



A Technical Assistance Guide for Implementing Online Application Systems that Meet the Needs of Qualified Individuals with Disabilities and Qualified Disabled Veterans

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Introduction

The Internet has dramatically changed the way companies are conducting business, including the strategies used to communicate with customers and prospective applicants and employees. Taking advantage of new technologies, many companies are using the Internet and the web to offer individuals a host of services and opportunities, including the ability to apply for jobs. In fact, many companies are using an online application system as their primary, if not exclusive, method for accepting applications for employment.

Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 as amended (VEVRAA), along with their respective implementing regulations, require that contractors provide equal opportunity to qualified individuals and veterans with disabilities and provide reasonable accommodation when requested unless such accommodation would cause an undue hardship.¹ In addition, under the implementing regulations the contractor agrees to take affirmative action to employ and advance these individuals, including but not limited to recruitment, advertising, and job application procedures.

Recently, the US Department of Labor's Office of Federal Contract Compliance (OFCCP), which is responsible for administering Section 503 and VEVRAA, issued a program directive regarding *Federal Contractor's Online Application Selection System*.² The purpose of this transmittal is to provide guidance in evaluating federal contractors' obligations under Section 503, VEVRAA, and Title I of the Americans with Disabilities Act (ADA) with respect to online application systems.

The purpose of this paper is to provide examples of practices that federal contractors may consider using to meet the needs of qualified individuals with disabilities and qualified disabled veterans under Section 503 and VEVRAA with respect to online application systems. This technical assistance document has been prepared by Robert "Bobby" Silverstein of Powers, Pyles, Sutter, & Verville, PC in partnership with Economic Systems, Inc. and Bender Consulting Services, Inc. The project has been funded by the US Department of Labor's Office of Disability Employment Policy (ODEP).

The examples of practices included in this technical assistance guide are not mandatory requirements under Section 503 and VEVRAA or their implementing regulations. The examples do not create new legal requirements or change current legal requirements. Instead, they suggest ways in which contractors might meet their responsibilities to ensure that qualified individuals with disabilities and qualified disabled veterans enjoy equal opportunity with respect to the application process selected by the contractor and to take affirmative action to

¹ According to the Preamble to the Section 503 regulation (61 FR 19336-19337 [May 1, 1996]), the nondiscrimination provisions are generally conformed to the regulations published by the Equal Employment Opportunity Commission implementing Title I of the Americans with Disabilities Act. Because the nondiscrimination provisions of the Section 503 regulation generally conform to the EEOC's ADA regulations, the Interpretative Guidance set out in the Appendix to the ADA regulation is equally applicable with respect to parallel provisions in the Section 503 regulation.

² James, Charles E., "Federal Contractor's Online Application Selection System", OFCCP Directive: Transmittal No. 281, Washington, DC: Department of Labor, Office of Federal Contract Compliance Programs (July 10, 2008): Available at <http://www.dol.gov/ofccp/regs/compliance/directives/dir281.htm> (Accessed November 10, 2009).

employ and advance these individuals. Descriptions of possible approaches in this technical assistance guide should not be construed as precluding contractors from devising alternative approaches to meet their legal obligations.

This guide is based on a thorough review of key laws, regulations, policy guides and interpretations, websites, and policy papers (see Resources and Literature section for a description of documents used to prepare this guide). In developing “examples of practices”, particular attention was paid to approaches described in the comprehensive website www.barrierfree-recruitment.com, produced by the Employers’ Forum on Disability in the United Kingdom. This website reflects the common features of careers pages used by both private and public sector employers in the UK. The information contained in this website was of particular value in describing action steps to develop, refine, and advance corporate policies regarding online systems that meet the needs of applicants and employees with disabilities. In addition, websites developed by the vendors of online application systems were also reviewed. Finally, feedback was gathered from numerous companies that have made concerted efforts to ensure that their online systems ensure equal opportunity for applicants and employees with disabilities.

Based on this information, the guide suggests six action steps that federal contractors may consider taking to meet the needs of qualified individuals with disabilities and qualified disabled veterans with respect to online application systems:³

- Action Step 1: Understand the Terminology, Target Population, and Concepts Regarding Online Application Systems.
- Action Step 2: Understand the Policy Framework, including the OFCCP Program Directive regarding online application systems.
- Action Step 3: Develop a Business Case.
- Action Step 4: Secure Leadership by Creating a Network of Champions.
- Action Step 5: Develop, Refine, and Advance Corporate Policies and Practices.
- Action Step 6: Implement Corporate Infrastructures and Organizational Strategies.

³ The action steps included in the guide are modeled on successful business strategies identified in the paper entitled *Roadmaps for Enhancing Employment of Persons with Disabilities through Accessible Technology*, developed by participants at the Business Dialogue on Accessible Technology and Disability Employment.

Action Step 1: Understand the Terminology, Target Populations, and Concepts Regarding Accessible Online Application Systems

The first action step a contractor may want to take in its efforts to meet the needs of qualified individuals with disabilities and qualified disabled veterans under Section 503 and VEVRAA with respect to online application systems is to review the key terms used to describe accessible online systems, the target populations affected by inaccessible systems, and the components of an online application system.

Definitions

1. Online System

The term “online application system” includes, but is not limited to, all electronic or web-based systems that the contractor uses in all of its personnel activities.⁴

2. Universal Design

The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capacities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.⁵

3. Interoperability

Interoperability is the ability of a computer system to effectively interact and communicate when an applicant with a disability is using assistive technology/adaptive software and adaptive strategies with the contractor’s application system.⁶

4. Adaptive and Assistive Technology Devices

This includes any item, piece of equipment, or product system—whether acquired commercially, off the shelf, modified, or customized—that is used to increase, maintain, or improve the functional capacities of individuals with disabilities. In the context of online systems, these devices enable people with disabilities to access computer systems that would be inaccessible by conventional means.⁷ Examples include⁸:

- Screen enlargers that act like magnifiers to help people with low vision

⁴ James (2008).

