
The Complete AAP News

Yocom & McKee, Inc.

OFCCP Issues Jobs for Veterans Act Final Regulations

OFCCP has issued final regulations found at 41 CFR 60-300 implementing the Jobs for Veterans Act (JVA). The new regulations, effective September 7, 2007, amend the reporting and affirmative action obligations of federal contractors under the Vietnam Era Veteran's Readjustment Assistance Act (VEVRAA).

The threshold dollar amount for a contract covered by the new rules has been raised from \$25,000 to \$100,000 and must be entered into on or after December 1, 2003. Contracts entered into before December 1, 2003 are governed by the old regulations found at 41 CFR 60-250. Contractors must have at least one contract of \$100,000 or more to be covered by the new regulations, as multiple contracts may not be aggregated to meet the threshold amount.

The definitions of veterans covered under VEVRAA have been changed by the JVA regulations with the elimination of the Special Disabled Veterans and Vietnam Era Veterans categories. New categories of Disabled Veterans and Armed Forces Service Veteran have been created and the definition of a



Recently Separated Veteran has been changed from one year to three years since their date of discharge from active duty.

Contractors with contracts covered by the old regulations (pre-December 1, 2003 contracts) are required to list job openings with their local labor department. Executive and top management positions, jobs filled from within the contractor's organization, and positions lasting three days or less are exempt from this requirement. Posting job openings with America's Job Bank (AJB) is permitted in the old regulations as an alternative to listing with the local labor department, but the De-

partment of Labor ceased operations of the AJB on July 1, 2007.

Contractors covered by the new regulations (contracts entered on or after December 1, 2003) must list openings with the "appropriate local employment service office. The DOL had initially planned on developing a national clearinghouse website that would list job openings on behalf of contractors with the appropriate local agencies, but later abandoned this project. Contractors covered by the old or new regulations must now post their job openings directly with either the state workforce agency in the state where the opening oc-

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Special points of interest:

- *The new JVA regulations become effective September 7, 2007*
- *America's Job Bank has been discontinued as of July 1, 2007*

JVA Regulations (continued)

curs or the local public employment office where the opening occurs. Contractors may also use private recruiting services to satisfy this posting requirement.

OFCCP has issued notice on its website that until the effective date of the new regulations on September 7, 2007, it “will not cite a contractor for non-compliance solely because it has failed to list all of its employment openings with the appropriate employment service delivery system or the appropriate local employment service office, provided that it continues to make good faith efforts to recruit and employ qualified covered veterans.”

Contractors are reminded that OFCCP will continue to examine a contractor's overall good faith efforts to employ qualified protected veterans and are provided with the following list of recommended affirmative action steps:

- Create partnership arrangements with local and national recruiting sources for referral of qualified covered veteran applicants;
- Establish a relationship with the Local Veterans' Employment Representative or his or her designee;
- Recruit covered student veterans at educational institutions;
- Create partnership arrangements with veterans' service organizations to employ qualified covered veterans;
- Establish relationships with the Veterans Administration Medical Center job placement programs;

- Advertise job openings and recruit qualified covered veterans during company career days and/or related activities in the local community;
- Encourage subcontractors to seek qualified covered veterans for employment opportunities; and
- Contact the Local Veterans' Employment Representative when new Federal contracts are obtained, or when significant hiring will occur.

For more details on the new regulations, see OFCCP's website at <http://www.dol.gov/esa/ofccp/>.

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for further information.*



When Must Contractors Start Using the New Race/Ethnic Categories?

Although the new categories are included on the 2007 EEO-1 report, the Equal Employment Opportunity Commission (EEOC) is not mandating that employers re-survey their workforce. If an employer is not using the new categories, they may simply enter zeroes in the Two or More Races and Hawaiian/Pacific Islander categories. The 2007 EEO-1 does divide "Officials and Managers" into two levels based on responsibility and influence within the organization: "Executive/Senior Level Officials and Managers" and "First/Mid-Level Official and Managers." This change in reporting is mandatory on the 2007 EEO-1.

