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Section 503 prohibits covered federal contractors from discriminating in employment on the basis of disability and requires that they take affirmative action to ensure equal employees and a contract of $50,000 or more have additional affirmative action
obligations that include the development of a written affirmative action program. Seniority Length of employment as determined by the employer's policies or the applicable collective bargaining agreement. To be a "protected veteran," a veteran must meet the criteria of one or more of the following four categories: Disabled veteran; Recently
separated veteran; Active duty wartime or campaign badge veteran; and Armed Forces service medal veteran. An SSEG is a group of employees (potentially from multiple job titles, units, categories and/or job groups) who are comparable for purposes of analyzing a contractor's pay practices, based on: (a) job similarity (e.g., tasks performed, skills
required, effort, responsibility, working conditions and complexity); and (b) other objective factors such as minimum qualifications or certifications. Under VEVRAA, the prohibited basis or factor is a disability. Under VEVRAA, the prohibited basis or factor is status as a protected veteran. A job function may be considered essential if: (i) The
access to compensation information is necessary to perform that function or another routinely assigned business task; or (ii) The function or duties of the position information. Affirmative Action Actions, policies, and procedures to which a
contractor commits itself that are designed to achieve equal employment opportunity. Affirmative action obligations entail thorough, systematic efforts to prevent discrimination from occurring and to detect it and eliminate it as promptly as possible. Affirmative action obligations also require contractors to ensure equal opportunity in their
recruitment and outreach efforts. Transfer Movement (usually lateral) of an employee from one position or function to another. Favored Group The group with the highest selection rate when calculating the impact ratio or level of statistical disparity or both. Front pay runs from the time of the settlement (e.g., the date of the conciliation agreement)
or final administrative or court order), to a certain time in the future (usually when the victim attains his or her rightful place) that is set by the settlement or final order. Recruitment Source Any person, organization or agency used to refer or provide workers for employment. See "Disability." Injunctive Relief See "Corrective Remedy." Internet
Applicant Any individual as to whom the following four criteria are satisfied: The individual submits an expression of interest in employment through the individual for employment through the individual submits an expression of interest in employment through the individual for employment through the individual submits an expression of interest in employment through the individual for employment through the individual submits an expression of interest in employment through the individual for employment through the individual submits an expression of interest in employment through the individual submits an expression of interest in employment through the individual submits an expression of interest individual submits and expression o
possesses the basic qualifications for the position; and, The individual does not remove him or herself from further consideration or otherwise indicates that he or she is no longer interested in the position. The term includes leave for nonmedical related care and nurturing following the birth of a child. Minorities Minorities include individuals who are
 Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native. It is not necessary to prove intent to discriminate under this theory of employment discrimination. In appropriate circumstances, OFCCP may consider as an establishment several facilities
located at the same site or two or more sites when the facilities are in the same labor market or recruiting area. The determination as to whether it is appropriate to group facilities as a single establishment will be made by OFCCP on a case-by-case basis. See 41 CFR 60-300.5(a)2-6. Exempt Jobs Jobs that are exempt from the minimum wage and
overtime requirements of the Fair Labor Standards Act. Employment Service Delivery System (ESDS) The Wagner-Peyser Act of 1933 established a nationwide system of public employment Service." As amended in 1998, the Act makes the Employment Service part of the One-Stop delivery system. American
Indian/Alaskan Native (not Hispanic or Latino) As defined by the Office of Management and Budget's (OMB's) Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity, a person with origins in any of the original peoples of North and South America (including Central America), and who maintains cultural identification
through tribal affiliation or has community recognition as an American Indian or Alaskan Native. Americans with 15 or more employees, state and local governments, employment agencies, joint labor-management committees, and
labor unions from discriminating against qualified individuals on the basis of disability in job application procedures, hiring, advancement, compensation, job training, and other terms, conditions and privileges of employment. As used in this Manual, the term may mean members of these groups in the aggregate or members of an individual
group. See 41 CFR 60-2.11(b)(3) and 41 CFR 60-4.3(a)1d. Fifteen-Day Notice See "Notice of Violation of a Conciliation Agreement." First-Tier Subcontractor A s
agreement" or "union contract." These terms and conditions of employees in the bargaining unit represented by the union. A biennial survey conducted in the even-numbered years that collects labor force data from Referral Unions
subject to Title VII of the Civil Rights Act of 1964, as amended, with 100 or more employees within 50 U.S. states and District of Columbia. Hispanic or Latino As defined by OMB's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (1997), a person of Cuban, Mexican, Puerto Rican, South or Central American, or
other Spanish culture or origin, regardless of race. Pacific Islander (not Hispanic or Latino) See "Native Hawaiian/Other Pacific Islander." Parental Leave Absence from work by a parent to care for a child. The One-Stop delivery system, also known as American Job Centers, provides universal access to an integrated array of labor exchange services so
that workers, job seekers and businesses can find the services they need in one stop and frequently under one roof in easy-to-find locations. Physical and Mental Job Qualifications Physical and mental standards that an employee or applicant to meet to qualify for the job. The disparate impact theory may be used to analyze both
objective and subjective selection standards. Compare "Disparate Treatment." See also "Adverse Impact." Disparate Treatment Disparate Treatment Disparate treatment discrimination occurs when a contractor treats an individual or group less favorably on the basis of a prohibited factor (race, color, religion, sex, sexual orientation, gender identity, national origin,
disability, status as a protected veteran, or because the individual or group of individuals has disclosed, discussed or inquired about compensation). Comparative or other evidence typically involves an extra (inferential) step to conclude whether discrimination has occurred. It
may include statistical evidence, suspicious or ambiguous timing, statements or behavior, or any other evidence of Discrimination." Class Complaint A complaint brought on behalf of multiple applicants or employees who have a common claim against a
federal contractor. 9, 2009) requires covered contractors and subcontractors to post a notice informing employees of their rights under the NLRA to form, join and assist a union and to bargain collectively with their employer; Provides
examples of unlawful employer and union conduct that interferes with those rights; and It indicates how employees can contact the National Labor Relations Board, the federal agency that enforces those rights, with questions or to file complaints. OFCCP assists the U.S. Department of Labor's Office of Labor-Management Standards in enforcing
Executive Order 13496. Exempt Contract Any government contract or subcontract that is not subject to some or all obligations under one or more of the laws enforced by OFCCP. Most contracts meeting specified dollar thresholds are covered, but there are a few exemptions and waiver provisions. See 41 CFR 60-1.3, 60-1.5 (coverage and
exemptions under Executive Order 11246); 41 CFR 60-300.4 (coverage and waivers under VEVRAA); 41 CFR (coverage and waivers under Section 503). Back Pay The portion of a make-whole remedy that represents the lost earnings caused by a contractor's discriminatory employment action, practice or procedure. Lost earnings include, but are not
limited to, compensation or salary, overtime, premium pay and shift differentials, incentive pay, raises, bonuses, lost sales commissions, cost-of-living increases, tips, medical and life insurance, fringe benefits, pensions, stock options and awards. Basic Qualifications (Internet Applicant) Basic qualifications is a key concept in the definition of an
Internet Applicant. Examples of sexual orientations include straight (or heterosexual), lesbian, gay and bisexual. Systemic discrimination has a broad impact on an industry, profession, company or geographic area. Examples of systemic
practices include: discriminatory barriers in recruitment and hiring, discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily restricted access to management trainee programs and high-level jobs, exclusion of qualified women from traditionally male-dominated fields of work, and disability discriminatorily male-dominated fields of work, and disability discriminatorily male-dominated fields of work, and disability discriminatorily male-dominated fields o
used to define a systemic case. Termination of Employment Separation of an employee from the active and inactive payroll. However, it does not apply to federally-assisted construction contracts. See 41 CFR 60-300.2(aa)(2) and 60-741.2(aa)(2) for factors to be considered. The qualifications must be relevant to the performance of the particular
position and enable the contractor to accomplish business-related goals. To be validated in accordance with UGESP, the validation studies must meet the technical standards set out in 41 CFR Part 60-3. Protected Group or Category The bases on which applicants and employees are protected from discrimination in employment under the laws
 enforced by OFCCP (also referred to as "prohibited factors" or "prohibited bases"): race, color, religion, sex, sexual orientation, gender identity, national origin, disability and 41 CFR 60-741.2(x). Compliance Evaluation The investigation and review process used by OFCCP to
determine whether a federal contractor is complying with the nondiscrimination and affirmative action employment obligations outlined in 41 CFR Chapter 60. A compliance evaluation consists of any one, or any combination of, the following investigative procedures: compliance review, off-site review of records, compliance check or focused review.