⁵ National Disability Rights Network, *Roadmaps II: For Enhancing Employment of Persons with Disabilities through Accessible Technology*, Washington, DC: Department of Labor (2007), 7.

⁶ Job Accommodation Network, “Universal Design and Assistive Technology in the Workplace”, *Fact Sheet Series*, Washington, DC: Department of Labor, Office of Disability Employment Policy.

⁷ National Disability Rights Network (2007), 7.

⁸ Employers’ Forum on Disability, *Barrier-free E-recruitment: Recruiting Disabled People Online* (website): Available www.barrierfree-recruitment.com (Accessed November 10, 2009).

- Onscreen keyboards used by people who are unable to use a standard keyboard by allowing users to select keys using methods such as a pointing device or switch
- Voice recognition which can be used instead of a mouse or keyboard
- Alternative input devices that enable individuals to control their computers through means other than a standard keyboard or pointing devices (e.g., head-operated pointing devices and sip and suck systems controlled by breathing)
- Screen readers which allow users who are blind to hear what is happening on their computer by converting the screen display to digitized speech

Groups of Persons with Disabilities Affected by Inaccessible Websites

Poor website design can cause unnecessary problems for people with disabilities, particularly people with visual, hearing, mobility, and cognitive and neurological impairments.⁹

1. Visual Impairments

Websites present unique problems to those who are blind and have low or restricted vision. For example, insufficient contrast between text and background and small text size which cannot be enlarged will limit access. For those who are blind and use adaptive technology, such as screen readers, many sites haven't been designed with their needs in mind, particularly around unlabeled graphics, undescribed videos, poorly marked-up tables of frames, lack of keyboard support or screen-reader compatibility.

2. Hearing Impairments

Persons with hearing impairments face problems with inaccessible multi-media, including video and audio clips on the web, and the proliferation of text without visual signposts.

3. Mobility Impairments

Challenges for persons with mobility impairments include navigating and interacting with web pages (e.g., difficulty moving the cursor with the required precision or lacking the requisite manual dexterity or hand-eye coordination to use a standard keyboard). They will often use mouse and keyboard alternative assistive devices or helper applications such as a head wand or voice recognition software.

4. Cognitive Impairments and Neurological Disabilities

Challenges for persons with cognitive impairments and neurological disabilities include lack of consistent navigation structure, lack of illustrative non-text materials, flickering or blinking design on pages.

Components of Online Application Systems

Online application systems have gained popularity because they can be used by companies to streamline the hiring process, including developing position descriptions, attracting candidates,

⁹ Ibid.

processing resumes, qualifying job applicants, selecting candidates, and making employment offers. Below are descriptions of key components of a typical online application system.

1. Website Integration

Connects the company's website with staffing (i.e., job seekers can submit their resume and complete an online job application). The candidate's information streams directly from the website into an Applicant Tracking database.

2. Job Posting and Distribution Tools

A company is able to access millions of job seekers by automatically posting job openings to both their internal and corporate websites and to hundreds of other popular Internet job boards, from big boards to niche and specialized job-boards.

3. Application and Resume Submission

Candidates can submit their resume electronically and complete an online job application.

4. Communication between Applicant and Employer

The company can control when communication with the applicant occurs and what is communicated to the applicant.

5. Resume Extraction and Management

The company is able to:

- Add new resumes to the database
- Extract detailed information from resumes to improve the quality of job order matches
- Keep track of actions performed on each applicant until the applicant is employed
- Import resumes through emails, batch uploads, or in real time
- Configure resumes from different sources, such as resume repositories

6. Candidate Search and Selection Process (including Ranking and Rating)

- Companies define their own candidate selection process
- Multiple search options provided from the resume repositories to search for best match
- Each candidate's database record and resume can be viewed from the search results, and if an email address is provided, candidates can be emailed directly from the search results without losing the search results

7. Employee Offer Management

Once a candidate is initially identified as suitable (through ranking and rating), track the candidate through the major stages of the recruiting process, including:

- Prescreening
- Technical skills screening

- Reference checking
- Resume submission
- Interviewing
- Employment offer sent
- Offer accepted

Activities for each candidate are recorded so that hiring metrics can be tracked for reporting purposes. Also allows a candidate who has been selected to be converted to an employee.

Action Step 2: Understand the Policy Framework

Section 503 of the Rehabilitation Act of 1973 as amended, its implementing regulations at 41 CFR part 60-741, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 as amended (VEVRAA), and its implementing regulations at 41 CFR Parts 60-250 and 60-300, all require that contractors provide equal opportunity to qualified individuals with disabilities and disabled veterans and provide reasonable accommodation when requested, unless such accommodation would cause an undue hardship. In addition, under the implementing regulations the contractor agrees to take affirmative action to employ and advance individuals with disabilities and disabled veterans, including but not limited to recruitment, advertising, and job application procedures. These job application procedures include online application systems.