The Office of Federal Contract Compliance Programs (OFCCP) has announced Interim Guidance that basically says it will not cite any contractor for non-compliance if it uses the new race and ethnic categories, but the agency does not explain how to actually use the new categories in an affirmative action plan. See the actual text at <http://www.dol.gov/esa/regs/compliance/ofccp/EEO-1%20Interim%20Guidance.htm>. The OFCCP and EEOC have pledged to coordinate their data collection efforts and the EEOC's

annual EEO-1 Information Form is used by the OFCCP as a part of their audit selection process. The OFCCP expected to release proposed regulations in March and final regulations in July, but as of the beginning of August, not even the proposed regulations have been released.

Where does this leave contractors who desire to comply with the applicable regulations? A contractor could require employees to self-identify twice, once using the new EEOC race/ethnic categories and secondly using the older five categories for affirmative action purposes. In our experience, this option has not been adopted by many contractors. It creates two sets of confusing records and problems for Human Resource Information Systems (HRIS) to maintain two sets of race/ethnic choices for each applicant/employee. Many HRIS have already implemented the new race/ethnic categories and divided Officials and Managers into two sub-groups. Most contractors have chosen to complete their affirmative action plans using whatever categories they are tracking in their HRIS system. A number of our clients using the new categories have been audited by the OFCCP

and not experienced any difficulty due to using the new categories.

The Complete AAP version 9 is completely compliant with current laws and regulations. The Complete AAP version 10 was released for those organizations having converted to the new race/ethnic and EEO-1 categories. Contact a representative at Yocom & McKee, Inc. if you have questions about which version of the software is right for you.



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Does The Complete AAP produce the EEO-1 & Vets 100 forms?

Summary:

The Complete AAP software is specifically designed to affirmative action reporting requirements. The employment data required for the EEO-1 and Vets 100 are not the same data used for affirmative action planning. Any affirmative action software claiming to produce all these reports for you is requiring that you import or enter and verify volumes of extra data just for these reports. The EEO-1 and Vets 100 reports are far better suited for use in a full HR software where historical employee data is maintained.

How does the data in these reports differ from data in an affirmative action plan?

1. The EEO-1 and Vets 100 data utilizes employee data covering a period of time – specifically a payroll period from July-Sept. Affirmative Action Plans utilize a snapshot of employee data as of a specific day in time – the beginning of your plan year. The data is simply not the same!
2. “Multiple Establishments” are handled differently:
 - a. A separate AAP must be completed for any location with 50 or more employees, Employees who work at other facilities but are hired through or report to a manager at the AAP location must be included.
 - b. For an EEO-1 report, a multi-establishment employer must file a headquarters report, a separate report for locations with 50 or more employees, and a consolidated report including all locations.
 - c. The Vets 100 includes only one report covering the “hiring location.”
3. Employees are defined differently:
 - a. An AAP includes all employees working at the AAP facility and those at other locations, but who report to or are hired through the AAP facility. Employees working at the AAP facility might be excluded from the AAP, if they report to or are hired through another location.
 - b. The EEO-1 includes any full or part time employee who is on the payroll of the establishment.
 - c. The Vets 100 requires only permanent full time employees who are veterans by their hiring location.
4. Employment Activity is handled differently:
 - a. An AAP includes all applicants, hires, promotions, and terminations by job group, covering the 12-month period preceding the current AAP.
 - b. The EEO-1 does not include employment activity
 - c. The Vets 100 includes only those hired through the hiring location during the 12-month period preceding the July-Sept payroll period selected for reporting employees.
5. Compensation data:
 - a. In an audit of your AAP, the OFCCP request annualized compensation data (wages, salaries, commissions, and bonuses) by either salary range, grade, or level.
 - b. The EEO-1 does not include compensation data.
 - c. The Vets 100 does not include compensation data.

Within these limitations, The Complete AAP will print an employee list by EEO category that includes totals by race and sex. This can be used for filling out the EEO-1 report, if your AAP plan year starts in the July-Sept time frame, if the employees included in the AAP exactly match the employees included on payroll records, and if the snapshot of employees used in the AAP matches the total employees that were present during the payroll period covering the AAP start date.



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