See 41 CFR 60-1.20(a), 60-300.60(a) and 60-741.60(a). Veteran A person who served in the active military, naval or air service of the U.S., and who was discharged or released therefrom under conditions other than dishonorable. See 41 CFR 60-300.2(cc). See 41 CFR 60-741.2(i) (Section 503) and 41 CFR 60-300.2(l) (VEVRAA). Typically, classroom
training, as well as on-the-job training, falls into this category. Compare with "Contract Cancellation" and "Debarment." Contracting Agency Any department, agency, establishment or instrumentality of the U.S. (under Executive Order 11246, limited to the Executive branch), including any wholly-owned government corporation, that enters into a
government contract subject to the laws enforced by OFCCP. 41 CFR 60-1.3, 60-300.2, and 60-741.2. Contractor unless otherwise indicated, a "prime contract, or who has held a contract subject to Executive Order 11246, Section 503 or VEVRAA. "Subcontractor"
means any person holding a subcontract, or who has held a subcontract subject to Executive Order 11246, Section 503 or VEVRAA. Field Office Any OFCCP office outside of the national office and its divisions that is responsible for the tasks or activities described in the Federal Contractor Compliance Manual (FCCM or Manual). Asian (not Hispanic
or Latino) As defined by OMB's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (1997), a person with origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent. This area includes, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine
Islands, Thailand, and Vietnam. Progression Line Charts Written listings of a contractor's lines of progression. See "Line of Progression." Prohibited Basis or Prohibited Basis or Factor A basis or factor prohibited bases or factors: Race, Color of Progression.
Religion, Sex, Sexual orientation, Gender identity, and National origin. OFCCP uses Title VII, UGESP and ADA standards, as appropriate, when evaluating a contractor's assertion of a business necessity defense. Caregiver Discrimination Being a working parent or another type of caregiver is not a protected characteristic under Title VII, the ADA or
the laws enforced by OFCCP. However, there are circumstances in which discrimination against caregivers may constitute unlawful disparate treatment or disparate impact based on a protected characteristic such as sex or race. Discrimination against a caregiver due to his or her association with an individual with a disability may be a violation of
Section 503. Case Management System (CMS) An OFCCP system used to track and monitor compliance evaluations and complaint investigations of establishments and functional units. Title VII of the Civil Rights Act of 1964 (Title VII) This law is enforced by EEOC and its principles generally apply to discrimination cases arising under Executive
Order 11246. Title VII prohibits discrimination in employment on the basis of race, color, religion, national origin or sex. Title VII applies to state and local government agencies, federal government agencies, employment agencies and labor unions that either operate a hiring
hall or have at least 15 members. Tolling The suspension of the running of a statute of limitations for equitable reasons. Because the Title VII 180-day limit on filing a charge with the EEOC has been held to be a statute of limitations, there have been numerous court cases discussing tolling of that limit. By comparison, the regulations for the three
laws OFCCP enforces provide for the filing of a complaint within 180 calendar days (or, for VEVRAA and Section 503, 300 calendar days) of the alleged violation unless the time for filing is extended by the Director for good cause shown. There is no similar good cause language in Title VII. The good cause authority allows the Director to waive the
180-day or 300-day limit without raising questions of tolling. Evidence of whether a particular function is essential includes, but is not limited to: The contractor's judgment as to which functions are essential; Written job descriptions prepared before advertising or interviewing applicants for the job; The amount of time spent on the job performing the
function; The consequences of not requiring the incumbent to perform the function; The terms of a collective bargaining agreement; The work experience of incumbents in the job; and/or The current work experience of past incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of past incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of past incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of past incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and/or The current work experience of incumbents in the job; and job incumbents in the job; and job incumbents in the job incumbents in
in employment on the basis of sex, religion or national origin that permits an employer to limit a particular job to members of one sex, religion or national origin group. Race cannot be used as a BFOQ. Black or African American (Not Hispanic or Latino) As defined by OMB's Standards for Maintaining, Collecting, and Presenting Federal Data on Race
and Ethnicity (1997), an individual, not of Hispanic origin, with origins in any of the black racial groups of Africa. The FCSS process uses multiple information reports, Dun & Bradstreet data, Census data and statistical thresholds such as industry type and
employee counts of federal contractor establishments. Good Faith Efforts A contractor's appropriate efforts to meet its Executive Order 11246 goals by removing identified barriers, expanding employment opportunities and producing measurable results. See 41 CFR 60-2.16(a), 60-2.17(c) and 60-4.2(d)(2). Contract See "Government Contract," appropriate efforts to meet its Executive Order 11246 goals by removing identified barriers, expanding employment opportunities and producing measurable results.
"Subcontract," "Construction Contract," and "Federally Assisted Construction Contract." Contract Cancellation The termination of a federal contract before its expiration date by order of the appropriate government authorities. The central characteristic of an objective criterion is that it can be independently verified, i.e., different people measuring
objective criteria will reach the same results. Compare with "Subjective Criterion." Off-Site Review of Records An analysis and evaluation, conducted off the contractor's premises, of the AAP(s), or any part thereof, and supporting documentation; and other documents related to the contractor's premises and employment actions that may be
relevant to a determination of whether the contractor has complied with the requirements of Executive Order 11246, Section 503 and/or VEVRAA. See 41 CFR 60-1.20(a)(2), 60-300.60(a)(2) and 60-741.60(a)(2). EEO-5 Report The Elementary-Secondary Staff Information Report EEO-5. Promotable or Transferable In the context of estimating internal
availability, those employees who are currently employed in a job group or groups that serve, or could be, made for other job groups. See 41 CFR 60-300.5(e), 41 CFR 741.5(e). Work Assignment A position or post of duty to which one is assigned or a task one is required to
perform. Native Hawaiian/Other Pacific Islander As defined by OMB's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (1997), a person with origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands. Under the regulations at 41 CFR 60-2.11(b)(3) and 41 CFR 60-4.3(a)1.d(iii)
Pacific Islanders are combined with Asians. See "Asian (not Hispanic or Latino)." New Hire A worker added to an establishment's payroll for the first time. Compliance evaluations of federal contractors, investigating discrimination complaints filed
against federal contractors, providing compliance assistance to federal contractors, and educating community groups and the public about the laws OFCCP employee that is responsible for the tasks or activities described. Standard Deviation As an alternative to
probability values, statisticians often express the divergence between actual and expected outcomes in units called standard deviations. The larger the difference is due to random chance factors alone. See also "Statistically Significant." Standard deviations, the smaller the probability that the difference is due to random chance factors alone.