Equal opportunity means an opportunity to obtain the same level of performance, or to enjoy the same level of benefits and privileges of employment, as are available to the average similarly-situated applicant or employee without a disability.¹⁰ It is unlawful for the contractor to use standards, criteria, or methods of administration that are not job-related and consistent with business necessity, or that have the effect of discriminating on the basis of disability.¹¹

The duty to take affirmative action regarding the employment of qualified persons with disabilities subsumes the duty not to discriminate. Nondiscrimination is the starting point and first step required of any employer in fulfilling its affirmative action obligation. Affirmative action includes much more than nondiscrimination on the basis of disability by an employer—it also includes instituting a system of proactive/positive measures/steps that provide qualified persons with disabilities effective opportunity with respect to all employment activities (e.g., recruitment, selection, hiring, placement, promotion, transfer, layoff, termination, compensation, and training) at all levels of employment, including the executive level. The system of proactive/positive measures/steps includes efforts by employers to prevent discrimination on the basis of disability before it occurs by periodically, carefully, and thoroughly evaluating and monitoring their employment practices to identify/detect barriers to employment and, where such barriers are identified, eliminate/remedy them. Affirmative action also includes expanded outreach, recruitment, mentoring, training, and management development, along with creating a work environment that actively welcomes and fosters the advancement of qualified persons with disabilities. Affirmative action does not include quotas and granting preferences to individuals with disabilities.¹²

As part of its affirmative action obligations under Section 503 and VEVRAA, a contractor is required to evaluate and audit its personnel processes to determine whether it is providing equal opportunity to qualified individuals with disabilities and qualified veterans. The term

¹⁰ Appendix A to 41 CFR §60-741.

¹¹ 41 CFR §60-741.21(d).

¹² The summary description set out in the text regarding the duty to take affirmative action is derived from a review of multiple sources, including the regulations implementing Section 503 (41 CFR §60-741.43) and VEVRAA (41 CFR §60-300.43); the OFCCP Federal Contract Compliance Manual; the Department of Labor, Office of Administrative Law Judges, Office of the Solicitor (Civil Rights Division) Index of Administrative Decisions Under Section 503:Topic 25—Affirmative Action; and EEOC Management Directive 715 (which clarifies affirmative action obligations of federal agencies under Section 501 of the Rehabilitation Act).

“personnel processes” includes processes for notifying prospective applicants of job openings, applying for jobs, and participating in training programs. At a minimum, the regulations require that a contractor’s evaluation measures the effectiveness of its affirmative action program, and ensures that its personnel processes provide for careful, thorough consideration of qualified individuals with disabilities and disabled veterans.¹³

In accordance with a recent Program Directive issued by OFCCP regarding Contractors’ Online Application Selection Systems (Transmittal Number 281 [July 10, 2008]), all compliance evaluations must include a review of the contractor’s online application systems to ensure that the contractor is providing equal opportunity to qualified individuals with disabilities and disabled veterans. In this Directive, the term “online system” includes all electronic or web-based systems that the contractor uses in all of its personnel activities. The review should include whether the contractor is providing reasonable accommodation when requested, unless such accommodation would cause undue hardship.

More specifically, in accordance with an official OFCCP document accompanying the Directive entitled “Disability Issues Related to Online Application Systems: Frequently Asked Questions for Employers and Applicants and Employees” (FAQ), contractors may find it beneficial (but are not required) to design or re-design their online application systems to ensure the greatest degree of ready access to the greatest number of potential applicants with disabilities. Utilizing “universal design” techniques can be a cost-effective and efficient way to minimize the need for individual reasonable accommodations and to ensure that the contractor is reaching out to, and receiving applications from, the widest pool of qualified applicants.

The FAQ document also specifies that if a contractor routinely offers applicants various methods of applying for jobs and all methods of application are treated equally, then an employer may not need to ensure that its online application system is fully accessible. But if a contractor only uses an online application system to accept applications for employment, it must ensure that potential applicants with disabilities either can use the system or can submit an application in a timely manner through alternative means. This includes providing a means to contact the contractor, other than through the online system, to request any reasonable accommodation needed to provide an applicant with a disability an opportunity to apply and be considered for the contractor’s jobs that is equal to and as effective as that provided to other applicants.

Consistent with the pronouncements by OFCCP, the Department of Justice released a guide entitled *Accessibility of State and Local Government Websites to People with Disabilities* which stated that one way to provide equal opportunity is to ensure that websites have accessible features for people with disabilities. An entity with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for individuals to use the program or service or enjoy the same privileges, such as a staffed telephone information line.

The DOJ recognizes, however, that these alternatives are unlikely to provide an equal degree of access in terms of hours of operation and the range of options and programs available. For example, job announcements and application forms, if posted on an accessible website, must

¹³ 41 CFR §60-741.44(b). See also: Appendix C to 41 CFR §60-741.

be available to people with disabilities 24 hours a day, 7 days a week. In short, if a company uses a website which is inaccessible, it may use an alternative means of communication; however, the alternative means should provide individuals with disabilities with the same efficiency, immediacy, and convenience as that provided to nondisabled persons who can use the website.¹⁴

It should be noted that the OFCCP's FAQ document includes an additional, important clarification regarding the use of an alternative application method: a contractor may not establish a separate application system for use solely by applicants with disabilities while applicants without disabilities use the online application system. That is, the company may not require that all applicants with disabilities use a separate application process. Such a system would operate as an unlawful pre-employment inquiry into whether an applicant has a disability and could be considered a form of segregation. Many people with disabilities may be able to use the online application system and must be given an equal opportunity to do so.

Furthermore, having an online application system that includes many accessibility features for individuals with disabilities or uses "universal design" does not relieve a contractor of its obligation to provide reasonable accommodations if needed to address the inability of the applicant with a disability to use or access the online system. Notice of how to obtain reasonable accommodations should be provided by the contractor via its online application system as well as on its paper applications and job announcements. At a minimum, these notices should contain the name of the person to contact and the process for requesting an accommodation.

