Section 503 of the Rehabilitation Act and Other Federal Initiatives: The CWICs Role in Supporting Beneficiaries

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Introduction

Social Security beneficiaries face many challenges as they attempt to obtain employment and pursue their careers. Beneficiaries frequently report that lack of community support services and disincentives to employment in the Social Security disability rules limit their ability and willingness to enter the workforce. However, in many different research studies conducted over the past four decades, individuals with disabilities consistently identify employer attitudes and stereotypes as a major obstacle to employment. For many Social Security beneficiaries, employment discrimination is a very real situation that affects their productivity and economic self-sufficiency.

Many employers have recognized the contribution that persons with disabilities make to a company's productivity and profitability and have embraced their participation in the workforce. Increased presence in the workplace has gone a long way to break down old stereotypes. However, employment discrimination continues to exist and the federal government has taken multiple steps over time to protect the employment rights of individuals with disabilities.

The Rehabilitation Act of 1973 provided the first civil rights protections for individuals with disabilities seeking employment. Section 501 prohibits employment discrimination by the federal government and requires affirmative action in recruitment and hiring, such as the current Schedule A hiring initiative for persons with disabilities. Section 503 requires federal contractors and subcontractors (with contracts valued over $10,000) to take affirmative action to recruit and hire individuals with disabilities.
Section 504 is considered the first major piece of legislation that extended the civil rights protections regarding racial and gender discrimination to individuals with disabilities. This section states that no qualified individuals with disabilities, solely based on their disability can be discriminated against in any program receiving funding from the federal government, such as schools, post-secondary education, health care, housing, and many other public and private entities. It required these entities to ensure that individuals with disabilities are able to access and benefit from their programs by providing architectural and program accommodations.

The Americans with Disabilities Act of 1990 extended civil rights protections for individuals with disabilities into all sectors of our society. Title I of the Act prohibits employment discrimination by all employers with more than 15 employees. Title II extends Section 504 protections to all state and local governments. Title III prohibits discrimination and requires reasonable accommodations to enable individuals with disabilities to access public accommodations and commercial enterprises in all communities across the country.

Section 503 of the Rehabilitation Act requires affirmative action and prohibits employment discrimination by programs conducted by federal agencies, in programs receiving federal financial assistance, in federal employment, and in the employment practices of federal contractors and sub-contractors. Section 503 remained relatively unchanged for 40 years, until March 24, 2014, when the United State’s Department of Labor Office of Federal Contract Compliance Programs (OFCCP) published new rules to enhance federal contractor accountability for compliance with 503 provisions. The new rules make changes to the nondiscrimination provisions of 503 regulations and open up new opportunities for Social Security beneficiaries seeking employment (OFCCP, 2014).

Role of Community Work Incentives Coordinators

This brief describes the key provisions of the revised Section 503 regulations and discusses the role of Community Work Incentives Coordinators (CWICs) in assisting beneficiaries to benefit from the new provisions. CWICs are uniquely positioned to assist beneficiaries to access and benefit from Section 503 and other federal non-discrimination and hiring programs. CWICs should be prepared to provide detailed information and referral services to all beneficiaries contacting them for support. Specifically, CWICs should be able to:

1. Provide detailed information to beneficiaries regarding the major provisions of the new Section 503 regulations, including aspirational goals for employment of individuals with disabilities, employee disclosure, data collection, and other provision.
2. Provide in depth information to beneficiaries regarding the components of the Americans with Disabilities Act (ADA), the federal Office of Personnel Schedule A Hiring Authority, and the Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA) and other federal and state non-discriminatory employment protections and hiring initiatives.

3. Identify Employment Networks (ENs), Vocational Rehabilitation Agencies, Employment Service Providers, American Job Centers, and other entities in the local community that can assist beneficiaries to access job opportunities in their communities.

4. Refer beneficiaries to local ENs and other local employment agencies to assist them in identifying employment opportunities, making decisions regarding disclosure, and obtaining accommodations and other employer supports.

The following sections provide details of the regulations so that CWICs may support beneficiaries in understanding the regulations and make referrals the appropriate service entities for assistance.