Standard Metropolitan Statistical Area (SMSA) Statistical area that refers to a geographical region with a relatively high population density at its core and close economic ties throughout the area. Darden: The contractor's right to control when, where and how the individual performs the job; The skill required for the job; the source of the
instrumentalities and tools; The location of work; The duration of the relationship between the parties; Whether the contractor has the right to assign additional projects to the individual; The extent of the individ
individual's work is part of the regular business of the contractor; Whether the individual is in business; and The provision of employee benefits to the individual. Uniformly Applied Applying employment of employees to the individual is in business; and The provision of employees to the individual is in business of the contractor; whether the individual is in business of the contractor of employees to the individual is in business.
an individual, usually for a specific job. Criteria Identification (also referred to as Criteria Identification) The process of obtaining the contractor's stated criteria for a selection decision(s) (usually through interviewing selection officials and examining any relevant contractor documents) and then determining whether the stated criteria account for or
Accommodation)." Requisite Skills Those minimum skills needed to perform a job satisfactorily. Layoff The process by which workers are removed from the active payroll to the inactive payroll. Statistical Evidence Statistical evidence means hypothesis testing, controlling for the major legitimate, nondiscriminatory measureable parameters and
variables used by employers (including, as appropriate, other demographic variables, test scores, geographic variables, geog
related to the probability of outcomes occurring by chance and/or analyses reflecting statements concluding that a difference in employment selection rates or compensation decisions is statistically significant by reference to any one of the following equivalent statements: 1) the disparity is two or three times larger than its standard error (i.e., a
occurred by chance is so small that chance can reasonably be ruled out as the cause. When the difference between actual and expected values is greater than 1.96 standard deviations, the probability the disparity occurred by chance is less than 5%. In employment discrimination cases, courts generally consider a difference of two or more standard
deviations to be "statistically significant" and allow a valid statistical inference of discrimination to be drawn. Organizational Unit A department, division, branch, section or other organizational entity of a contractor that operates as a single unit under a common head. To be considered an Internet Applicant, an individual's expression of interest in a
that they must possess to be considered for the position; or For which the contractor established criteria in advance by making and maintaining a record of such qualifications for the position before considering any expression of interest for that particular position if the contractor does not advertise for the position but, instead uses an alternative
device to find individuals for consideration (e.g., through an external resume database); and That meets all of the following three conditions: The qualification is a noncomparative qualification that an individual has one of
the top five years of experience among a pool of job seekers is a comparative qualification. Subjective Criterion An employment qualification, selection standard would not necessarily reach the same conclusion. Whether an applicant is
certified to operate a particular machine is objective; whether an applicant has "good machine-handling skills and experience" is subjective. Family and Medical Leave Act (FMLA) The FMLA provides eligible employees with up to 12 workweeks of unpaid, job-protected leave a year, and requires continuation of group health insurance coverage under
the same terms and conditions as if the employee had not taken leave. "Regarded As" Having an Impairment This is one of the three prongs of the definition of "disability." An individual is "regarded as" having a physical or mental impairment when the individual is subjected to a discriminatory action because of an actual or perceived physical or
mental impairment that is neither transitory (i.e., has an actual or expected duration of six months or less) nor minor - whether or not the impairment substantially limits, or is perceived to substantially limit, a major life activity. See 41 CFR 60-741.2(v). An individual who satisfies only the "regarded as" prong of the definition of "disability" (i.e., does
not also have an actual disability or a record of a disability or a disability or a disability or a disability or 
socially and economically disadvantaged on a case-by-case basis. Administering Agency or establishment in the executive branch of the government, including any wholly owned government, including any wholly owned government, including any wholly owned government corporation, which administers a program involving federally assisted construction contracts. Retaliation Any adverse action by a
contractor against an applicant or employee because he or she: Filed a complaint of discrimination; Opposed any act made unlawful under any of the laws enforced by OFCCP; Assisted or participated in an investigation, compliance evaluation, hearing or any other activity related to the administration or enforcement of any of the laws enforced by OFCCP; Assisted or participated in an investigation, compliance evaluation, hearing or any other activity related to the administration or enforcement of any of the laws enforced by OFCCP; Assisted or participated in an investigation, compliance evaluation, hearing or any other activity related to the administration or enforcement of any of the laws enforced by OFCCP; Assisted or participated in an investigation, compliance evaluation, hearing or any other activity related to the administration or enforced by OFCCP; Assisted or participated in an investigation, and the administration of the laws enforced by OFCCP; Assisted or participated in an investigation, and the administration of the laws enforced by OFCCP; Assisted or participated in an investigation, and the administration of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigation of the laws enforced by OFCCP; Assisted or participated in an investigati
OFCCP; or Exercised any other rights under OFCCP's laws or any other federal, state or local law requiring equal opportunity. Compensation Any payments made to, or on behalf of, an employee or offered to an applicant as remuneration for employment, including, but not limited to, salary, wages, overtime pay, shift differentials, bonuses,
offered, including, but not limited to: The desire of the contractor's profit or productivity; The availability of employees with like skills in the marketplace; Market research about the worth of similar jobs in the relevant marketplace; Job analysis of employees with like skills in the marketplace; Market research about the worth of similar jobs in the relevant marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Market research about the worth of similar jobs in the relevant marketplace; Job analysis of employees with like skills in the marketplace; Market research about the worth of similar jobs in the relevant marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; Job analysis of employees with like skills in the marketplace; J
descriptions and evaluations; Salary and pay structures; salary surveys; Labor union agreements; and Contractor decisions, statements and policies related to one or more components of the contractor's organization, or one or more aspects of the contractor's
employment practices. See 5 U.S.C. 500 et seq. It also includes an agent of such a person or entity. National Origin National origin includes: Actual or perceived birthplace, ancestry, culture, accent or linquistic characteristics common to a specific ethnic group; Marriage or association with persons of a national origin group; Membership or
association with specific ethnic promotion group; or A surname associated with a national origin group; or A surname associated with a national origin group; or A surname associated with a national origin group; or A surname associated with a national origin group. With their initial listing, contractors must also provide the ESDS with certain information prescribed in the regulations. To
qualify for an exemption, employees generally must meet certain tests regarding their job duties and be paid a prescribed minimum salary. Protected by VEVRAA. Sexual Orientation An individual's physical, romantic and/or emotional attraction to people of the same and/or opposite gender. It includes standards
for rulemaking, for certain formal adjudications and for court reviews of certain administrative actions. Formal Training A structured program designed to develop an individual's job-related skills and abilities. Similarly Situated Employees are similarly situated when they are comparable on the factors relevant to the investigation or analysis, even if
they are not comparable on others. Relevant factors in determining similarity may include tasks performed, skills, effort, level of responsibility, working conditions, job difficulty, minimum qualifications or other objective factors. The determination of which employees are similarly situated is case specific. Thus, employees who are similarly situated
for one purpose may not be similarly situated for another. Federally Assisted Construction work which is paid for at least in part with funds obtained from the federal government or borrowed on the credit of the federal government under any federal program involving a grant,
contract, loan, insurance or guarantee; or undertaken under any federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or undertaken under any federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant, contract, loan, insurance or guarantee; or any application or modification thereof approved by the federal government for a grant fo
work. See 41 CFR 60-1.3. For example, highways and bridges that are constructed, repaired or renovated using funds from the U.S. Department, job group, job title, line of progression). Complaint An allegation in writing and
submitted to OFCCP in writing by, or on behalf of, one or more employees (including former employees) or applicants that alleges the individuals have been victims of discrimination or retaliation that is prohibited by the laws enforced by OFCCP, (i.e., Executive Order 11246, Section 503 or VEVRAA), or that the contractor is violating of
one or more of these laws, or their implementing regulations. Whether an accommodation would impose an undue hardship requires a case-by-case determination. For example, a women's prison may be able to demonstrate that being female is a BFOQ for the hiring of a guard to perform body searches of female prisoners. Shortfall The difference are the commodation would impose an undue hardship requires a case-by-case determination.