To summarize, in designing and implementing an online application system, contractors must adopt methods of administration that ensure equality of opportunity for qualified individuals with disabilities and qualified disabled veterans and must take affirmative action to employ and advance these individuals. With respect to online application systems, if a contractor uses more than one application method for all applicants, with and without disabilities, and all methods are equally effective, only one method need be accessible for individuals with disabilities. For example, the online application system may, but need not, be accessible for applicants with disabilities. If the online system is not accessible for applicants with disabilities, then the alternative application method used by the contractor must provide an opportunity for applicants with disabilities that is equal to and as effective as the online application system (i.e., provide the same degree of efficiency, immediacy, and convenience).

If a contractor only uses an online application method, the method must be accessible to and useable by persons with disabilities or the contractor must develop an alternative method for

¹⁴ See also: Patrick, Deval L., "Letter to Senator Tom Harkin", Washington, DC: Department of Justice, Civil Rights Division (September 9, 1996): Available www.usdoj.gov/crt/foia/tal712.txt (Accessed November 10, 2009); Office for Civil Rights, "Letter of Finding", Washington, DC: US Department of Education (1997), in which the following basic components of effectiveness were specified: the timeliness of delivery, the accuracy of translation, and provision in a manner and medium appropriate to the significance of the message and the abilities of the individual with a disability; and US Department of Justice, *Notice of Proposed Rulemaking, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities* (73 FR 34508, 34525), Washington, DC (June 17, 2008).

those individuals with disabilities who cannot effectively use the online method. The alternative method must provide an opportunity for applicants with disabilities that is equal to and as effective as the online application method (i.e., provide the same degree of efficiency, immediacy, and convenience).

Regardless of the application method chosen, the contractor must make reasonable accommodations to address the unique needs of individuals with disabilities who cannot benefit from the opportunity to apply without such accommodations. This means that an accessible online application system must be supplemented by individualized reasonable accommodations, and alternatives to the online application systems must include necessary adjustments and accommodations.

Action Step 3: Develop a Business Case for Making Online Application Systems Accessible

In developing the business case for making online application systems accessible for persons with disabilities, it is important to recognize that “every company is different and every CEO within each company is different—every business has a different motivator. Therefore, there is a need to provide business leaders and decision makers with different approaches, opportunities, and information to determine what constitutes a compelling business case.”¹⁵

Below are suggested approaches for developing the business case for making online application systems accessible:¹⁶

- Benefits to e-commerce: knowledge acquired during the implementation of accessible e-recruitment strategies can be applied through the organization.
- Benefits to retention: employers who are good at recruiting people with disabilities are better equipped to meet the needs of employees who become disabled during their careers.
- Better customer service: employers who understand the needs and expectations of applicants and employees with disabilities provide better service to customers with disabilities and others experiencing barriers to independent living.
- Enhanced reputation: improved standing with employees and job seekers, increased attractiveness to consumers through improved corporate image, and enhanced standing with government.
- Compliance: helps company meet equal opportunity and affirmative action responsibilities.
- Benefits to all: making a website accessible to and usable by people with disabilities will make it more usable for all customers, applicants and employees.

¹⁵ National Disability Rights Network (2007), 9

¹⁶ Employers’ Forum on Disability (2009).

Action Step 4: Secure Leadership by Creating a Network of Champions

According to *Roadmaps*, “leadership at the highest level of business is critical to secure ‘buy-in’ and establish and sustain a corporate-wide culture. The outcome of successful leadership will be a corporate commitment that is pervasive and lasts much longer than the terms of the office of one or two corporate leaders that current support its commitment.” *Roadmaps* also recognizes that there is a need to secure a “network of champions” consisting of corporate policymakers, policy enforcers, and people doing the work (different lines of business).¹⁷

Regulations implementing Section 503 and VEVRAA recognize the importance of including a policy statement in its affirmative action program and the policy statement should indicate the chief executive officer’s attitude on the subject matter and assign overall responsibility for the implementation of the affirmative action activities.

Below are examples of statements by leaders that may be used by contractors.

- “I, as President and CEO of the company, have the responsibility to ensure that equal employment opportunity and affirmative action receive the appropriate level of attention and strong management support. I will hold each officer and manager accountable for the prompt execution of necessary preventive, corrective, and affirmative action.”
- “Effective management of our workforce diversity policy is an important strategic objective. Every manager is expected to abide by this policy and uphold the company’s commitment to workforce diversity.”
- “We are proud of our commitment to diversity and inclusion among our employees. We believe that having a diverse workplace isn’t just the right thing to do, it makes good business sense. We strive to capitalize on the strengths of our many differences and the advantages of an inclusive workplace.”
- “To exemplify our commitment to customers, applicants, and employees with special needs, we have taken action on several levels with the goal of meeting, and where possible exceeding, both the W3C-WAI and Section 508 standards regarding web accessibility. The Company tests the usability of its web applications via usability testing, user feedback surveys, focus groups, analysis of web metrics, and a variety of remote-testing strategies. Moreover, the Company undergoes ongoing testing by users who employ adaptive devices to access the Internet. The Company continually makes enhancements to its website in response to requests and testing. The Company is aware that there are always areas for improvement and enhancement of its website, and as such, is always working to deliver the best usability and accessibility for its customers, applicants, and employees. However, where we experience roadblocks to development, or where customers, applicants, or employees need additional assistance, we offer the alternative of contacting us by phone with both Relay and TTY service for our hearing-impaired users. “

¹⁷ National Disability Rights Network (2007), 9

- “Our corporate website complies with the best practices and standards as defined by Section 508 of the Rehabilitation Act and the Web Content Accessibility Guidelines (WCAG) of the World Wide Web Consortium Web Accessibility Initiative (W3C WAI). Our website is monitored and tested regularly by internal and third party accessibility consultants to identify any usability issues as well as discover new solutions to further improve accessibility of our site.”

