.

Contractors may not ask questions about a disability, even when apparent, or conduct medical examinations until after making a conditional job offer.

Contractors may evaluate an applicant’s qualifications for a job including:

- Asking applicants whether they need an accommodation when applying.
- Asking about the applicant’s ability to perform job-related functions.
- Requesting applicants show or describe how they will perform job activities.
- Asking about qualifications including skills, education, or experience.
- Pre-employment drug testing to meet Drug-Free Workplace Act standards.

Request medical documentation for providing a reasonable accommodation.

Reasonable Accommodations

An accommodation is any modification or adjustment to job processes, environment, way or circumstances a desired position is performed, or policies to allow a qualified individual to enjoy equal benefits and privileges of employment.

How must qualifying federal contractors provide an accommodation?

If a qualified individual with a disability requests an accommodation to perform the essential functions of their job or enjoy an equal level of benefits and privileges.

Then the contractor must respond and engage in a timely and interactive process to find then provide a sufficient accommodation, so long as it would not cause an undue hardship, regardless of how the request is given.

If an employee with a known disability is having significant difficulty performing their job and it is reasonable to conclude that the performance problem may be related.

Then the contractor is required to inquire confidentially whether the problem is disability related and if the employee is in need of a reasonable accommodation.

Except contractors are not required to provide an accommodation that would cause an undue hardship, meaning significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but also to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. Contractors must assess on a case-by-case basis whether a particular accommodation would cause an undue hardship.

Additionally, a person rejecting a reasonable accommodation, which is necessary to allow them to perform essential functions of a held or desired position, shall not be considered a qualified individual with a disability.

Contractors must invite individuals to self-identify:

- Employees and applicants may self-identify at any time.
- At the time of application or consideration for employment, with invitation materials remaining separate from the application.
- After an offer of employment, but before an employee's job duties begin.
- Send Invitations the first year you are subject to Section 503.
- Invite employees to self-identify at five-year intervals thereafter.
- Remind employees, once between each five-year invitation period, that they may disclose a disability at any time (This is not an invitation to self-identify).
- Contractors may identify a person as having a disability, if they do not voluntarily self-identify, when a disability is obvious or known.
- Contractors are prohibited from compelling or coercing people to self-identify.
- Contractors will invite to self-identify using the "Voluntary Self-Identification Disability Form". This form is available on the [Department of Labor's OFCCP webpage](#).

See the schedule for recordkeeping below:

Schedule for Recordkeeping		
Record Relating to:	Length of Record Retention by Type of Contractor	
	< 150 Employees or Contract < \$150,000	> 150 Employees or Contract > \$150,000
Accommodation Requests	1 Year	2 Years
Physical Examination Results	1 Year	2 Years
Job Ads & Postings	1 Year	2 Years
Applications & Resumes	1 Year	2 Years
Tests & Test Results	1 Year	2 Years
Interview Notes	1 Year	2 Years
Other Hiring Records	1 Year	2 Years
Changes in employment ¹	1 Year	2 Years
Rates of Pay or Other Forms of Compensation	1 Year	2 Years
Selection for Training or Apprenticeship	1 Year	2 Years
Personnel Files of Involuntarily Terminated Individuals	1 Year	2 Years
All AAP Required Data ²	3 Years	3 Years
Personnel records relevant to a Complaint, Compliance Evaluation, or Action ³	Until final disposition is provided by OFCCP	Until final disposition is provided by OFCCP

¹Changes in employment include Assignment, Promotion, Demotion, Transfer, Lay-off or Termination.
²AAP required data includes: Annual computations or comparisons of applicant & hiring data, the number of applicants self-identifying as a person with a disability (during the prescribed self-identification periods) or who are otherwise known to have disabilities, total number of job openings and jobs filled, total number of applicants hired and total number of applicants with disabilities hired.
³The term "personnel records relevant to a complaint, compliance evaluation, or action" will include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected." - [§60-741.80.\(a\)](#)

Affirmative action plan (AAP) highlights

- Designation of an official responsible for the implementation of the AAP whose identity shall appear on certain external & internal communications. They will receive support from senior management and the staff to manage plan implementation.
- An organization with a workforce of 101 or more must perform a utilization analysis based on job groups, as outlined in Executive Order 11246.
- Commitment to non-discrimination and taking affirmative action to employ and advance people with disabilities, at all levels of employment, including executive. The commitment will state your workforce utilization goal of 7%.
- Procedures for communicating your obligation to engage in affirmative action efforts with employees, including training personnel involved in employment practices.
- A written audit and reporting system that measures efforts and guides improvement. This shall include data collection and record management policies.
- A schedule for reviewing physical and mental job qualification standards to make sure they are job-related for the position and consistent with business necessity.
- Guidelines for annual review of outreach and recruitment efforts for the previous 12-months, plus personnel practices, to evaluate their effectiveness.
- Outreach and recruitment efforts targeting qualified IWDs.

Guidance & Recruitment Resources

Goodwill of Southwestern Pennsylvania is a regional non-profit that helps employers with:

Assistive Technology: 412-632-1877

Employing People with Disabilities: 412-632-1736

Fayette County: 724-437-9878

Morgantown, West Virginia: 304-225-0105

Visit <http://www.goodwillswpa.org>

The Job Accommodation Network provides free expert training, tools, and guidance on accommodations and disability employment issues.

Visit <http://askjan.org/>

Employer Assistance & Resource Network provides guidance on recruitment, hiring, management, and inclusion of people with disabilities.

Visit <http://askearn.org/>

The Office of Federal Contract Compliance Programs assists with compliance of Section 503.

Pittsburgh & West Virginia district office: 412-395-6300.

Visit <http://www.dol.gov/ofccp/>

U.S. Equal Employment Opportunity Commission enforces laws prohibiting employment discrimination and provides compliance assistance on the ADA.

Visit <http://www.eeoc.gov>

The Workforce Recruitment Program is a program linking highly motivated college students with disabilities to employers for temporary and permanent work.

Visit: <http://wrp.jobs/>



Goodwill of Southwestern Pennsylvania, 2016

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