between the actual number of persons in the nonfavored group who were selected for the employment opportunity at issue (hires, promotions, etc.) and the number expected to have been selected in proportion to their representation in the pool of qualified candidates, absent discrimination. This concept does not generally apply to compensation
discrimination cases, which revolve around wage-setting decisions, not decisions involving job opportunities. Compare with "Debarment" and "Contract Suspension." Contract Suspension The temporary interruption of a federal contract Suspension."
other contexts under any of the laws enforced by OFCCP. See 41 CFR 60-1.3. Establishment A facility or unit that produces goods or services, such as a factory, office, store or mine. Cohort Analysis A nonstatistical comparison of the treatment of similarly situated individuals, or small groups of applicants or employees. Affirmative Action Program
(AAP) A management tool designed to ensure equal employment opportunity. The requirements for affirmative action programs that satisfy Executive Order 11246, Section 503 and VEVRAA, are outlined in 41 CFR Part 60-2, 41 CFR Part 60-300, Subpart C, respectively. These include requiring a contractor to
annually detail the affirmative steps it has taken and will take in the future to ensure equal employment opportunity. United States, 431 U.S. 324, 339 (1977), by illustrating actions or behavior that support a statistical indicator or allegation of discrimination. The type of facts and information that may constitute anecdotal evidence is varied and
summary data reflecting differential selections, compensation and/or qualifications; testimony about individuals denied or given misleading or contradictory information about employment decisions; or other anecdotal or supporting
evidence. VETS-4212 Report Each contractor subject to VEVRAA is required to file the VETS-4212 report with the U.S. Department of Labor's Veterans' Employment and Training Service (VETS) on an annual basis. The report details the number of protected veterans' Employment and Training Service (VETS) on an annual basis.
and EEO-1 job category. For more information on the VETS-4212 report, please visit. Armed Forces Service Medal Was awarded under Executive Order 12985 (61
FR 1209). Goals for Minorities and Women, Supply and Service Contractors (Placement Goals) Placement goals that contractors must establish under Executive Order 11246 for those job groups where minorities or women, or both, are underutilized. Compliance Review A compliance review is a comprehensive analysis and evaluation of the hiring and
pregnancy, childbirth or related medical conditions, including childbearing capacity, which constitutes unlawful sex discrimination under Executive Order 11246. Contractors must treat people of childbearing capacity and those affected by a pregnancy, childbirth or related medical conditions, including childbearing capacity and those affected by a pregnancy, childbirth or related medical conditions, including childbearing capacity and those affected by a pregnancy, childbirth or related medical conditions the same for all employment-related purposes, including
may or may not correspond to the sex assigned to a person at birth and may or may not be made visible to others. Covered Area The geographical area, the Standard Metropolitan Statistical Area (SMSA) or non-SMSA where a federally assisted construction project is being performed. See 45 FR 65976, 65984 and Appendix B-80, October
3, 1980. Coercion The practice of forcing or pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) by use of threats, intimidation, or other form of pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party to behave in an involuntary manner (whether through action or inaction) and the pressuring another party through action or inaction or inaction
usually seeks, or reasonably could seek, workers to fill jobs within a particular job group. Recall The process or action by which workers are returned to active employment from layoff. O*NET (Occupational Information Network) An electronic database maintained by the U.S. Department of Labor's Employment and Training Administration that
classifies occupations in the U.S. economy based on their duties and commonly required qualifications. 41 CFR 60-300.2(c). The Show Cause Notice provides that the contractor must come into compliance within 30 calendar days or OFCCP may recommend the commencement of enforcement proceedings. The exemptions cover executive,
administrative, professional, computer and outside sales employees. Third-Party Complaint A complaint A complaint A complaint filed by an individual or individual or individual or a group of people. See 41 CFR 60-300.61(b)(2) and 60-741.61(c)(2). Rehire To employ a formerly employed worker after a complete break in employment status. 41 CFR 60-1.3.
Constructive Discharge The involuntary resignation of an employee as a result of a contractor's making the employee was constructively discharged in violation of Executive Order 11246, Section 503 or VEVRAA when it
finds that: 1) a reasonable person in the employee's position would have found the working conditions so intolerable as to compel resignation; 2) the contractor's conduct created the intolerable conditions and was motivated by retaliation; or status as a
commerce and generally cover areas that include the places of work and residence for most workers. EA is an umbrella term for the Standard Metropolitan Statistical Areas (SMSA) and non-SMSAs. See "Covered Area." EEO Policy A written statement made by the contractor to commit to the principles of equal opportunity employment. Gender-
Based Discrimination See "Sex Discrimination." Gender Identity One's internal sense of one's own gender. See also "Anecdotal Evidence" and "Statistical Evidence." Nonfavored Group The race, ethnic or sex group(s) with the lower selection rates as compared to the group with the highest selection rate when calculating the impact ratio or the level
of the statistical disparity. When calculating the impact ratio of unfavorable actions such as terminations, the nonfavored groups are those with higher selection rates. See 41 CFR 60-3.4D. Disadvantaged Business Enterprise are for-profit small businesses where
socially and economically disadvantaged individuals own at least 51% interest and control management and daily business operations. Subcontractor Any person who has held a subcontract subject to Executive Order 11246, Section 503 or VEVRAA. See 41
CFR 60-1.3, 41 CFR 60-300.2(y) and 41 CFR 60-741.2(y). Invitation to Self-Identify An invitation by the contractor, extended to employees and applicants for empl
disability or protected veteran must be kept in a confidential data analysis file under 41 CFR 60-300.42 and 60-741.42. EEO-4 Report The State and Women, Supply and Service Contractors (Placement Goals.)" Predetermination Notice (PDN) A letter in
which OFCCP notifies the contractor of its preliminary finding that the contractor has engaged in discrimination. The PDN states the basis for the preliminary findings and offers the contractor the opportunity to respond. Construction Work The construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings or
highways; or other changes or improvements to real property, including facilities providing utility services. Prima Facie Case A legal term that refers to a party's production of enough evidence to meet its burden of proof or raise a presumption unless disproved or rebutted. Local Veterans' Employment Representative Local veterans' employment
representative staff performs outreach to local businesses and employers to advocate for the hiring of veterans. Compare with "Objective Criterion." Support Data Statistical data, documentation and other materials regarding a contractor's employment policies, practices and actions used in the development, support Data Statistical data, documentation and other materials regarding a contractor's employment policies, practices and actions used in the development, support Data Statistical data, documentation of its affirmative
action program(s), or used to assess the affirmative enforcement proceeding under Executive Order 11246, Section 503 and/or VEVRAA. See 41 CFR Part 60-30, 41 CFR 60-30.65(b) and 60-741.65(b). Administrative Procedure Act An administrative enforcement proceeding under Executive Order 11246, Section 503 and/or VEVRAA.
