

Compliance with the OFCCP's New Regulations Under VEVRAA and the Rehabilitation Act—What You Need to Be Doing NOW!

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PART I

**Noteworthy and New
Vietnam Era Veterans Readjustment
Assistance Act (VEVRAA)
Regulations**

New Scheduling Letter (published September 30, 2014)

- Itemized Listing – Section 4212 (VEVRAA)
 - 11. Results of the evaluation of the effectiveness of outreach and recruitment efforts that were intended to identify and recruit qualified protected veterans as described in 41 CFR § 60-300.44(f).
 - 12. Documentation of all actions taken to comply with the audit and reporting system requirements described in 41 CFR § 60-300.44(h).
 - 13. Documentation of the computations or comparisons described in 41 CFR § 60-300.44(k) for the immediately preceding AAP year and, if you are six months or more into your current AAP year when you receive this listing, provide the information for at least the first six months of the current AAP year.
 - 14. Documentation of the hiring benchmark adopted, the methodology used to establish it if using the five factors described in § 60-300.45(b)(2). If you are six months or more into your current AAP year on the date you receive this listing, please also submit information that reflects current year results.

Revised Regulations (effective March 24, 2014)

- First significant change since 1976
- Post Iraq/Afghanistan, increasing number of veterans returning to the workforce
- Veteran unemployment running 2% higher than non-veterans; 3.6% higher for Gulf War-era II veterans
 - Male veterans earn 2.7 percent less than non-veterans
 - Female veterans earn 6.3 percent more than non-veterans

Applicability

- Unlike EO 11246/Rehab Act regulations which are applicable to contracts of \$10k or more, the new VEVRAA regulations apply to contracts of \$100k or more. (60 – 300.1)

Equal Opportunity Clause

- New: “The contractor must, in all solicitations or advertisements for employees ... state that all qualified applicants will receive consideration for employment without regard to their protected veteran status” (60 – 300.5(a)(12)) (no longer acceptable to use M/F/D/V; at a minimum must use “vet”; see FAQ’s at http://www.dol.gov/ofccp/regs/compliance/faqs/VEVRAA_faq.htm)
- Reminder: All “employment openings” must be listed with the “appropriate employment service delivery system” where the opening occurs (60 – 300.5(a)(2))
- “Employment openings” include all positions except executive and senior management, those position that will be filled from within, and positions lasting 3 days or less (60 – 300.5(a)(6))

Equal Opportunity Clause (con't)

- New: In addition to the notices previously required to be provided to the employment service delivery system, i.e. name and location of each hiring location with the state, an additional requirement now exists for the contractor to identify itself as a federal contractor and that it “desires priority referrals of protected veterans ...”; and to identify the “contractor official” responsible for hiring at each location. Additionally, in the event the contractor uses any external job search organizations, the contractor shall provide the contact information for those organizations. Any changes to this information shall be provided within the next job listing (60 – 300.5(a)(4))
- Full Equal Opportunity Clause (1-12) not necessary to be included verbatim in the contract. May substitute: **“This contractor and subcontractor shall abide by the requirements of 41 CFR 60 – 300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative actions by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.”**

Invitation to Self- Identify (New)

- Pre-Offer: The contractor shall invite applicants to inform contractor whether they believe that are a protected veteran. Unlike Rehab Act, no mandated form, and may be included on application. (60 – 300.42(a))
- Post-Offer: Before beginning job duties, the contractor shall invite applicants to inform contractor whether they believe they belong to one or more of the specific categories of protected veterans (e.g. disabled veteran, recently separated veteran, active wartime or campaign badge veteran, or armed forces service medal veteran) (60 – 300.42(b))
- If applicant self-identifies as a disabled veteran in the post-offer protocol, the contractor should inquire whether an accommodation is necessary and, if so, engage in the interactive process (60 – 300.42(d))
- All self-identification information shall be kept confidential (60 – 300.42(e))

Data Collection Analysis (New)

- Contractors shall calculate, on an annual basis; the following data:
 - The number of self identified, or otherwise known, protected veterans applicants
 - The number of job openings and number of jobs filled
 - The number of all applicants
 - The number of protected veteran applicants hired
 - The number of all applicants hired (60 – 300.44(k)(1-5))
- The information shall be kept for 3 years (60 – 300.44(k))

Reasonable Accommodations

- If an employee who is a known disabled veteran is having significant difficulty performing his/her job and it is reasonable to conclude that the performance problem may be related to the known disability, the contractor shall confidentially notify the employee of the performance problem and inquire whether the problem is related to the disability. If employee responds affirmatively the contractor shall inquire whether the employee needs a reasonable accommodation (60 – 300.44(d))

External Dissemination of Policy, Outreach and Positive Recruitment

- The contractor must send written notification of company policy on affirmative action to all subcontractors, requesting appropriate action on their part (60 – 300.44(f)(1)(ii))
- On an annual basis the contractor shall review and evaluate the effectiveness of the outreach and recruitment efforts taken over the past 12 months. The contractor shall document each evaluation, the criteria used to evaluate the effectiveness and the conclusion as to whether efforts were successful (60 – 300.44(f)(3))
- All contractor efforts of external dissemination, outreach and positive recruitment shall be documented and retained for 3 years (60 – 300.44(f)(4))

Resources - www.ebenefits.va.gov/ebenefits/jobs

The screenshot shows the eBenefits website interface. At the top, there is a navigation bar with the eBenefits logo, the text "My Gateway to Benefit Information", and logos for the Department of Veterans Affairs and the Department of Defense. To the right of the logo are "Log in" and "Register" buttons. Below the navigation bar is a secondary menu with links: "apply for BENEFITS", "view my STATUS", "access my DOCUMENTS", "browse NAT'L RESOURCE DIRECTORY", and "employment CENTER". A search icon is also present.