Action Step 5: Develop, Refine and Advance Corporate Policies and Practices

To enhance the employment of persons with disabilities through online application systems, it is necessary to refine and advance corporate policies and practices that define the nature and scope of the commitment. This is the focus of Action Step 5. More specifically, Action Step 5 focuses on the following topics:

- Particular Features of e-recruitment site
- Proactive/positive messages
- Accessible websites
- Alternative methods providing opportunities that are equal to and as effective as accessible websites
- Providing reasonable accommodations
- Adherence to policies governing self-identification, voluntary disclosure, and confidentiality
- Use of non-discriminatory testing/evaluations
- Use of non-discriminatory online training
- Use of nondiscriminatory outsourcing
- Communications

Particular Features of E-Recruitment Site

Below are several key features of e-recruitment sites:

- Website Integration
- Job Posting and Distribution Tools
- Application and Resume Submission
- Communication Between Applicant and Employer
- Resume Extraction and Management
- Candidate Search and Selection Process (including Ranking and Rating)
- Employee Offer Management

Each feature should be reviewed to determine whether it ensures equal opportunity for qualified individuals with disabilities and qualified disabled veterans.

Proactive/Positive Messages

A company's website can communicate its commitment to hiring, employing, and retaining individuals with disabilities and disabled veterans. Below are examples of practices a company may adopt to send proactive/positive messages:¹⁸

- Include equal opportunity, affirmative action, and diversity statements
- Communicate responsibility to make reasonable accommodations for all aspects of the employment relationship, including the application process and the process used to request and obtain an accommodation, including the point of contact

¹⁸ Employers' Forum on Disability (2009).

- Identify disability-related issues in “frequently asked questions” section of website
- Include examples of how employees with disabilities have succeeded in the company
- Use employee testimonials
- Cite workplace awards

Accessible Website

Web accessibility is about designing and coding your pages so as many people as possible can access them effectively and efficiently. Sometimes referred to as ‘universal design’, web accessibility specifically ensures effective and meaningful opportunities for individuals with disabilities to use and interact with a company through the Internet and company website, and ultimately apply for jobs through the online application system.

Below are examples of practices regarding accessible websites that a contractor may want to adopt:¹⁹

- Identify typical barriers and key issues:
 - Images not labeled properly with an alternative text description
 - Inconsistent navigation including poor hypertext link text
 - Inaccessible forms for blind web users who use screen reader software
 - Information validation techniques which cause problems with adaptive technology used by disabled people
 - Information laid out in tables for example job listings are frequently not coded properly for accessibility
- Create an accessible website:
 - Determine internal accessibility standards for e-recruitment website or career pages. See, for example, the standards developed by The Access Board implementing Section 508 of the Rehabilitation Act and the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG).²⁰ WCAG are based on a series of checkpoints prioritized into three levels.
 - Develop a strategic plan to upgrade the accessibility of current site
 - Use latest web design software that has inbuilt accessibility prompts
 - Test site’s accessibility using available tools and software; repeat whenever new templates are introduced
 - Consider using experts and individuals with different impairments to audit website
 - Communicate required standards to everyone involved, including vendors/suppliers
 - Ensure that the employees and suppliers who are involved with web design, maintenance, and content development have web accessibility awareness training

¹⁹ Ibid.

²⁰ Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, federal employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency. Section 508 also requires that individuals with disabilities who are members of the public seeking information or services from a Federal agency, have access to and use of information that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

- Review and update guidelines regularly to incorporate latest developments in web accessibility, particularly changes to the Section 508 and W3C Accessibility Guidelines
- Most companies advertise vacancies to current employees on their Intranet; ensure this is accessible to everyone. If some employees do not have access, make the information available in other ways.

Alternative Methods

If a contractor routinely offers applicants various methods of applying for jobs and all methods of application are treated equally, then that employer may, but need not, ensure that its online application system is fully accessible. But if a contractor only uses an online application system to accept applications for employment, it must ensure that potential applicants with disabilities either can use the system or can submit an application in a timely manner through alternative means. This includes providing a means to contact the contractor, other than through the online system, to request any reasonable accommodation needed to provide an applicant with a disability an equal opportunity to apply and be considered for the contractor's jobs. At a minimum, the notice should contain the name of the person to contact and the process for requesting an accommodation.

Equal opportunity means an opportunity to obtain the same level of performance, or to enjoy the same level of benefits and privileges of employment as are available to the average similarly situated employee or applicant without a disability. Factors to consider in determining whether an opportunity is equal to and as effective as that provided to others may include providing the same degree of efficiency, immediacy, and convenience.

Below are examples of practices regarding the use of an alternative means of application for employment that a contractor may want to adopt, along with examples of practices related to reasonable accommodations:²¹

- Determine how the alternative method provides equal opportunity (*i.e.*, provides the same degree of efficiency, immediacy, and convenience)
- Advertise the alternative means on the website. Emphasize that it is an alternative and is intended only for candidates who cannot use the mainstream system, or who are unreasonably disadvantaged by doing so.
- Highlight the benefits of applying online while assuring applicants that if they cannot apply online they will not face discrimination
- Provide person-to-person communication. Train and equip HR personnel and "web-help" team to communicate with people with disabilities (*e.g.*, textphones, online instant message).
- Keep candidates in the mainstream. Feed candidates back into the mainstream process as quickly as possible.