the person's race, color, religion, sex, national origin, age (40 or older), disability, genetic information or participation in protected activity (e.g., filing a complaint of discrimination). Essential functions" are fundamental job duties of the employment position the
individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position. A job function may be essential because the reason the position exists is to perform that function; The
function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or The function may be highly specialized so that the incumbent in the position is hired for his or her expertise, or ability to perform the particular function. Amended Show Cause Notice (ASCN) A
letter from OFCCP issued to a contractor to modify a Show Cause Notice (SCN) that OFCCP has previously issued to the contractor as part of the same investigation or compliance evaluation. An ASCN is used when OFCCP has previously issued to the contractor as part of the same investigation or compliance evaluation.
all violations were initially cited in the SCN in error. Linkage A relationship between a contractor and an appropriate recruitment or training source. Front Pay Compensation for estimated future economic loss; generally, calculated based on the difference between the discrimination victim's current pay and the pay associated with his or her rightful
place had discrimination not occurred. The report collects information on employment totals and employees' job category, and sex and race/ethnic groups as of December 31 of the preceding year of the survey year. Job Group One or more group(s) of jobs having similar content, wage rates and opportunities. Reasonable Accommodation
(Disability/Disabled Veteran) A contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability. A contractor is not required to provide reasonable accommodation to an individual who satisfies only the "regarded as" prong of the definition of disability, and
federal agencies in classifying businesses for the collection, analysis and publication of statistical data related to the business economy of the U.S. NAICS was developed under the auspices of the Office of Management and Budget, and adopted in 1997 to replace the Standard Industrial Classification (SIC) system. The U.S. Department of Labor's
Employment and Training Administration oversees Wagner-Peyser. Underutilization (Executive Order 11246) When the percentage in the relevant labor pool. See 41 CFR 60-2.10(a)(1). Undue Hardship (Disability)
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. See 41 CFR 60-300.2(aa) and 60-741.2(aa) and 60-741 Appendix A. Promotion Any personnel action
resulting in, for example, the movement to a position affording higher pay, greater rank, change in job title, or increase in job grade; an increase in job grade; an increase in pay, requiring greater skill or responsibility; or the opportunity to attain such. A promotion may be either competitive or noncompetitive. Under Executive Order 11246, UGESP was promulgated as
regulations with the force and effect of law. UGESP does not apply to Section 503 or VEVRAA. Government contracts do not include: Agreements in which the parties stand in the relationship of employee; and Federally assisted construction contracts. Circumstantial Evidence Also referred to as inferential or indirect evidence. Essential
Job Functions (pay secrecy) Essential job functions mean the fundamental job duties of the employment position an individual holds for purposes of evaluating a contractor's "essential job functions defense" to an allegation that it discriminated against an employee because the employee discussed, disclosed or inquired about compensation (see 41
CFR 60-1.35(b)), "essential job functions" means the fundamental job duties of the employment position an individual holds. Davis-Bacon Act The Da
work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates. Personal representative file a complaint on their behalf or act on their behalf during
the complaint process. A personal representative may, but is not required to, be an attorney. A family member, friend, co-worker, union steward or other advocates may also be a personal representative. Normal Business Hours For purposes of access to a contractor's premises, the hours during which employees to be interviewed are at work,
regardless of the time of day or night. Also used to indicate the hours during which documents, such as AAPs, are available for inspection by employees and applicants for employment. Equal Opportunity Clause The contract clauses published at 41 CFR 60-300.5(a), and 41 CFR 60-741.5(a) that are required to be included in
every covered federal contract and subcontract. The equal opportunity clauses outline contractors' responsibilities under Executive Order 11246, Section 503 and VEVRAA. EEO-3. Minority-Owned business enterprise
is a for-profit business, regardless of size, physically located in the U.S. or its trust territories, which is owned, operated and controlled by minority group members. Minority ownership must be at least 51% of its stock must be held by minority group members.
The applicable equal opportunity clauses are considered to be a part of every covered contract whether or not they are incorporated or referenced in the contract. And whether or not they are incorporated or referenced in the contract. And whether or not they are incorporated or referenced in the contract.
life activities include, but are not limited to, carring for oneself, performing manual tasks, seeing, hearing, eating, standing, lifting, bending, standing, lifting, bending, speaking, bending, standing, lifting, bending, lifting, l
limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. See 41 CFR 60-741.2(m), Executive Order 11246 applies to federal contractors
with contracts or subcontracts of more than $10,000. It prohibits these contractors from discriminating in employment based on race, color, religion, sex, sexual orientation, gender identity, or national origin; or because an applicant or employee has disclosed, discussed or inquired about compensation. The Executive Order also and requires that
these contractors take affirmative action to ensure equal employment opportunity. Executive Order 13496 Execut
the Solicitor on behalf of OFCCP with the Office of Administrative Law Judges that begins an administrative enforcement proceeding under Executive Order 11246, Section 503 and/or VEVRAA. Disability With respect to an individual: A physical or mental impairment that substantially limits one or more of an individual's major life activities, A record
of such an impairment; or Being regarded as having such an impairment. The term reasonable accommodation means modifications or adjustments: To a job applicant desires; To the work environment, or to the manner or circumstances under
which the position held or desired is customarily performed, that enable a qualified individual with a disability to enjoy equal benefits and privileges of employment as are enjoyed by the contractor's other similarly situated employees without
disabilities. See 41 CFR 60-300.2(q) and related definitions. Qualified Individual (with a Disability) An individual with a disability who satisfies the requirements of the employment position the individual holds or desires, and who with or without reasonable accommodation can perform the
essential functions of such position. See 41 CFR 60-741.2(r). For exceptions to this definition, see 41 CFR 60-741.3. Race or color may also include marriage to or association
with a person of a certain race or color, or association with an organization or group that is generally associated with people of a certain race or color. Mandatory Job Listing (MJL) A VEVRAA affirmative action obligation that requires covered contractors to list their employment openings (with limited exceptions) with the state workforce agency job
bank or with the local employment service delivery system (ESDS) where the opening occurs. Contractors must provide information about the job vacancy in a manner and format permitted by the appropriate ESDS which will allow that system to provide priority referral of veterans protected by VEVRAA for that job vacancy. Objective Criterion A
selection criterion is objective if it is fixed and measurable (e.g., the requirement of a high school degree rather than a "good education"). Continuing Violation A continuing violation may be found to exist when it is determined that multiple related actions constitute a single act of discrimination, e.g., a hostile work environment, pay discrimination, or
a discriminatory policy or system. A continuing violation exists where: 1) at least one of the actions occurred within the liability period and the other actions are related or so similar in nature as to show a pattern or practice of employment discrimination, or 2) the contractor maintains a discriminatory policy or practice into the liability period.