**Provide detailed information to beneficiaries regarding the major provisions of the new Section 503 regulations.**

The intent of Section 503 is to provide opportunities to link with employers who are interested in hiring qualified individuals with disabilities. While the new Section 503 rules focus on the hiring practices of federal contractors and sub-contractors, it is helpful for individuals with disabilities to be aware of the intent of these new regulations, which are not a guarantee of a job. Instead, the regulations provide another avenue to access employment. CWICs must understand the basic provisions of the regulations to inform beneficiaries of their rights and responsibilities in seeking employment among federal contractors and sub-contractors. CWICs should also know where to refer beneficiaries for resources and assistance in their job search. Section 503 requirements for federal contractors and sub-contractors include:

- **Aspirational Goal:** The final rule requires federal contractors and subcontractors to document that individuals with disabilities comprise 7 percent of their workforce or that there is a plan implemented to reach this goal. Employers with federal contracts or subcontracts over $10,000 in value must plan affirmative action goals that will lead to the employment of qualified individuals with disabilities. This goal is not considered a quota or a ceiling that limits or restricts the employment of people with disabilities, it is a management tool intended to make employers more accountable in their efforts to employ, retain, and promote people with disabilities in the workforce.
• **Inviting Self-Identification:** Contractors are required to invite applicants to voluntarily identify themselves as an individual with a disability either at the pre-offer stage of the hiring process or after receiving a job offer. Additionally, employers must invite incumbent employees to self-identify as having a disability or to change their previously reported status. Employers must keep all information regarding the disclosure of the disability confidential. Voluntary identification of the disability assists the employer in collecting data related to compliance with the new regulations.

• **Data collection:** The new regulations require federal contractors to document and annually update the number of individuals with disabilities who apply for jobs, and the number of individuals with disabilities who are hired. This data will assist contractors to measure the effectiveness of their recruitment efforts and hiring practices. Contractors must maintain this data for three years to assist with identifying trends in hiring.

• **Records Access:** The new regulations clarify that contractors must allow OFCCP to review documents and data collected to track and monitor federal contractor compliance with equal employment opportunities for individuals with disabilities.

• **Incorporation of the Equal Opportunity Clause:** The contractor must post specific, mandated language that describes their responsibilities for equal opportunity for individuals with disabilities. The purpose of this rule is to alert contractors of their responsibilities for non-discrimination. The clause states: "This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities."

• **Adherence to the ADAA:** The new regulations require that contractors meet the requirements of the ADAA through the revised definition of "disability" and nondiscrimination provisions of the regulations in their employment practices.

Due to Section 503 regulations, federal contractors and subcontractors should actively seek qualified applicants with disabilities to meet the aspirational goal of seven percent of the workforce comprised of individuals with disabilities. To gather information on the percentage of disabilities in their workforce, federal contractors and sub-contractors are required to provide applicants with a voluntary self-identification form, which simply asks whether a person has a disability or not. To see the form, visit [http://www.dol.gov/ofccp/regs/compliance/section503.htm](http://www.dol.gov/ofccp/regs/compliance/section503.htm)
Employers may request individuals complete this form at the pre-offer stage of employment, after receiving a job offer, and at any time during employment. Employers must maintain voluntary self-identification information separate from the employee’s personnel file, and must not use this information in hiring, promotion, or termination decisions. Voluntary self-identification is to help federal contractors track the aspirational goal of including people with disabilities in the workforce under the 503 regulations. Individuals have the right to voluntarily self-identify or choose not to do so.

The new regulations also update and strengthen contractors’ affirmative action and nondiscrimination responsibilities for federal contractors. The accountability measures included in the regulations will help to ensure that qualified workers with disabilities have more equal employment opportunities to find, secure, and keep good jobs. CWICs can help beneficiaries understand how these regulations apply to them and what to expect when seeking employment or working with federal contractors.

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In addition to Section 503, a number of other changes to federal regulations improve access to employment for individuals with disabilities. CWICs must be aware of these regulations and inform beneficiaries of the opportunities, rights, and protections available through these regulatory changes.

The most important changes for CWICs to know include:

- The revised definition of the ADA through the Americans with Disabilities Act Amendments (ADAA) of 2009,
- Schedule A Hiring Authority for selective placement of people with disabilities in federal employment, and
- Changes to the Vietnam Era Veterans’ Readjustment Assistance Act to improve hiring opportunities for Veterans, specifically, disabled veterans, and recently separated veterans.

