



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Written Testimony

of

the Consortium for Citizens with Disabilities Veterans Task Force

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House Committees on Veterans' Affairs, Subcommittee on Economic Opportunity

Regarding

Federal Contractor Compliance

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Chairwoman Herseth Sandlin, Ranking Member Boozman, and other distinguished members of the subcommittee, the Consortium for Citizens with Disabilities (CCD) Veterans Task Force appreciates the opportunity to submit for the record our views regarding federal contractor compliance and reforms that must be implemented to modernize and strengthen the affirmative action provisions of the Vietnam Era Veterans' Readjustment Act (VEVRAA), as amended, 38 U.S.C. 4212. These reforms are necessary to ensure that veterans covered under VEVRAA are actually able to derive benefit from the affirmative action provisions included in the law.

CCD is a coalition of over 100 national consumer, service provider, and professional organizations which advocates on behalf of people with disabilities and chronic conditions and their families. The CCD Veterans Task Force works to bring the disability and veterans communities together to address issues that impact veterans with disabilities as people with disabilities. Veterans Task Force members include veterans service organizations and broad based disability organizations.

Even during periods of prosperity, all people with disabilities are underrepresented in the nation's workforce. As efforts to create jobs during these difficult economic times progress, every effort must be made to ensure that veterans with disabilities are able to fully participate in our nation's economy. Providing meaningful, accessible employment opportunities allows veterans the ability to successfully reintegrate into their communities and families.

In March 2010, the U.S. Department of Labor's Bureau of Labor Statistics released data concerning the 2009 employment situation for veterans. According to the released data, nearly 21 percent of veterans of the current conflicts reported having service-connected disabilities. The unemployment rate among veterans of the current conflicts with disabilities was 11.8 percent.

VEVRAA, as amended by the Jobs for Veterans Act, provides certain qualified veterans, including veterans who have service-connected disabilities, with the opportunity to benefit from affirmative action policies that apply to federal contracts and subcontracts of \$100,000 or more that are entered into or modified on or after December 1, 2003.¹ VEVRAA's affirmative action policies require that contractors who receive covered federal contracts must not discriminate against covered veterans and must actively conduct outreach to covered veterans through job postings with state or local employment delivery systems. Contractors that receive a federal contract of more than \$100,000 and employ 50 or more people must also develop an affirmative action program. According to the implementing regulations, the affirmative action program must be reviewed and updated annually.

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is the enforcement agency for VEVRAA. OFCCP also enforces affirmative action policies through Executive Order 11246, as amended, based on race, color, gender, religion, and national origin, and section 503 of the Rehabilitation Act, as amended (Section 503), based on disability. However, the executive order is more stringent and goal oriented than either VEVRAA or Section 503. Specifically, many of the requirements under Section 503 and VEVRAA appear to

¹ Contracts of \$25,000 or more that were entered into prior to that date are subject to the original VEVRAA provisions which applied affirmative action provisions to certain other qualified veterans, including those who are special disabled veterans.

result in little more than the filing of paperwork and generic promises of affirmative action for people with disabilities and covered veterans.

Because individuals who allege a violation of the affirmative action provisions under Section 503 and VEVRAA lack the ability to seek redress of their grievances through the court system, OFCCP must provide meaningful enforcement of the affirmative action provisions. Meaningful enforcement includes suspending contractors from receiving federal contracts until reforms are implemented to ensure that affirmative action provisions will be followed.

To ensure that federal contractors clearly understand the affirmative action requirements of Section 503 and VEVRAA, the CCD Veterans Task Force believes that certain steps must be taken. In April 2010, Economic Systems, Inc. (EconSys) released a report analyzing affirmative action for people with disabilities and disabled veterans, including Section 503 and VEVRAA.² The report was prepared at the request of the U.S. Department of Labor's Office of Disability Employment Policy.

The findings detailed in Volume II of the EconSys report concerning modernizing the affirmative action provisions of Section 503 and VEVRAA highlight key deficiencies in the current implementing regulations. Specifically, the report details five inadequacies in the current regulations that limit the impact of the affirmative action provisions of Section 503 and VEVRAA. The five deficiencies follow:

- The regulations lack qualitative analysis and measurable goals and objectives (comparable to those for minorities and women); thus, making it difficult to objectively determine whether people with disabilities and covered veterans are sufficiently represented in the covered federal contractor workforce.
- The regulations do not clearly define the affirmative action obligation of covered federal contractors.
- The regulations lack sufficient examples of best practices for meeting the components of an affirmative action program outlined in the regulations.
- The regulations fail to account for the technology needs of today's work environment to ensure that all equipment and computer applications are accessible to people with different types of disabilities.
- The regulations lack sufficient guidance concerning the actions covered federal contractors should take toward applicants who have disabilities, such as addressing confidential self-identification at the pre-offer stage.

The EconSys report proposes four modifications to strengthen the regulations governing Section 503 and VEVRAA. These recommendations provide a common sense approach that builds on the successes of other affirmative action programs, including Executive Order 11246. The four recommendations follow:

² Economic Systems, Inc., Affirmative Action for People with Disabilities and Disabled Veterans: Volume II Modernizing the Affirmative Action Provisions of the Section 503 and VEVRAA Regulations (2010), <http://www.econsys.com/documents/Vol%20II-Modernizing%20Section%20503%20Regulations.pdf>.

- The report recommends that the regulations be amended to provide covered federal contractors with sufficient understanding of the nature of the duty to implement the affirmative action provisions of these statutes, including the scope and purpose of affirmative action.
- The report proposes that the purpose of an affirmative action program be defined to reflect how it is to be used as a proactive management tool.
- The report suggests that changes be made to ensure that people with disabilities and veterans who give an informed consent about how the information will be used have greater opportunities to self-identify and thus benefit from affirmative action.
- The report proposes adding qualitative analysis and accessible technology to the required components of an affirmative action plan along with ensuring that these and all other affirmative action program components take into account current best practices.

The CCD Veterans Task Force supports the recommendations made in the EconSys report and urges the committee to review the report to understand the parallels between Section 503 and VEVRAA with regard to the proposed modifications. Furthermore, although VEVRAA applies to federal contracts that are \$100,000 or more, Section 503 applies to contracts of \$10,000 or more and many veterans who are not eligible for affirmative action under VEVRAA due to the \$100,000 requirement may be eligible to benefit from affirmative action under Section 503. Thus, the intersections of these important affirmative action laws are critically important to our nation's veterans with disabilities.

In addition, on July 23, 2010, OFCCP issued an advance notice of proposed rulemaking to begin the process of reforming the regulatory provisions implementing Section 503 in order to strengthen the affirmative action requirements. Due to the parallels between Section 503 and VEVRAA, the CCD Veterans Task Force urges OFCCP to undertake similar regulatory action to ensure that the regulations implementing VEVRAA are also modified to provide more meaningful affirmative action for covered veterans who are currently unemployed or underemployed.

Thank you for the opportunity to submit for the record the views of the CCD Veterans Task Force concerning VEVRAA and federal contractor compliance. We appreciate your leadership on behalf of our nation's veterans with disabilities. The CCD Veterans Task Force is ready to work in partnership to ensure that all veterans are able to reintegrate in to their communities and remain valued, contributing members of society.

Information Required by Clause 2(g) of Rule XI of the House of Representatives

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Receipt of federal grants or contracts:

- The Consortium for Citizens with Disabilities Veterans Task Force has not received any federal grants or contracts during the current or two preceding fiscal years.