Continuing violations may be, but do not have to be, systemic. A biennial report filed in the odd-numbered years that collects information from State and local governments. All States and all other political jurisdictions with 100 or more employees must file this report. Person of Two or More Races (Not Hispanic or Latino) As defined by the EEOC, for
purposes of EEO-1 reports, any person who identifies with more than one race category. Employees may have different types of seniority for different purposes (e.g., job bidding rights governed by department seniority and leave accrual rights governed by department seniority and leave accrual rights governed by company seniority.
terminations, the favored group is the group with the lowest selection rate. Linkages may assist the contractor in its outreach and recruitment efforts, and aid in compliance with its affirmative action obligations. Terms and Conditions of Employment All aspects of the employment relationship between an employee and his or her employer, including,
but not limited to, hiring, compensation, fringe benefits, leave policies, job placement, work environment, work environ
failure to provide "Religious Accommodation" or "Reasonable Accommodation." Disparate Impact A theory of employment discrimination of a contractor to
accommodate the sincerely held religious observances and practices of its current and prospective employees. Typical religious dress at the workplace, swapping employee shifts or permitting work breaks or time off to allow for
religious observance, and modifying an employee's work schedule to permit observance of the employee's religious observance of the contractor does not have to accommodate an employee's religious observance of the 
guestions regarding the contractor's compliance with Executive Order 11246, Section 503 or VEVRAA. The BFOO defense is very narrow but has been successfully used in the sex discrimination context when privacy concerns are implicated. Mega Construction Project A large construction project spanning more than one year with a value of $25
million or more. If a contractor has a total workforce of fewer than 150 employees, it may use the EEO-1 categories as its job groups. See 41 CFR 60-2.12. Federal contractor system that identifies federal contractor system that identifies federal contractor system (FCSS) of the compliance evaluations. The
placement goal established must be at least equal to the availability percentage of the underutilized minorities and women for the specific job group. 41 CFR 60-2.16(c); see also 41 CFR 60-2.15. See 41 CFR 60-2.15. See 41 CFR 60-2.15.
 "Undue hardship" is the defense for not providing a needed religious accommodation. To demonstrate "undue hardship" in this context, a contractor must show that providing the proposed accommodation would pose "more than de minimis" cost or burden. Costs to be considered include not only direct monetary costs, but also the burden on the
conduct of the employer's business. Section 503 of the Rehabilitation Act and its implementing regulations apply the ADA's nondiscrimination standards to federal contractors. A biennial report conducted in the even-numbered years that collects information from all public elementary and secondary school districts with 100 or more employees in the
U.S.. The EEO-5 Report is a joint requirement of the EEOC and the Office for Civil Rights of the U.S. Department of Education. Employee (using the "common-law agency test") OFCCP generally uses the "common-law agency test" examines the
individual worker's relationship to the contractor by assessing the following factors derived from a 1992 U.S. Supreme Court decision, Nationwide Mutual Insurance Co. v. The qualification is objective; they do not depend on the contractor's subjective judgment. A qualification is objective if a third party, with the contractor's technical
knowledge, would be able to evaluate whether the job seeker possesses the qualification without more information about the contractor's judgment. For example, "a bachelor's degree in accounting" is objective while "a technical degree from a good school" is not. Compare with "Rehire." Noncompliance A contractor's failure to adhere to the
conditions set out in the contract's equal opportunity clauses or the regulations implementing those clauses (41 CFR Chapter 60), or failure to correct violations. MOU (Memorandum of Understanding) A written agreement between two or more entities, which often serves to memorialize the intent and purpose of the parties' working relationship.
The term "first-tier subcontractor" refers to a subcontract," "Subcontract," "Sub
against its recurrence. Corrective remedies vary based on the facts of each case and may include, for example, stopping the use of a discriminatory policy or practice, substituting a nondiscriminatory policy or practice, substituting a nondiscr
remedies will, typically, be part of any complete remedy. Training Agency Any person, organization or agency whose purpose is to train workers. Maternity Leave A woman's childbirth-related absence from work that does not directly depend on her medical condition. If the selection rate for one group is less than 80% of that of the group with the
highest rate, then the IRA is considered adverse and further investigation or analysis is needed. Functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clearly distinct functional or business unit within a corporate structure as opposed to an AAP based on a clear base
must first reach an agreement with OFCCP allowing it to do so. See Functional Affirmative Action Programs (FAAP), Dir 2013-01, Revision 2(06/20/2019). Perfection over a complaint filed with the agency and should retain it for investigation.
Perfection includes assessing whether a complaint is complete, whether it was filed within established timeframes and whether the allegation (meaning that the company is a federal contractor or subcontractor and that the allegations assert a violation under the laws enforced by OFCCP). Geographical Area The
Standard Metropolitan Statistical Area (SMSA) or non-SMSA, as designated in the Federal Register by the Secretary of Labor, where a federal or 
employer and an employee): For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more government contracts is performed, undertaken or assumed.
Validation The demonstration of job-relatedness by showing the relationship between the selection procedure and job performance. On-The-Job Training (OJT)
                                                                                                                                                                                                                                                                       An employer-sanctioned training program, usually at the employer's worksite, in which a trainee works under close supervision or with assistance, designed to teach and
qualify an individual to perform a job or element(s) of a job. Disparate impact discrimination occurs when a contractor's use of a facially neutral policy or practice (e.g., a test, an interview, a degree requirement, a leave or hours policy) disqualifies members of a protected class at a substantially higher rate than others and is not justified by business
necessity and job-relatedness (or it is justified by business necessity but there are less-discriminatory alternatives available that would meet the contractor's need). It is necessary to prove intent to discriminatory alternatives available that would meet the contractor's need).
proven using direct evidence, circumstantial evidence or a combination of both. Disabled Veteran "Disabled Veteran" means: A veteran of the U.S. military, ground, naval or air service who is entitled to compensation) under laws administered by the Secretary of
Veterans Affairs; or A person who was discharged or released from active duty because of a service-connected disability. See 41 CFR 60-300.2(i). Construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings or highways, or other changes or
improvements to real property, including facilities providing utility services. Similarly Situated Employee Group (SSEG) SSEGs are used in examining potential compensation discrimination. Seniority, departmental seniority, departmental seniority, departmental seniority, departmental seniority, facilities providing utility services. Similarly Situated Employee Group (SSEG) are used in examining potential compensation discrimination.
