

THE NATIONAL LAW REVIEW

OFCCP Sheds More Light on Section 503 Focused Reviews

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On March 8, 2019, the **Office of Federal Contract Compliance Programs (OFCCP)** announced that it has published a [landing page](#) containing information about Section 503 focused reviews. OFCCP touts the new landing page as a resource for contractors to help them institute best practices with a goal of increasing the employment of individuals with disabilities. Among the resources on the landing page are “disability inclusion best practices, documents explaining what to expect during a Focused Review, and important OFCCP contact information.”

The landing page includes links to a number of resources, including:

- [Directive 2018-04](#),
- the Section 503 [regulations](#),
- the Section 503 focused review scheduling letter,
- a list of answers to frequently asked questions on Section 503,
- a disability inclusion [video](#),
- a disability rights [factsheet](#),
- disability-related [best practices](#),
- [resources](#) that the Office of Disability Employment Policy offers, and
- [guidance](#) on how to file a complaint.

On its [Focused Review Frequently Asked Questions \(FAQ\) page](#), OFCCP confirms that the first round of Section 503 focused reviews will take place at contractor’s corporate headquarters and will include:

- “a comprehensive review of the contractor policies and procedures as they relate solely to Section 503”;
- “an onsite visit and “investigations with managers responsible for equal employment opportunity and Section 503 compliance . . . as well as employees affected by those policies”;
- an evaluation of “the handling of accommodation requests, to ensure that individuals with disabilities are not being discriminated against in employment”; and
- an examination and assessment of a contractor’s compliance with Section 503 regulations, noting specifically “whether the contractor conducted the required assessments of its employment policies and tracked appropriate data concerning individuals with disabilities.”

In addition, OFCCP will provide compliance assistance so “contractors can go above and beyond the minimum



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requirements by implementing best practices intended to increase the utilization of qualified individuals with disabilities within their workforce.” OFCCP appears ready to [recognize contractors](#) “that demonstrate innovative and successful diversity and inclusion efforts for individuals with disabilities . . . consistent with its [Directive 2018-06](#): Contractor Recognition Program.”

In its [answer to the fourth FAQ](#), OFCCP clarifies that while it is requesting a copy of the Executive Order (EO) affirmative action program (AAP) in the Section 503 focused review [scheduling letter](#), OFCCP will not look for discrimination based on “sex or race and ethnicity.” OFCCP explains its request for the EO AAP as a way for OFCCP to “get a clearer picture of the contractor’s organizational structure, confirm Section 503 job groups, and understand generally how the Section 503 compliance strategies fit with the contractor’s other affirmative action efforts.” If OFCCP uncovers shortcomings in the EO AAP, it appears OFCCP will “take appropriate actions” starting with “technical assistance to bring the contractor into compliance.” It does not rule out moving past merely providing technical assistance, however.

OFCCP’s [answer to the ninth FAQ](#) notes that the agency may “request and review” compensation and promotion data for a larger group than those that have identified as having a disability, are known to have a disability, and/or employees who requested a reasonable accommodation. In the same answer, OFCCP acknowledges it “may request additional applicant flow data for job groups that had applicants with disabilities.”

Some welcome news comes in [response to the fifth FAQ](#) where OFCCP confirms it will exempt establishments undergoing Section 503 focused reviews from the scheduling of additional compliance evaluations. OFCCP does note that it will investigate complaints of any of the three laws “OFCCP administers” if filed during a Section 503 focused review.

OFCCP also published recommended [best practices for “Creating an Inclusive Workforce,”](#) which it first announced at its [Seattle town hall meeting on February 28, 2019](#). The best practices provide stakeholders with a number of disability resources, and links to sample disability inclusion programs.

As OFCCP has announced it [will release in mid-to-late March 2019](#), the courtesy scheduling announcement list that we know will include 500 corporate headquarters scheduled for Section 503 focused reviews, contractors and subcontractors may now want to focus on assessing their Section 503 compliance efforts and reasonable accommodations policies and procedures; reviewing their Section 503 AAPs; and implementing some of the best practices shared by OFCCP to create a more disability inclusive workforce.

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