²¹ Ibid.

- Provide for a representative not involved in the employment process to enter information into online application system on their behalf (or outsource this function to their applicant tracking provider).
- Note: it is discriminatory to automatically direct all candidates with disabilities to the alternative means.
- If you provide candidates with the option to receive email or text alerts about future vacancies, ensure people with disabilities who have applied offline also have access to this service.

Provision of Reasonable Accommodations

Having an online application system that includes universal design features or that includes many accessibility features for individuals with disabilities does not relieve a contractor of its obligations to provide reasonable accommodations if needed to address the inability of an applicant with a disability to use or access the online system.

Below are examples of practices regarding the provision of reasonable accommodations in the context of online application systems that a contractor may adopt:²²

- Notify the applicant of the right to request a reasonable accommodation if he or she is unable or limited in ability to use or access the online system as a result of disability, unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.
- Include in a notice an explanation of how to obtain reasonable accommodations via the company's online application system as well as on its paper applications and job announcements.
- The notices should contain the name of the person to contact and the process for requesting the reasonable accommodation.
- The notices should be prominently displaced and included at the beginning of the online application process.

An accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. Equal opportunity means an opportunity to obtain the same level of performance, or to enjoy the same level of benefits and privileges of employment, as are available to the average similarly-situated employee or applicant without a disability.

Below are examples of the types of reasonable accommodations that might be needed in the application process:²³

- Providing information regarding job vacancies in a format accessible to individuals with vision or hearing impairments (*e.g.*, making information available in Braille), and responding to job inquiries via TDDs or use of the telephone relay system
- Providing readers, interpreters, or other similar assistance during the application process

²² Appendix A to 41 CFR §60-741.

²³ *Ibid.*

- Appropriately adjusting or modifying employment-related examinations. Examples include extending the time in which to complete an online examination for an applicant with a cognitive or neurological disability, allowing a blind person or one with a learning disorder such as dyslexia to provide oral answers for a written test, and permitting an applicant, regardless of the nature of his or her disability, to demonstrate skills through alternative techniques and utilization of adapted tools, aids, and devices
- Ensuring an applicant with a mobility impairment has full access to testing locations. For example, if an online test is given via a company kiosk, the kiosk must be physically accessible to the applicant with a mobility impairment
- Set standards for the provision of reasonable adjustments for applicants with disabilities, including time taken to make adjustments, preferred alternative format suppliers, and who needs to be involved from the company in decisions
- Ask individuals with disabilities to give you feedback on their experience of each step of the process

Below are examples of policies used to contact the contractor when reasonable accommodations are required:

- “If you are a qualified individual with a disability or a disabled veteran, you have the right to request a reasonable accommodation if you are unable or limited in your ability to use or access the online application system on our website as a result of your disability. You can request reasonable accommodations by calling____or by sending an email to____. Thanks for your interest in our company.”
- “This company is an Equal Employment Opportunity/Affirmative Action employer and provides reasonable accommodation for qualified individuals with disabilities and disabled veterans in job application procedures. If you have any difficulty using our online system and you need an accommodation due to a disability, you may use the alternative email address below to contact us about your interest in employment at the company.”
- “Thank you for your interest. Your resume has been received and will be reviewed. Should we determine a match between your background and our staffing requirements, we will contact you. Should you have a disability that requires assistance and/or reasonable accommodation with the job application process, please contact the Human Resources Department at _____.”
- “Need an accommodation? We are committed to helping individuals with disabilities participate in the workforce and ensuring equal opportunity to apply and compete for jobs. If you require an accommodation to apply for a position, please email Human Resources at _____for further assistance.”
- “If you have recently completed a job inquiry via the company website and have a question regarding that inquiry, logging in or completing the application, click here. The ONLY messages that will receive a response are those involving a request for an accommodation to the applicant process or those involving technical difficulty. All other messages will be discarded.”

- “Note: your question should address only those questions pertaining to the usability of this site. We will not respond to questions about the status of a prior application via this mechanism.”
- “If you have a disability and would like to indicate as part of your application any relevant effects of your disability and any adjustment which you consider should reasonably be made to the process to assist your application, please do so in the relevant field during the application process.”
- “We are committed to making our application process and workplace accessible for individuals with disabilities. We will provide reasonable accommodations, on request, for an individual applicant to participate in the job application process. To request an accommodation to the application process, please send an email to____and a company agent will contact you.”

Self-Identification/Confidentiality

Confidentiality throughout the recruitment process is essential. Information given by applicants regarding their disability should not form part of the selection and should be separated from the application prior to short-listing.

Non-Discriminatory Screening/Testing

The contractor’s review of qualification standards, tests, and other selection criteria should include a review of automated evaluations, from initial screening and resume sorting to online psychometric and skills testing.

Below are examples of practices regarding nondiscriminatory screening and testing that a contractor may want to adopt:²⁴

- Use flexible and accessible online testing
- Use flexible ranking and rating criteria
- Ask candidates what adjustments they need in order to be evaluated fairly (e.g., more time on tests where appropriate, a sign-language interpreter for interviews, etc.) and assure them they will not face discrimination as a result
- Provide a detailed description of the recruitment process so applicants can anticipate their adjustment needs at any particular stage
- Adjust automated resume and application form sorting and scoring
- Ensure minimum criteria for short-listing are reasonable and relevant to the job
- Where adjustments to criteria need to be made for candidates with disabilities, ensure electronic systems enable this to happen
- Do not use automating scoring and sifting if inadvertent discrimination cannot be eliminated
- Ensure tests are accessible and non-discriminatory (e.g., ensure online exams conform to standards on web accessibility)

²⁴ Employers’ Forum on Disability (2009).