Compare with "Contract Cancellation" and "Contract Suspension." Deficiency Any failure to comply with the implementing rules, regulations and orders of OFCCP. See "Violation." Direct Evidence of Discrimination Proof of a discriminatory reason for
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an employment decision that does not use inference or presumption. Direct evidence of discrimination is not required for OFCCP to find that discrimination is not required for OFCCP to find that discrimination occurred. Field offices have specific responsibilities to add information into this automated system. Specific instructions are found in the online CMS Manual. See 41 CFR Part 60-3. Business necessity may also have to be proven when an employer uses a qualification standard that screens out an individual because of his or her disability. Physical or mental impairment means: (a) Any physiological disorder, condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as

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neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine; or (b) Any mental or psychological disorder, such as an intellectual disability (formerly termed mental retardation), organic brain syndrome
emotional or mental illness, and specific learning disabilities. It may also include inconsistent use of rejected applicants' excellent qualifications, as compared to mediocre qualifications of hired applicants. Anecdotal evidence is often contrasted to
statistical evidence. See also "Nonstatistical Evidence" and "Statistical Evidence" and "Statistical Evidence" and interest in being considered for hiring, promotion or other employment opportunity. This interest may be expressed in different ways, such as by completing an application or through an oral statement, depending upon the
contractor's practice. An employee of a company may also be an "applicant" when he or she has indicated an interest in being considered for another job, promotion or employment opportunity within the company. See Question and Answers to Clarify and Provide a Common Interpretation of the UGESP,
available online at 🏶 See also "Internet Applicant." Applicant Flow Data (Log) A chronological compilation of applicants (including internet applicants) for employment or promotion showing each individual, categorized by race, sex and ethnic group, who applied for each job title (or group of jobs requiring similar qualifications) during a specific
period. See also "Internet Applicant." Apprenticeship (Contractor or Industry Specific) A system of agreement, written or implied, that uses practical experience to train a person in a recognized trade or craft following specified standards. For the comparable definition under VEVRAA, see 41 CFR 60-300.2(t)(1). For examples of reasonable
accommodations, see 41 CFR 60-741.2(s)(2) and 41 CFR 60-300.2(t)(2). Journey Worker One who has completed an apprenticeship program or otherwise possesses the full skills and licenses of workers in his or her trade. Historically referred to as "journeyman." Labor Area The Geographic area used in calculating availability. The area may vary
from local to nationwide. Construction Site The general physical location of any building, highway or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition or repair; and any temporary location or facility at which a contractor, subcontractor, or other participating
party meets a demand or performs a function relating to the contract or subcontract. 41 CFR 60-1.3 (defining "Site of construction"). Employer Identification purposes. Bona Fide Seniority, Merit or Incentive System An employer
may lawfully compensate employees differently on the basis of a bona fide seniority, merit or incentive system rewards employees for exceptional job performance. An incentive system provides compensation on the basis of the quality or quantity of
production. To be a bona fide system, it must not have been adopted with discriminatory intent, it must be based on predetermined criteria, it must have been adopted with discriminatory intent, and the discriminatory intent, it must have been adopted with a discriminatory intent, and the discriminatory intent, and th
disparate impact case, i.e., when it uses an employment policy or practice, such as a selection criterion, that is facially neutral and consistently applied, but that excludes members of one group (e.g., women or African-Americans) at a substantially higher rate than members of other groups. Show Cause Notice (SCN) A letter from OFCCP to the
contractor ordering it to provide evidence demonstrating why enforcement proceedings should not be instituted. Accommodation (Pregnancy)" and "Religious Accommodation." Active Duty Wartime or Campaign Badge Veteran A veteran who served on
active duty in the U.S. military, ground, naval or air service during a war, or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the U.S. Department of Defense. Adverse Impact An adverse impact occurs when a contractor's use of a facially neutral policy or selection procedure (e.g., a test,
an interview, a degree requirement, leave or hours policy) disqualifies members of a protected class at a substantially higher rate than others. Though the terms "adverse impact" are sometimes used interchangeably, the Uniform Guidelines on Employee Selection Procedures (UGESP) outlined at 41 CFR 60-3.16B use only the
term "adverse impact" and define it as a substantially different rate of selection in hiring, promotion, transferring, training or other employment decision which works to the disadvantage of the members of a race, sex or ethnic group identified in 41 CFR 60-3.4. See "Disparate Impact." Affected Class A group of people sharing common traits or
characteristics (e.g., the same race, sex, or ethnicity) who are the victims of systemic discrimination by a particular contractor during a specific timeframe. Contract cancellation is one of the sanctions at 41 CFR Part 60-2, the
category is called "Asian/Pacific Islander." Under the regulations at 41 CFR 60-4.3(a)1.d(iii), the category is called "Asian and Pacific Islander." Availability As described in 41 CFR 60-2.14, an estimate of the number of qualified people
available for employment in the given job group. The purpose of the availability determination is to establish a benchmark against which the demographic composition of the contractor's incumbent workforce can be compared to determine whether barriers to equal employment opportunity may exist within particular job groups. The ASCN identifies
all the unresolved or current violations. Rightful Place The position, both economically and in terms of employment status (usually job position and seniority), that the victim of discrimination would have held if the discrimination had not occurred. See "Make-Whole Relief." Section 503 Section 503 of the Rehabilitation Act of 1973, as amended,
29 U.S.C. 793. One of the three legal authorities enforced and administered by OFCCP. Section 503 applies to federal contractors with a contract or subcontract of more than $15,000. Anecdotal Evidence Nonstatistical evidence of discrimination that can help bring "the cold numbers convincingly to life," International Brotherhood of Teamsters v.
Compliance Check A compliance evaluation procedure that involves a determination of whether the contractor has maintained appropriate records consistent with the regulations at 41 CFR 60-1.12, 60-300.80 and 60-741.80. Goals for minorities and women
under Executive Order 11246, expressed as percentages of the hours worked by the contractor's aggregate workforce, by trade, in the geographic area(s) where a federal or federally assisted construction project is located. See 41 CFR 60-4.6. Goal for Qualified Individuals with Disabilities (Utilization Goal) The regulations implementing Section 503
establish a utilization goal of 7% for the employment of qualified individuals with disabilities for each job groups that they use for the establishment of placement goals for minorities and women, and covered construction contractors apply the goal to the same
trades they use when applying their participation goals under Executive Order 11246. Contractors with 100 or fewer employees have the option of using their entire workforce instead of job groups or trades. See 41 CFR 60-741.45. Disability-Related Question or Inquiry It is a violation of Section 503 for a contractor to ask disability-related questions
of an applicant at the pre-offer stage of the employment process, and such questions may only be asked of employees if they are job-related and consistent with business necessity. See 41 CFR 60-741.23. A disability-related question or inquiry is one that is likely to elicit information about the existence, nature or extent of a disability. This includes
directly asking whether an applicant has a disability, as well as asking questions that are closely related to disability, e.g., "Do you have a disability," "Are you able to stand and walk?" and "Will you need a reasonable accommodation to perform this job?" However, an applicant has a disability, as well as asking questions that are closely related to disability, e.g., "Do you have a disability," "Are you able to stand and walk?" and "Will you need a reasonable accommodation to perform this job?" However, an applicant has a disability, as well as asking questions that are closely related to disability, as well as asking questions that are closely related to disability, as well as asking questions that are closely related to disability, as well as asking questions that are closely related to disability.
