

Federal Contractor Registration Policy

References:

Workforce Investment Act of 1998, as amended (29 U.S.C. 2801 et seq.); Federal Register September 24, 2014; 41 CFR 60.300.5; Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 38 U.S.C. 4212, et seq.; Jobs for Veterans Act (JVA), 41 CFR Part 61-250; TEGL 19-13; TEGL 20-13, VPL 03-14.

Background:

The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) requires covered federal government contractors and subcontractors to take affirmative action to employ and advance in employment specified categories of veterans protected by the Act and prohibits discrimination against such veterans. In addition, VEVRAA requires contractors and subcontractors to list their employment openings with the appropriate employment service delivery system (ESDS), and that covered veterans receive priority in referral to such openings. Further, VEVRAA requires federal contractors and subcontractors to compile and submit annually a report on the number of current employees who are covered veterans. The affirmative action and mandatory job-listing provisions of VEVRAA are enforced by the Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) within the U.S. Department of Labor (USDOL). DOL's Veterans' Employment and Training Service (VETS) administers the veterans' employment reporting requirement.

Action:

After the 10 day review period, this policy is considered final. Questions and comments should be submitted in writing to Stan Odenthal, stan.odenthal@nebraska.gov.

Policy:

In accordance with provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 38 U.S.C. 4212(d), federal contractors and subcontractors are required to track and report annually the number of employees in their workforces who belong to the categories of veterans covered under the affirmative action provisions of the act.

The Office of Federal Contract Compliance Programs (OFCCP) administers and enforces the affirmative action provisions of VEVRAA, which require federal contractors and subcontractors to employ and advance in employment qualified covered veterans. To implement the affirmative action requirement, VEVRAA and the implementing regulations at 41 CFR Part 60-250 and Part 60-300 issued by OFCCP require federal contractors and subcontractors to list employment openings with the appropriate employment service delivery system (ESDS) in the state where an employment opening occurs.¹ Exemptions to this requirement for certain employment openings are listed below. The ESDS in

¹ 41 CFR § 60-300.84

Nebraska is the NEworks website, www.neworks.nebraska.gov, the state's online public labor exchange. Nebraska Department of Labor, via NEworks, provides covered veterans priority in referrals to such openings. When such employment positions occur within Nebraska, federal contractors and subcontractors must ensure these positions are listed in NEworks, the appropriate ESDS for Nebraska.

FEDERAL CONTRACTOR OR SUBCONTRACTOR STATUS

Beginning March 24, 2014, any federal contractor or subcontractor operating within Nebraska, is required to provide NDOL a letter with information regarding its status as a federal contractor or subcontractor. The letter can be electronic or hard copy, and must include:

- Contact information (including the name and location of each hiring location within the state and the contact information for the contractor official responsible for hiring at each location);
- Self-identification as a federal contractor or subcontractor;
- The employers desire to receive priority referrals from the state of protected veterans for job openings at all locations within the state.²

All federal contractors and subcontractors become subject to these reporting requirements simultaneously upon listing their first such employment position after March 24, 2014. Should any of the information in the disclosures provided to NDOL change since it was last reported, the contractor shall provide updated information simultaneously with its next job listing.³

REQUIREMENTS TO LIST EMPLOYMENT OPENINGS

The requirements to list employment openings is not intended to inhibit or discourage a federal contractor or subcontractor from listing jobs with privately-run job boards. However, federal contractors and subcontractors may only do so in addition to, and not instead of, the mandatory job listing requirement with NEworks.⁴ The requirements for listing a job as a federal contractor or subcontractor operating in Nebraska are outlined below.

Registered Employer/Preferred Employer: Federal contractors and subcontractors must be formally registered in NEworks. Employers "registered" within NEworks will be displayed as preferred employers. Creating an account in NEworks will provide the employer access to manage all job listings that are posted.

Job Listing Direct Entry: Federal contractors and subcontractors must enter jobs directly into the NEworks system. NEworks utilizes available technology to capture job listings from other websites, but it remains necessary for federal contractors and subcontractors to direct enter their open positions in NEworks in order to create a suitable record of compliance. Jobs entered directly in NEworks will satisfy the requirement to list job openings with the appropriate ESDS within the state where the open position occurs, when such a position is located within Nebraska. Additional information on the mandatory job listing requirement is available on the OFCCP website, accessible at <http://www.dol.gov/ofccp/>.

² 41 CFR § 60-300.5(a)

³ 41 CFR § 60-300.5(a)(4)

⁴ Federal Register September 24, 2014

Job Listing Information: Each job listing must be direct entered into the NEworks system and must include the following information: Contact information (including the name and location of each hiring location within the state and the contact information for the contractor official responsible for hiring at each location); self-identification as a federal contractor or subcontractor; the employer's desire to receive priority referrals from the state of protected veterans for job openings at all locations within the state; the job listing must state that the employer is an equal opportunity employer of protected veterans. Contractors can do this by simply adding "veteran status" or similar language to its existing equal opportunity employer statement.

Third Party Entities: A federal contractor or subcontractor may utilize a third party to list Nebraska jobs, so long as the job listing meets the criteria outlined in this policy. A federal contractor or subcontractor utilizing a third party to list Nebraska jobs must comply with the job listing and registration criteria contained within this policy.

Exemptions: Federal contractors and subcontractors are exempt from listing the following employment openings on the state's employment service delivery system, NEworks: Executive and senior management positions; positions to be filled from within the contractor's organization; and positions lasting three days or less.

Any and all correspondence from federal contractors or subcontractors addressing compliance with these job listing requirements should be directed to the Wagner-Peyser Program Coordinator:

Nebraska Department of Labor
Office of Employment and Training
Attention: Wagner-Peyser Program Coordinator
550 South 16th Street
P.O. Box 94600
Lincoln, NE 68509-4600
Retha.dunn@nebraska.gov
(402) 471-0284

RECORDKEEPING

All correspondence or other documentation received from federal contractors or subcontractors will be stored by NDOL for a period of at least three years, and kept in a manner consistent with NDOL's Office of Employment and Training's Record Retention Policy located at <http://www.dol.nebraska.gov/resources/dspresource.cfm?id=128>.

Recordkeeping requirements for the personnel and employment records made or kept by federal contractors and subcontractors are addressed in 41 CFR § 60-300.80. Additional details and guidance is available on the OFCCP website at <http://www.dol.gov/ofccp/>.

VETERANS' AFFIRMATIVE ACTION REQUIREMENTS

Under 20 CFR Part 61-250, federal contractors and subcontractors with a federal contract of \$25,000 or more, entered into before December 1, 2003, are required to complete an annual report showing the numbers of qualified special disabled veterans, veterans of the Vietnam era, and any other protected veterans hired or employed during the reporting period. Note that the Job for Veterans Act (JVA) has amended VEVRAA, changing the

VETS-100 reporting requirements for contracts entered into on or after December 1, 2003. These changes (1) raise the reporting threshold from \$25,000 to \$100,000, and (2) modify the categories of covered veterans in the report.

Any such employers must take affirmative action to hire and promote ALL qualified targeted veterans. Under 41 CFR § 60-300.5, this includes taking affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a protected veteran in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures.
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.
- iii. Rates of pay or any other form of compensation and changes in compensation.
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
- v. Leaves of absence, sick leave, or any other leave.
- vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor.
- vii. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.
- viii. Activities sponsored by the contractor including social or recreational programs.
- ix. Any other term, condition, or privilege of employment

For additional information regarding the VETS 100/100A federal reporting requirements, see <http://www.dol.gov/vets/vets-100.html>.