The main content area is titled "Employers" and includes a sidebar on the left with the following sections:

- Tools**
 - Manage Profile
 - Search Veteran Profiles
 - Post Jobs
 - Make a Commitment
 - View Employer Commitments
- Resources**
 - Workplace Support
 - Upcoming Veteran Career Fairs
 - Understanding the Military Experience
 - Other Resources
 - About the Employment Center
 - Share Widgets
 - For Job Seekers

The main content area contains the following sections:

- Are you a Veteran job seeker?**
Visit the [Job Seeker Section](#) to search jobs, translate your skills, and build a résumé.
- Welcome to the Veterans Employment Center for Employers**
- Search Veteran Profiles**
Search for Veterans and transitioning Service members whose skills and attributes match your job openings.
[Search Veteran Profiles](#)
- Post Jobs**
Post your organization's job openings free of charge in the eBenefits Employment Center in two steps.
[Learn how to post jobs](#)
- Make a Commitment**
Let job seekers know your organization is committed to hiring Veterans and transitioning Service members.
[Learn more about commitments](#)
- Why Hire a Veteran?**
Unique Training and Skills

Outreach - www.dol.gov/ofccp/regs/compliance/resources_recruit.htm

The screenshot shows the OFCCP website header with the United States Department of Labor logo and navigation links. The main content area is titled 'Office of Federal Contract Compliance Programs (OFCCP) Resources for Federal Contractors Section 503 and VEVRAA'. It features a sidebar with navigation links and a main text area with three sections: 'Recruitment and Hiring of Qualified Veterans', 'CareerOneStop "Business Center"', and 'Disabled Veterans' Outreach Program Specialists (DVOPS) & Local Veterans' Employment Representatives (LVERs)'. Each section includes a brief description and a link to further resources.

UNITED STATES DEPARTMENT OF LABOR

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Resources for Federal Contractors Section 503 and VEVRAA

Recruitment and Hiring of Qualified Veterans

[American Job Centers \(AJCs\)](#)

The American Job Center Network connects businesses to individuals seeking employment through local American Job Centers. As an employer you can post jobs in the Veterans Job Bank, the central source for identifying Veteran-committed employment opportunities and helping employers hire qualified Veterans, as well as connect with your local labor exchange and state job bank to reach jobseekers locally and around the country.

[CareerOneStop "Business Center"](#)

The CareerOneStop Business Center, created by the U.S. Department of Labor, is an employment source for hiring and training a strong workforce. The site provides employers access to tools for hiring veterans, a public job bank, job fairs, local training programs, recruiting and hiring resources, and information on training and retaining employees.

[Disabled Veterans' Outreach Program Specialists \(DVOPS\) & Local Veterans' Employment Representatives \(LVERs\)](#)

The DVOP/LVER Locator provides the employer with the ability to quickly locate veterans service professionals in a particular geographic area. The DVOP and LVER specialists work with local employers, veterans organizations and community based organizations to link veterans with appropriate jobs and training opportunities, including apprenticeship training programs and on-the-job training (OJT).

[Hero 2 Hired](#)

Hero2Hired provides employers free, direct access to qualified candidates who already have background checks and security clearances. This helps reduce recruitment and hiring costs incurred by employers.

Internal Dissemination of Policy

- The contractor's policy to engage in Affirmative Action efforts to employ and advance in employment protected veterans shall be included in the contractor's policy manual or otherwise be made available to employees (60 – 300.44(g)(2)(i))
- If unionized, contractors shall notify union of the policy and request their cooperation (60 – 300.44(g)(2)(ii))

Audit and Reporting System

- The contractor shall design and implement an audit and reporting system that will measure the effectiveness of the program, coordinate the need for remedial action, determine the degree to which the objectives have been attained, determine whether known protected veterans have had the opportunity to participate in all company sponsored educational, training, recreational and social activities, measure the contractor's compliance with the program's specific obligations and document such obligations (60 - 300.44(h)(1)(i-v))
- Such reports shall be kept for 2 years (1 year if fewer than 150 employees on government contract of \$150k or less) (60 – 300.44(h)(1)(vi) and 60 – 300.80))

Responsibility For Implementation

- An official of the contractor shall be responsible for implementation of the affirmative action activities and his/her identity shall appear on all internal/external communication regarding the program (60 – 300.44(i))

Training

- All personnel involved in recruiting, screening, selection, promotion, discipline, etc. shall be trained to ensure implementation of the program (60 – 300.44(j))

Benchmark for Hiring (New)

- “The purpose of establishing benchmarks is to create a quantifiable method by which a contractor can measure progress toward achieving equal employment opportunity for protected veterans.” (60 – 300.45(a))
- Set annually by OFCCP; currently 7.2% (60 – 300.45(b)(i))
 - Or, optional formula (complicated) to be determined by contractor (60 – 300.45(b)(2))

Availability of Affirmative Action Program

- “The full affirmative action program, absent the data metrics... shall be made available to any employee or applicant ... for inspection upon request” (emphasis added) (60 – 300.41)

Veterans Reporting

- Effective 2015, the Vets-100 renamed Vets-4212
- Must be filed between August 1 & Sept 30 of each year
- Required data
 - Total number of employee's in each location by EEO-1 job categories; and, total number of these employees who are protected veterans (“snapshot”)
 - Total number of new hires; and total number of new hires who are protected veterans (12 month period)
 - Maximum and minimum number of employees (12 month period)
- Fewer than 10 locations may be filed in paper format or web based;
- More than 10 locations must submit in electronic data file

Q & A