accommodation is needed for the application process. As part of the contractor's affirmative action obligations, the contractor shall also invite applicants, pre- and post-offer, and employees to inform the contractor's affirmative action obligations, the contractor whether they believe that they are individuals with disabilities as defined in 41 CFR 60-741.2(g)(1)(i) or (ii). Recently Separated Veteran
Any veteran during the three-year period beginning on the date of such veteran's discharged or released from active duty in the U.S. military, ground, naval or air service in the last three years. See 41 CFR 60-300.2(u). Victim Specific Relief See "Individual Relief." Violation Failure to fulfill a requirement of the Executive Order 11246, Section 503 or
VEVRAA, or their implementing regulations. White (not Hispanic or Latino) As defined by OMB's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (1997), an individual, not of Hispanic origin, with origins in any of the original peoples of Europe, North Africa or the Middle East. Formula Relief A method used in
systemic discrimination cases for calculating a total amount of back pay for an affected class of discrimination victims that is then divided (pro rata or otherwise) among all members of that class. Compare with "Individual Relief." Fringe Benefits Benefits that an employee provides to employees in addition to paying their wages or salary. Examples
include, but are not limited to: Profit-sharing and bonus plans; Leave (e.g., annual vacation days, personal days, sick leave); Stock options or awards; Medical, hospital, accident and life insurance; Long-term and short-term disability benefits; Severance benefits; Pension or other retirement benefits and early retirement incentives; and Other terms,
conditions and privileges of employment. The employer must prove that a policy or practice that has an adverse impact is job-related and consistent with business necessity. Notice of Violation of a Conciliation Agreement (15-Day Notice) A letter from OFCCP informing the contractor that the agency believes the contractor has violated the terms of a
Conciliation Agreement and that enforcement proceedings may be initiated unless the contractor of the letter that it has not violated its commitments under the agreement. Notice of Results of Investigation (NORI) A letter from OFCCP notifying the contractor of the results of a complaint
investigation, including whether the agency found any violations of Executive Order 11246, Section 503 or VEVRAA. If violations were found, the NORI details those violations and invites the contractor to join the agency in resolving the complaint through conciliation. Regression Analysis and invites the contractor to join the agency in resolving the complaint through conciliation.
of independent variables (such as education, prior experience) on a dependent variable (such as hire, compensation). Regression analyses frequently are a significant element of OFCCP's proof used in systemic discrimination to his or her rightful place, both
economically and in terms of employment status, and benefits and privileges that he or she would have had had the discrimination not taken place. Common elements of make-whole relief include, but are not limited to, as appropriate to the facts of the case, instatement, reinstatement, back pay with interest and retroactive seniority. Notice of
Violation (NOV) A letter from OFCCP notifying the contractor that the agency has found violations of Executive Order 11246, Section 503 and/or VEVRAA during a compliance evaluation, identifying the remedies that are required to resolve those violations, and inviting the contractor to engage in conciliation to resolve them. Impact Ratio Analysis
(IRA) A method for identifying personnel activity that should be investigated further. The IRA is a comparison of the selection rates of different racial, ethnic and sex groups within an identified applicant or candidate pool. SSEGs are sometimes referred to as a pay analysis groups and are viewed by the agency as equivalent terms. Uniform Guidelines
on Employee Selection Procedures (UGESP) Guidelines developed by the EEOC, U.S. Department of Justice, U.S. Department of Justice, U.S. Department of Justice, and licensing and
certification boards to comply with requirements of federal law prohibiting employment practices that discriminate on grounds of race, color, religion, sex and national origin. Individual Relief The assessment of make-whole relief for identified victim(s) of discrimination on an individualized basis. This method is generally used to calculate back pay
and other make-whole relief, such as reinstatement and rightful seniority, in the individual or small group discrimination, and the losses they incurred, can be determined with a Disability A person with a disability. Job Area Acceptance Range (JAAR)
An analytical tool used to analyze the distribution of employees in a workforce by comparing the actual percentage of minorities and women in a job area to their percentage in the relevant segment of the contractor's workforce by job
category. This form is also known as Standard Form 100. Job Description A written statement detailing the duties of a particular job title. Enforcement This term typically refers to an administrative or judicial action to compel
performance of a conciliation agreement or consent decree. See 45 FR 65976, 65984 and Appendix B-80, October 3, 1980. See 41 CFR 60-300.2(b). Person Any natural person, corporation, partnership, unincorporated association, state or local government; and any agency, instrumentality or subdivision of such a government. 41 CFR 60-1.3. The
term also includes joint ventures under the regulations implementing VEVRAA (41 CFR 60-300.2(n)(5)) and Section 503 (41 CFR 60-741.2(k)(5)). Pattern or Practice of not interviewing male applicants for
positions that involve working in small spaces. Methods of proving such discrimination vary from case to case, but often include, at least in part, statistical evidence. Job Categories The 10 designated categories of the EEO-1 report: Officials and managers (divided into executive/senior level and mid/first level), Professionals, Technicians, Sales
workers, Office and clerical, Craft workers (skilled), Operatives (semi-skilled), Laborers (unskilled), and Service workers. EEO-1 Report The Employer Information Report EEO-1. An annual report filed with the Joint Report The Employer Information Report EEO-1.
contractors with 50 or more employees and a prime contractor first-tier subcontract of $50,000 or more, subject to Executive Order 11246. Adverse actions that are likely to deter a reasonable person from pursuing their rights, including threats and unjustified
negative evaluations or references, may also be adverse actions. Harassment Harassment is unwelcome conduct that is based on a protected characteristic (race, color, religion, sex, sexual orientation, gender identity, national origin, disability, status as a protected veteran, or because an individual disclosed, discussed or inquired about
compensation). Harassment becomes illegal if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted). Examples of harassment include slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. Sexual
harassment may include unwelcome sexual advances, requests for sexual favors and other conduct of a sexual favors and othe
by OFCCP's regulations. The FMLA is enforced by the U.S. Department of Labor's Wage and Hour Division. For example, courts have found undue hardship where the accommodation diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, or causes co-workers to carry the accommodated
employee's share of potentially hazardous or burdensome work. Director The Director of the Office of Federal Contract Compliance; this previous designation still appears in some OFCCP regulations. Line of
Progression A series of related jobs in a promotional sequence, generally starting with lower-paying jobs with greater responsibility. Often, the lower-level jobs provide required training for movement to the higher-level jobs. Facially Neutral An employment practice or policy is facially
neutral if it does not reference a protected characteristic such as sex or race. Even if a contractor's policy or practice (e.g., excluding applicants from employment based on certain criminal conduct or lack of a high school degree) is facially neutral, if it disproportionately impacts individuals on a prohibited basis, it violates the law unless it is shown
to be job-related and consistent with business necessity (disparate impact discrimination). Placement In this Manual, placement is often used in the context of the selection or assignment of individuals for a particular job. While no one factor will necessarily be decisive, the factors that indicate the extent to which the contractor controls the manner
and means of the individual's performance of his or her work will typically be most important in the Darden analysis. The Equal Employment Opportunity Commission also relies on this test to determine whether individuals are employees for Title VII and ADA purposes. Employment Agency Any person or entity that, with or without compensation,
regularly works to procure employees for a contractor or to procure for individuals opportunities to work for a contractor. Government Contract (or Federal Contract) A government contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is an agreement or modification thereof between any contractor is a contractor in the procure of the procure o
services between a contracting agency and a person. Personal property includes supplies and contracts for the use of real property (e.g., as lease arrangements). Nonpersonal services include, but are not limited to: utility, construction, transportation,
research, and fund depository. VEVRAA The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212). One of the three legal authorities enforced and administered by OFCCP. VEVRAA applies to federally-assisted
construction contractors. VEVRAA prohibits covered federal contractors from discriminating in employment based on status as a protected veteran and requires that they take affirmative action to ensure equal employment opportunity. Federal contractors with 50 or more employees and a contract of $150,000 or more have
additional affirmative action obligations, that include the development of a written affirmative action program. Debarment is one of the sanctions authorized, in appropriate cases, for violation of Executive Order 11246, Section 503 or VEVRAA.
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