Amendments to the ADA: In January 2009, congress amended the ADA to expand the definition of the term “disability.” The amendment overturned a series of Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove
that an impairment is a disability. The Americans with Disabilities Act Amendments (ADAA) prohibits discrimination against “qualified individuals with disabilities” in all employment practices, including job application procedures, hiring, firing, advancement, compensation, and training. A “qualified individual with disabilities” is an employee or job applicant who:

- has a physical or mental impairment that substantially limits one or more "major life activities";
- has a record of such an impairment, or is regarded as having such an impairment;
- who meets all legitimate skill, experience, education and other requirements of a position; and
- can perform the essential functions of the position with (or without) reasonable accommodation.

Under the ADAA, an employer may not ask about a disability, unless the employer has affirmative action requirements as part of a federal contract (such as with Section 503). It is important to understand that voluntary self-identification is different from disclosure of the disability in order to request reasonable accommodations. Completing the voluntary self-identification form does not ensure the employer will know that the individual needs accommodations. In order for an individual to benefit from the protections of the ADA, an individual should disclose the disability and request reasonable accommodation at any time during the hiring process or while employed. Even after disclosure, an employer is not required to make an accommodation that would prove an “undue hardship” (i.e. significant difficulty or expense). The employer must keep all information regarding disabilities in a separate, confidential file apart from regular personnel files (EEOC, 2014).

Because of the important changes made to the definition of disability through the ADAA, and the requirements of Section 503 to adhere to the new definition of disability, there is more chance of inclusion in the workforce under federal contracts and government employment.

Office of Personnel Management Schedule A Employment: As the largest employer in the nation, the Federal Government is responsible for leading by example in including people with disabilities in the workforce. On July 26, 2010, President Obama issued Executive Order 13548 to direct Federal departments and agencies to improve their efforts to employ federal workers with disabilities and targeted disabilities, defined as the most severe disabilities including blindness, deafness, partial and full paralysis, missing extremities, dwarfism, epilepsy, intellectual disabilities, and psychiatric disabilities. The rules of the Rehabilitation Act amendments and the ADAA apply to the federal government as well.
One avenue to acquiring employment through the federal government is through Schedule A Hiring Authority. Most jobs within the federal agencies are highly competitive. Schedule A allows individuals with disabilities to apply for a Federal appointment through a noncompetitive hiring process. If the individual seeking a job within the federal government meets the disability status of the appointment and the minimum qualifications for a position, the individual may be hired for the position without competing with the general public. Individuals considered to meet the disability status are those who:

- Receive Social Security Title II Disability benefits or Supplemental Security Income, or
- Receive services through the Individuals with Disabilities Education Act (IDEA) or an Individualized Education Program (IEP) or a 504 while in school, or used Disabled Student Services while in college, or
- Receive Vocational Rehabilitation Services or services under the Ticket to Work, or
- Fit the definition of disability under the ADA.

In order to be eligible for employment through the Schedule A non-competitive process, the individual is required to provide documentation of the disability to the hiring agency before being hired. This documentation is necessary to verify that the individual hired is indeed a person with an intellectual disability, severe physical disability, or psychiatric disability. Individuals must document their eligibility under Schedule a through a form (SF-256) and supply documentation of the disability from a licensed medical professional (e.g., a physician or other medical professional, a licensed vocational rehabilitation specialist, or any Federal agency, state agency that issues or provides disability benefits).

A contact person within the federal agency human resources team, called a Hiring Manager, Disability Program Manager, or Selective Placement Coordinator will follow up with contacting the individual to continue with the application and recruitment process. Once hired under Schedule A, individuals must complete a probationary period and once earning positive reviews on job performance, are eligible for a conditional appointment within competitive service. There are various resources for accessing federal job banks. The Federal government’s official Web site for job information is USAJOBS http://usajobs.gov/ Through this website, individuals can search for openings based on the type of job, city, geographical area, or federal agency.

