



TRANSMITTAL

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs

Number: 281

Date: July 10, 2008

ADM Notice/Other

1. **SUBJECT:** Federal Contractor's Online Application Selection System.
2. **PURPOSE:** To provide guidance in evaluating federal contractors' obligations under Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), the Vietnam Era Veterans' Readjustment Act of 1974, as amended, 38 U.S.C. 4212 (VEVRAA), and Title I of the Americans with Disabilities Act of 1990, as amended (ADA), with respect to online application systems.
3. **FILING INSTRUCTIONS:**

Holders of ADM and LEG Binders only: File this Notice with the attachment behind the "Other" tab in your Administrative Practices Binder.

District and Area Office EOSs and EOAs only: File this Notice with the attachment behind the tab for ADM Directives in your FCCM Binder.
4. **OBSOLETE DATA:** None.
5. **DISTRIBUTION:** A, B (both hard copy and electronically), and C (hard copy only).
6. **EXPIRATION DATE:** This directive remains in effect until superseded.

CHARLES E. JAMES, SR.
Deputy Assistant Secretary for
Federal Contract Compliance

DATE

7/10/2008

**EMPLOYMENT STANDARDS ADMINISTRATION
U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS
WASHINGTON, D.C. 20210**

ADM Notice/Other

1. **SUBJECT**: Federal Contractor's Online Application Selection Systems.¹
2. **PURPOSE**: To provide guidance in evaluating federal contractors' obligations under Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), the Vietnam Era Veterans' Readjustment Act of 1974, as amended, 38 U.S.C. 4212 (VEVRAA), and Title I of Americans with Disabilities Act of 1990, as amended (ADA), with respect to online application systems.
3. **BACKGROUND**: In response to changing technologies, many contractors have moved towards using an online application system as their primary, if not exclusive, method for accepting applications for employment. While some of these systems may be accessible to individuals with disabilities, others may be completely inaccessible or only partially accessible due to technological limitations. Irrespective of the level of accessibility of the online application system, federal contractors and subcontractors must ensure that qualified individuals with disabilities and disabled veterans have an equal opportunity for employment.²

Section 503 and its implementing regulations at 41 CFR Part 60-741, and VEVRAA and its implementing regulations at Parts 60-250 and 60-300, require that contractors provide equal opportunity to qualified individuals with disabilities and disabled veterans. In addition, under 60-741.5, 60-250.5, and 60-300.5, the contractor agrees to take affirmative action to employ and advance these individuals, including, but not limited to, "recruitment, advertising, and job application procedures." These job application procedures include online application systems.

4. **POLICY**: Effective immediately, all compliance evaluations shall include a review of the contractor's online application systems to ensure that the contractor is providing equal opportunity to qualified individuals with disabilities and disabled veterans. The review should include whether the contractor is providing reasonable accommodation, when requested, unless such accommodation would cause an undue hardship. In this directive, the term "online system" shall include, but not be limited to, all electronic or web-based systems that the contractor uses in all of its personnel activities.

¹ Reference to federal contractors also includes federal subcontractors.

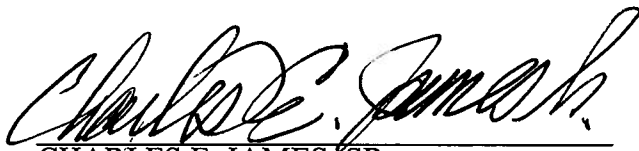
² References in this directive to "disabled veterans" encompass both "special disabled veterans," as outlined in 41 CFR Part 60-250, and "disabled veterans," as outlined in 41 CFR Part 60-300.

Where a discrimination complaint is filed involving the federal contractor's online application system,³ OFCCP shall retain such complaint (rather than refer it to the Equal Employment Opportunity Commission or another agency) and investigate in accordance with 41 CFR 60-250.61, 60-300.61, 60-741.61 and 60-742. Due to its parallel authority, references to Section 503 shall also include enforcement under ADA and, if applicable, VEVRAA.

Federal contractors who fail to provide equal opportunity to individuals with disabilities and disabled veterans when using an online application system as part of their selection process may be cited under one or more of the following regulatory provisions:

- 60-741.5, 60-250.5, and 60-300.5 - *Equal Opportunity Clause*
- 60-741.21, 60-250.21, and 60-300.21 - *Prohibitions*
In particular,
 - ◆ .21(a) – Disparate treatment
 - ◆ .21(b) – Limiting, segregating and classifying
 - ◆ .21(f) – Not making reasonable accommodation
- 60-741.23, 60-250.23, and 60-300.23 - *Medical Examination and Inquiries*
- 60-741.44, 60-250.44, and 60-300.44 – *Required contents of affirmative action programs*

5. **OBSOLETE DATA:** None.
6. **DISTRIBUTION:** A, B (both hard copy and electronically), and C (hard copy only).
7. **EXPIRATION DATE:** This directive remains in effect until superseded.



CHARLES E. JAMES, SR.
Deputy Assistant Secretary for
Federal Contract Compliance

7/10/2003

DATE

³ This entails all Section 503 and VEVRAA complaints that include as an allegation failure to accommodate in the application process (where an electronic process is used). In addition, complaints alleging failure to hire based on status as a qualified individual with a disability or protected disabled veteran, or failure to provide a reasonable accommodation during the application process should be scrutinized to determine whether an online application system was involved and whether an equal opportunity to complete the application process was afforded.