

January 8, 1999

**COMPLIANCE MEMORANDUM NO. 9**

**SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY FOR PEOPLE WITH  
DISABILITIES AT JWOD PARTICIPATING NONPROFIT AGENCIES**

**1. PURPOSE**

This memorandum describes the provisions for ensuring equal employment opportunities for people with disabilities at all levels of employment in nonprofit agencies participating in the JWOD Program. The Committee seeks to ensure that participating nonprofit agencies establish procedures to encourage filling of all types of employment vacancies by promotion of qualified individuals who are blind or have other disabilities.

**2. GENERAL**

The Committee's regulations at 51 CFR Part 51-4.3(b)(2) require participating nonprofit agencies to comply with Department of Labor (DOL) standards for compensation, employment and occupational health and safety standards, "including procedures to encourage filling of vacancies within the nonprofit agency by promotion of qualified employees who are blind or have other severe disabilities." The Committee has determined that to maintain JWOD qualification participating nonprofit agencies must comply with applicable DOL requirements for Federal contractors to establish equal employment opportunity practices and affirmative action programs for people with disabilities.

In addition to requirements targeting people with disabilities, as Federal contractors, JWOD participating nonprofit agencies may also be subject to other DOL requirements. Specifically, JWOD nonprofit agencies may be covered by DOL affirmative action requirements that prohibit discrimination on the basis of race, color, gender, religion, veteran status and national origin, as well as requirements to establish written policies and affirmative action programs to promote employment and advancement of women, minorities, and Vietnam-era veterans, who have traditionally faced barriers to employment.

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is the Federal entity responsible for enforcement of equal employment opportunity and affirmative action programs for women, minorities, Vietnam-era veterans, and people with disabilities with regards to Federal contractors and subcontractors. OFCCP regulations at 41 CFR Part 60-741 stipulate contractor obligations regarding equal employment opportunity and affirmative action for individuals with disabilities, as required by Section 503 of the Rehabilitation Act of 1973. OFCCP regulations at 41 CFR Part 60 also stipulate contractor obligations regarding equal employment opportunity and affirmative action for women and minorities, as required by Executive Order 11246, and regulations at 41 CFR Part 60-250 regarding Vietnam-era veterans, as required by the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 USC 4212). OFCCP enforces these regulations which prohibit discrimination and require written policies and affirmative action programs to ensure that all individuals have equal opportunities in employment and all other personnel actions.

### **3. DEFINITIONS AS USED IN THIS MEMORANDUM**

#### **a. Promotion**

Promotion, for purposes of JWOD reporting requirements, is movement into a new job or workstation, direct or indirect labor, that involves higher wages, better benefits, increased supervisory/management responsibilities, or greater technical skills. Promotion does not include hiring individuals from a client or training status into a permanent employee status without any change in their job or workstation.

#### **b. Affirmative Action**

Affirmative action refers to special efforts aimed at broadening employment opportunities for individuals who traditionally face job discrimination--minorities, women, individuals with disabilities, and Vietnam-era veterans. Beyond simply avoiding discrimination, such special efforts encompass proactive policies and procedures in recruitment, training, hiring and promotion, assisting individuals in protected groups to compete equally with other applicants and employees. Written affirmative action programs specify the proactive policies and procedures to be used, assign management responsibility for implementation, and are reviewed and updated annually.

#### **c. Equal Employment Opportunity**

Equal employment opportunity is a commitment with regards to all personnel actions to avoid discrimination against any individual based on race, color, gender, religion, physical or mental disability, veteran status or national origin as communicated through a written policy.

#### **4. JWOD REQUIREMENTS**

- a. All participating nonprofit agencies with at least \$10,000 in Government contracts must comply with applicable OFCCP regulations for equal employment of individuals with disabilities in accordance with 41 CFR Part 60-741, Subparts A and B. These regulations prohibit discrimination and require annual reaffirmation of a written policy stating that the agency is committed to providing equal employment opportunity in all personnel actions.
- b. All participating nonprofit agencies with 50 or more employees and Federal contracts of \$50,000 or more must develop, implement, and review annually a written Affirmative Action Program to ensure equal opportunity for employment and advancement of people with disabilities in accordance with OFCCP regulations at 41 CFR Part 60-741, Subpart C.
- c. All participating agencies must report to the Committee, on Annual Certification Form 403 or 404, the number of persons with disabilities who have been promoted (according to the definition in this memorandum) during the fiscal recording year.
- d. All participating agencies must make affirmative action documentation available to Committee, NIB or NISH staff during on-site reviews.

#### **5. PENALTIES**

Failure to comply with Section 503 of the Rehabilitation Act and applicable OFCCP regulations regarding equal employment and affirmative action for people with disabilities is a violation of a nonprofit agency's JWOD compliance obligations under 41 CFR 51-4.3(b)(2) and may result in the termination of a nonprofit agency's eligibility to participate in the JWOD Program. Additionally, failure to comply with OFCCP regulations regarding affirmative action programs for women and minorities at 41 CFR Part 60, Vietnam-era veterans at 41 CFR Part 60-250, or people with disabilities at 41 CFR Part 60-741 may result in punitive actions by OFCCP.

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