Individuals seeking employment within federal agencies may also provide their resumes directly to federal agency’s Selective Placement Coordinators. A list of these coordinators is located at http://apps.opm.gov/sppc_directory/ Applicants seeking Schedule A placement should talk to the federal agency’s coordinator or hiring manager to determine if the agency maintains a reference file of resumes.
Not all agencies provide job postings and employment opportunities on the USAJOBS website. Therefore, it is helpful to check specific governmental agency websites for postings and contact the Human Resource Specialist identified within the vacancy announcement to inquire about the process for submitting a resume.

The United State’s Department of Labor provides a helpful brochure on the ABCs of Schedule A, for people with disabilities. The brochure is available at http://www.dol.gov/odep/pubs/scheduleA/abc_Job_Applicants_ODEP_508%20compliant.pdf

**Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA):** In addition to Section 503 regulations, final rules became effective on March 24, 2014 to improve employment opportunities for veterans. Much like Section 503, VEVRAA prohibits federal contractors and subcontractors from discriminating in employment against protected veterans, and requires federal contractors and sub-contractors to take affirmative action to recruit, hire, promote, and retain these veterans. Under the disability standards, protected veterans are disabled veterans who served in active duty and are entitled to disability compensation, or veterans released from active duty because of a service-connected disability.

VEVRAA and Section 503 have similar requirements, including data collection, invitation to self-identify, equal opportunity clause, and records access. The difference between VEVRAA and Section 503 is that contractors must adopt specific benchmarks using data on employment of veterans to measure their success in increasing employment opportunities. More information and fact sheets on VEVRAA rights and responsibilities are available through http://www.dol.gov/ofccp/regs/compliance/factsheets/vetrights.htm#Q2

**Identify Employment Networks (ENs), Vocational Rehabilitation Agencies, Employment Service Providers, American Job Centers, and other entities in the local community that can assist beneficiaries to access job opportunities in their communities.**

Beneficiaries or employment service agencies may contact CWICs to obtain information about Section 503, Schedule A Hiring Authority, or VEVRAA, and inquire about the implications of these regulations. They may also request information on where to locate job leads, or access employment services and support. Work Incentives Planning and Assistance (WIPA) programs should identify resources and obtain information on local employment service agencies that are familiar with the new regulations, understand the nature of the employment services they provide, and how individuals can access services. These agencies include State Vocational Rehabilitation agencies, Employment Networks, Americas Job Centers, State Workforce Development agencies, Centers for Independent Living, disability student centers at local colleges and universities, and Veteran’s Centers. WIPAs should include these and other
employment service providers in their inventory of local resources, and form partnerships to make referrals.

The new regulations require federal contractors and sub-contractors to be more inclusive of individuals with disabilities in the workplace, and stipulate documenting outreach and recruitment activities. Contractors may be actively seeking applicants through the agencies listed above and other disability organizations. They are also using various national websites to post job openings. In addition to collaborating with local employment service providers, CWICs should be aware of the variety of resources available to search for job leads.

**Locating Resources to Access Federal Contractors and Sub-Contractors:** The Office of Personnel Management reports there are over 175,000 agencies that contract with the federal government (OPM, 2013), meaning there are potentially a vast amount of jobs available across the United States. Beneficiaries desiring to seek employment under federal contractors may locate companies through various online resources, which include:

- The OFCCP provides an employment referral resource directory that lists hundreds of governmental and non-governmental not-for-profit resource organizations that can provide information to individuals seeking employment. This directory is searchable by state and can link beneficiaries with agencies who can assist in locating jobs. The directory is available through [http://www.dol-esa.gov/errd/index.html#search](http://www.dol-esa.gov/errd/index.html#search).

- The American Job Centers, (known as the state employment and training agencies), provides job search banks and tips for securing jobs within federal, state, and private sector jobs. Individuals may search a job bank by visiting [http://jobcenter.usa.gov/find-a-job](http://jobcenter.usa.gov/find-a-job). The website also provides jobseekers with tools for resume writing, skill identification and networking when searching for employment.

- US. Jobs [http://us.jobs/](http://us.jobs/) is a job bank service provided by the National Labor Exchange and Direct Employers, a non-profit organization dedicated to educating employers about OFCC compliance, the 503, and other federal regulations. This site also provides a database for full-time undergraduate or graduate college students with disabilities, or individuals who have recently graduated from college within the past year through the Workforce Recruitment Program.