- Consult the publisher of the test on access features, how flexible the test can be, and what adjustments can be made for individuals with disabilities without invalidating the results
- Make offline exams available to candidates whose impairments realistically rule out online testing. Make adjustments to offline test as necessary.
- When telephone screening is used as part of the application process, provide an alternative interview process for candidates who have difficulty using the telephone
- Rigorously monitor the process to ensure fairness. Once a candidate has completed the online or telephone assessment, he or she should be sent an application form and details entered onto a database.
- To ensure fairness, managers and recruiters who select for interview do not have access to a person's age, gender, disability, ethnic origin, or education, and therefore choose people according to previous experience, skills and interests

Use of Nondiscriminatory Online Training

The contractor is proactive in ensuring that persons with disabilities have equal access to all leadership and career development opportunities available to employees. Below are examples of practices regarding nondiscriminatory online testing that the contractor may want to adopt.²⁵

- Work closely with providers of on-site training (including contractors and vendors of off-the-shelf courses) to ensure they are compliant with Section 503 and VEVRAA. Any training conducted at the company should allow all employees to be able to participate fully in the training, and course materials should be made available in alternative formats (i.e., Braille, workbooks, closed-captioned videos, etc).
- Ensure that managers are offered specific courses, such as disability access workshops, where they are provided with information and skills to hire and supervise employees with disabilities. The courses include information on how to ensure that the workplace is accessible and how to assess the ability of potential employees with disabilities to perform the essential functions of the job, with or without a reasonable accommodation. In addition, routine management training should include information on disability.
- Work with providers of software and online training to ensure that all courses available to employees through the intranet/Internet meet the company's standards of accessibility.

Communication

Contractors are required to ensure that communication with persons with disabilities is as effective as communication provided to applicants and employees without disabilities. Below are examples of practices that a contractor may want to adopt.²⁶

²⁵ Ibid.

²⁶ Ibid.

- Adjust electronic communications for the candidate; apply web accessibility guidelines to both HTML and non-HTML email (HTML email is effectively a web page with links, graphics, audio, animation, frames, etc.).
- Enable online requests for print/alternative information. Make it possible for candidates to order accessible recruiting materials (e.g., large print brochures, audio-tape, Braille information, etc.).
- Provide person-to-person communication. Provide a helpline number, text/phone number, and email address on an accessible page of your e-recruitment site.
- Train and equip HR personnel and web-help team in disability etiquette and technology such as TDDs/TTYs
- Use automatic email responses; include details of the application process, including timescales, interviews, assessment and when the applicant can expect to be hear from you next. Also mention willingness to make adjustments at the interview.

Outsourcing

Many companies choose to outsource all or part of their e-recruitment systems, including:

- Design and maintenance of website
- Provision of technology which manages data online and allows new jobs to be posted
- Initial screening of resumes or application forms
- Online testing

However, it is unlawful for a contractor to participate in a contractual or other arrangement or relationship, including the outsourcing of a service or process, that has the effect of subjecting the contractor's own qualified applicants or employees with a disability to the discrimination prohibited by the regulations. Below, therefore, are examples of practices regarding outsourcing that a contractor may want to adopt:²⁷

- Conduct a detailed review of all current sites in line with the company's standards and work with third party suppliers to ensure that they are truly barrier free
- Identify who needs to be involved in overcoming the barriers, including suppliers and partners, to minimize the risks of outsourcing
- Insist that job boards on which the company advertises are accessible to people with disabilities
- Make the company's business reasons for adopting e-recruitment, and the expectation that the system be barrier-free, explicit when suppliers are invited to tender
- Ensure the company's contract stipulates that the supplier will, where relevant, apply the company's web accessibility standards to the website
- Not discriminate when screening resumes or by failing to make adjustments at any point in the recruitment process
- Set standards for the provision of reasonable adjustments for applicants with disabilities (e.g., time taken to make adjustments, preferred alternative format suppliers, who needs to be involved from your organization in decisions, etc.)

²⁷ Ibid.

- Stipulate who will be responsible for meeting the cost of adjustments
- Ensure that the technology can be used by any employees with disabilities who are involved with managing recruitment, including those who use adaptive technology
- Give suppliers and business partners a copy of the company's accessibility guidelines

Evaluate and Audit Online Application System

The contractor is expected to periodically evaluate and audit its personnel processes. These evaluations and audits should include a review of any online application systems to determine their effectiveness and ensure that these personnel processes provide for careful and thorough consideration of qualified individuals with disabilities and disabled veterans.

Action Step 6: Implement Corporate Infrastructures and Organizational Strategies

To realize and sustain the vision and promises reflected in the corporate policies and practices described under Action Step 5, it may be necessary to establish corporate infrastructures and organizational strategies. Below are examples of strategies that a contractor may want to adopt²⁸:

- **Identify key stakeholders and assign responsibility.** Identify persons within the company in various departments that may impact the implementation of the online application system, and assign responsibility for developing policies and implementing practices, including procurement.
- **Develop Partnerships.** Develop relationships with experts and learn what other companies are doing.
- **Involve people with disabilities.** Involve people with disabilities at each stage, particularly when testing whether the changes the company has made are successful
- **Engage in continuous improvement.** Ensure the company's website and processes remain accessible as they are updated over time.

²⁸ National Disability Rights Network (2007), 11.

Resources and Literature

The following is a summary of the resources and literature examined to develop this guide. Not all sources listed here have been cited in the body of the guide; these have been provided to allow readers the opportunity to conduct further reading into this issue, or for companies to obtain materials and information necessary to perform the Action Steps recommended above.

