

**§ 60-741.41**

(b) Contractors described in paragraph (a) of this section shall, within 120 days of the commencement of a contract, prepare and maintain an affirmative action program at each establishment. The affirmative action program shall set forth the contractor's policies and procedures in accordance with this part. This program may be integrated into or kept separate from other affirmative action programs.

(c) The affirmative action program shall be reviewed and updated annually.

(d) The contractor shall submit the affirmative action program within 30 days of a request from OFCCP, unless the request provides for a different time. The contractor also shall make the affirmative action program promptly available on-site upon OFCCP's request.

**§ 60-741.41 Availability of affirmative action program.**

The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

**§ 60-741.42 Invitation to self-identify.**

(a) The contractor shall, after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, invite the applicant to inform the contractor whether the applicant believes that he or she may be covered by the act and wishes to benefit under the affirmative action program. The contractor may invite self-identification prior to making a job offer only when:

(1) The invitation is made when the contractor actually is undertaking affirmative action for individuals with disabilities at the pre-offer stage; or

(2) The invitation is made pursuant to a Federal, state or local law requiring affirmative action for individuals with disabilities.

(b) The invitation referenced in paragraph (a) of this section shall state that a request to benefit under the affirmative action program may be made immediately and/or at any time in the

**41 CFR Ch. 60 (7-1-02 Edition)**

future. The invitation also shall summarize the relevant portions of the act and the contractor's affirmative action program. Furthermore, the invitation shall state that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will not be used in a manner inconsistent with the act. If an applicant so identifies himself or herself, the contractor should also seek the advice of the applicant regarding proper placement and appropriate accommodation, after a job offer has been extended. The contractor also may make such inquiries to the extent they are consistent with the ADA (e.g., in the context of asking applicants to describe or demonstrate how they would perform the job). The contractor shall maintain a separate file on persons who have self-identified and provide that file to OFCCP upon request. This information may be used only in accordance with this part. (An acceptable form for such an invitation is set forth in Appendix B of this part. Because a contractor usually may not seek advice from an applicant regarding placement and accommodation until after a job offer has been extended, the invitation set forth in Appendix B of this part contains instructions regarding modifications to be made if it is used at the pre-offer stage.)

(c) Nothing in this section shall relieve the contractor of its obligation to take affirmative action with respect to those applicants or employees of whose disability the contractor has knowledge.

(d) Nothing in this section shall relieve the contractor from liability for discrimination under the act.

**§ 60-741.43 Affirmative action policy.**

Under the affirmative action obligations imposed by the act contractors shall not discriminate because of physical or mental disability and shall take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level. Such action shall apply to all

employment activities set forth in § 60-741.20.

**§ 60-741.44 Required contents of affirmative action programs.**

Acceptable affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) *Policy statement.* The contractor shall include an equal opportunity policy statement in its affirmative action program, and shall post the policy statement on company bulletin boards. The contractor must ensure that applicants and employees with disabilities are informed of the contents of the policy statement (for example, the contractor may have the statement read to a visually disabled individual, or may lower the posted notice so that it may be read by a person in a wheelchair). The policy statement should indicate the chief executive officer's attitude on the subject matter, provide for an audit and reporting system (see paragraph (h) of this section) and assign overall responsibility for the implementation of affirmative action activities required under this part (see paragraph (i) of this section). Additionally, the policy should state, among other things, that the contractor will: recruit, hire, train and promote persons in all job titles, and ensure that all other personnel actions are administered, without regard to disability; and ensure that all employment decisions are based only on valid job requirements. The policy shall state that employees and applicants shall not be subjected to harassment, intimidation, threats, coercion or discrimination because they have engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in an investigation, compliance review, hearing, or any other activity related to the administration of section 503 of the Rehabilitation Act of 1973, as amended (section 503) or any other Federal, State or local law requiring equal opportunity for disabled persons;

(3) Opposing any act or practice made unlawful by section 503 or its implementing regulations in this part or any other Federal, State or local law re-

quiring equal opportunity for disabled persons; or

(4) Exercising any other right protected by section 503 or its implementing regulations in this part.

(b) *Review of personnel processes.* The contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees with known disabilities for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The contractor shall ensure that its personnel processes do not stereotype disabled persons in a manner which limits their access to all jobs for which they are qualified. The contractor shall periodically review such processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in any affirmative action programs required under this part. The contractor must design procedures that facilitate a review of the implementation of this requirement by the contractor and the Government. (Appendix C of this part is an example of an appropriate set of procedures. The procedures in Appendix C of this part are not required and contractors may develop other procedures appropriate to their circumstances.)

(c) *Physical and mental qualifications.*

(1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the periodic review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified individuals with disabilities, they are job-related for the position in question and are consistent with business necessity.

(2) Whenever the contractor applies physical or mental qualification standards in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification standards tend to screen out qualified individuals with disabilities, the standards shall be related to the specific job or jobs for