- The United State’s General Services Administration provides a subcontracting directory which can be located at: [http://www.gsa.gov/portal/content/101195](http://www.gsa.gov/portal/content/101195)
• Our Ability [http://www.ourability.com/](http://www.ourability.com/) is a website specifically designed to connect individuals with disabilities and employers through a searchable job portal. The organization also provides technical assistance to federal contractors on Section 503 compliance.

• Getting Hired.com provides a portal to bridge job seekers with disabilities, veterans, and employers who are hiring. Many of the employer partners are federal contractors. Visit [http://www.gettinghired.com/](http://www.gettinghired.com/)


Refer beneficiaries to local ENs and other local employment agencies to assist them in identifying employment opportunities, making decisions regarding disclosure, and obtaining accommodations and other employer supports.

CWICs are key members of beneficiaries' employment teams, but this does not mean that they are responsible for delivering direct employment support services to beneficiaries. They are not responsible for finding jobs, arranging accommodations, or financial planning and budgeting for beneficiaries. Rather, CWICs are responsible for providing accurate information to beneficiaries on the services available to them in their local communities and referring them to the appropriate employment or financial service provider.

CWICs should provide beneficiaries with accurate information regarding the components of the revised Section 503 regulations and refer the individual to the appropriate local service provider that will assist the individual to identify potential job openings, make an informed decision of disclosure of their disability, and support the individual during the employment application and hiring process. CWICs should also gather information on the local entities that can help individuals link with employers covered under the Section 503 regulations. These entities include:

- **American Job Centers**: A portal for the network of federally funded state workforce resources agencies, this website provides an access point to help individuals find local employment and training programs, services for acquiring job skills and accessing job postings. A search engine provides links to local offices within the American Job Center Network. To find local networks, visit [http://jobcenter.usa.gov/](http://jobcenter.usa.gov/)
• **Vocational Rehabilitation Agencies**: State Vocational Rehabilitation agencies offer the largest talent pool of candidates with disabilities in the United States, and are a major referral source for WIPA programs. Vocational Rehabilitation professionals can counsel individuals on disclosure of the disability and reasonable accommodations. Likewise, they can and provide information to businesses on the specifics of the ADA, how to accommodate the needs of individuals with disabilities, and how to retain employees who become disabled. The agencies also have access to a Talent Acquisition Portal (TAP) that allows employers to announce job fairs, post jobs, search candidate resumes, interview candidates, and meet outreach and recruitment compliance obligations under Section 503. The portal also helps Vocational Rehabilitation Counselors and their customers seek job opportunities.

• **Ticket to Work Employment Networks**: The Ticket to Work find help tool provides linkage to Employment Networks, Vocational Rehabilitation Agencies, Workforce Employment Networks (in the public workforce development system), and Protection and Advocacy for Beneficiaries of Social Security. The find help tool is searchable by zip code, or beneficiaries can use a wizard, which will guide beneficiaries through a series of questions to locate the employment network that provides services applicable to their individual circumstances. The find help tool is located at [http://www.chooseworkttw.net/findhelp/](http://www.chooseworkttw.net/findhelp/)

• **Section 503 Job Fairs**: WIPA programs should contact workforce agencies, local employment networks, workforce development agencies, and State Vocational Rehabilitation Agencies to inquire about job fairs (both online or live events), and how beneficiaries may access these events. By participating and collaborating in face-to-face events, CWICs also have an opportunity to provide education and outreach to beneficiaries on WIPA services.

**Summary**

Section 503 of the Rehabilitation Act, VEVRAA and other hiring initiatives are significant changes that generate more opportunities to access employment and achieve economic self-sufficiency. CWICs should be fully familiar with the details of these regulations and maintain a current inventory of the array of available local supports that will enable them to refer beneficiaries to employment support organizations that will guide beneficiaries in their pursuit of employment.

The United States Department of Labor’s Office of Disability Employment Policy provides additional resources and information on federal policies and services available to people with
disabilities, employers, and service providers. For more information, visit
http://www.dol.gov/dol/topic/disability/

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