1. The Section 503, VEVRAA, and the Americans with Disabilities Act (ADA) policy frameworks, including the statutes, regulations, guidelines, technical assistance manuals and letters of interpretation by various federal agencies, including OFCCP and the Office of the Solicitor in the Department of Labor, the Equal Employment Opportunity Commission (EEOC), and the Department of Justice.
 - Section 503 regulations are codified in Part 60-741 of Title 41 of the Code of Federal Regulations
 - VEVRAA regulations are codified in Part 60-300 and Part 60-250 of Title 41 of the Code of Federal Regulations (Part 60-300 applies only to Government contracts entered into or modified on or after December 1, 2003. The existing VEVRAA regulations found in Part 60-250 will continue to apply to Government contracts entered into before December 1, 2003)
 - Preamble and section-by-section analysis accompanying the Section 503 regulation, appearing in the *Federal Register* at 61 FR 19337-19366 (May 1, 1996)
 - Preamble and Section-by-section analysis accompanying the VEVRAA regulation, appearing in the *Federal Register* at 72 FR 44393-44416 (August 8, 2007)
 - Office of Federal Contract Compliance Programs, *Section 503 and VEVRAA Sample Affirmative Action Program*, Washington, DC: US Department of Labor, Employment Standards Administration (2003)
 - Office of Federal Contract Compliance Programs, *Federal Contract Compliance Manual (FCCM)*, Washington, DC: US Department of Labor, Employment Standards Administration
 - Office of the Solicitor (Civil Rights Division), *Index to Administrative Decisions Under Section 503*, Washington, DC: US Department of Labor, Office of Administrative Law Judges.
 - Office of Federal Contract Compliance Programs, *Federal Contractor's Online Application System* (Transmittal Number 251), Washington, DC: US Department of Labor, Employment Standards Administration (July 10, 2008)
 - Equal Employment Opportunity Commission, *A Technical Assistance Manual on the Employment Provisions (Title 1) of the Americans With Disabilities Act (EEOC-M-1A)*, Washington, DC: Government Printing Office (January 28, 1992)

- Civil Rights Division, *Accessibility of State and Local Government Websites to People with Disabilities*, Washington, DC: Department of Justice (June 2003): Available <http://www.ada.gov/websites2.htm> (Accessed November 10, 2009)
2. Actual affirmative action programs submitted to OFCCP by government contractors.
 3. Statutory, regulatory, and EEOC program directives applicable to Section 501 of the Rehabilitation Act, as amended relating to affirmative action obligations of federal agencies.
 - Part 1614 of Title 29 of the Code of Federal Regulations
 - Equal Employment Opportunity Commission, *Management Directive 715*, Washington, DC (October 1, 2003)
 4. Statutory, regulatory, and guidelines applicable to other civil rights provisions.
 - Standards applicable to Section 508 of the Rehabilitation Act codified in Part 1194 of Title 36 of the Code of Federal Regulations, and a website operated by the General Services Administration, available at www.section508.gov (Accessed November 10, 2009)
 - Regulations implementing Section 188 of the Workforce Investment Act are codified in Part 37 of Title 29 of the Code of Federal Regulations.
 - Civil Rights Center, *WIA Section 188 Disability Checklist*, Washington, DC: Department of Labor (July 25, 2003)
 - *State Guidance for Developing Methods of Administration Required by Regulations Implementing Section 188 of the Workforce Investment Act of 1998*, 65 FR 51984-51985 (August 25, 2000).
 5. Policy papers and technical assistance guides developed by and/or on behalf of the Office of Disability Employment Policy (ODEP) [www.dol.gov/odep] relating to the employment of individuals with disabilities.
 - Employer Assistance & Resource Network, *Assistive Technology in the Workplace; Accessibility, Interoperability and Usability in the Workplace*, Washington, DC: Department of Labor, Office of Disability Employment Policy: Available <http://www.earnworks.com/docs/508materials/FS-ER-Interoperability.pdf> (Accessed November 10, 2009)
 - Hoff, David, Elena Varney, Lara Enein-Donovan, Cindy Thomas, and Sheila Lynch Fesko, "Access For All Customers: Universal Strategies For One-Stop Career Centers", Institute Brief 26, Boston, MA: Institute for Community Inclusion (January 2009)
 - National Disability Rights Network, *Roadmaps II: For Enhancing Employment of Persons with Disabilities through Accessible Technology*, Washington, DC: Department of Labor (2007)

6. Guidelines, policy papers, technical assistance guides, and forums by nongovernmental entities.
- Employers' Forum on Disability, Barrier-free E-recruitment: Recruiting Disabled People Online (website): Available www.barrierfree-recruitment.com (Accessed November 10, 2009). Barrierfree-recruitment.com is an interactive demonstration of what a company needs to do to achieve barrier-free e-recruitment for everyone, including individuals with disabilities. It has been produced by the Employers' Forum on Disability and with the support of the London Development Agency. The website reflects the common features of career pages used by both public and private sector employers in the United Kingdom.
 - Lob, Beth, "Making the Online Application Process Accessible Under the Americans with Disabilities Act", *Consultant's Corner* 2, Issue 5, Washington, DC: Job Accommodation Network (2008): Available <http://www.jan.wvu.edu/corner/vol02iss05.htm> (Accessed November 10, 2009).
 - Bruyère, Susan, William Erickson, and Sara VanLooy, *HR Processes and IT Accessibility for Persons with Disabilities: Improving Employer Practices under Title I of the Americans with Disabilities Act*, Ithaca, New York: Cornell University (2003)