

TRAINING AND EMPLOYMENT NOTICE	NO. 15-14
	DATE December 11, 2014

TO: ALL STATE WORKFORCE ADMINISTRATORS
ALL STATE AND LOCAL WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: GERRI FIALA /s/ for PORTIA WU
Assistant Secretary
Employment and Training Administration

PATRICIA A. SHIU /s/
Director
Office of Federal Contract Compliance Programs

SUBJECT: Providing the Office of Federal Contract Compliance Programs (OFCCP)
Information Regarding Federal Contractor Compliance with the Mandatory Job
Listing Requirements

1. **Purpose.** To reiterate State Workforce Agencies' (SWA) responsibility to provide the OFCCP with information regarding whether Federal contractors are in compliance with the mandatory job listing requirements of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, at no cost to OFCCP.

2. **References.**

- Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA), codified at 38 U.S.C. 4212
- VEVRAA regulations at 41 CFR 60-300.5
- Wagner-Peyser Act of 1933, as amended, codified at 29 U.S.C. 49, et seq.
- OFCCP Federal Contractor Compliance Manual (FCCM) Section 1B05 available at <http://www.dol.gov/ofccp/regs/compliance/fccm/fccmanul.htm>.
- Training and Employment Guidance Letter (TEGL) 25-12, *Workforce Investment Act (WIA) Adult, Dislocated Worker and Youth Activities Program Allotments for Program Year (PY) 2013; Final PY 2013 Allotments for the Wagner-Peyser Act Employment Service (ES) Program Allotments; and Workforce Information Grants to States Allotments for PY 2013.*

3. Background.

Mandatory Job Listing Requirements

VEVRAA and its implementing regulations outline qualifying Federal contractors' nondiscrimination and affirmative action obligations. As part of these responsibilities, contractors must list all employment openings that exist when they enter into a Federal contract or occur during the performance of the contract at an appropriate local employment service of the state employment agency where the openings occur. Specifically, the regulation at 41 CFR 60-300.5(a)(2) states:

“The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed, but excluding those of independently operated corporate affiliates, with the appropriate employment service delivery system where the opening occurs. Listing employment openings with the state workforce agency job bank or with the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system. In order to satisfy the listing requirement described therein, contractors must provide information about the job vacancy in any manner and format permitted by the appropriate employment service delivery system which will allow that system to provide priority referral of veterans protected by VEVRAA for that job vacancy. Providing information on employment openings to a privately run job service or exchange will satisfy the contractor's listing obligation if the privately run job service or exchange provides the information to the appropriate employment service delivery system in any manner and format that the employment service delivery system permits which will allow that system to provide priority referral of protected veterans.”

To determine whether contractors have complied with the job listing requirement, OFCCP works directly with the nationwide network of employment services established by the Wagner-Peyser Act of 1933, known as the Employment Service (ES), during its compliance evaluations or complaint investigations.¹ Specifically, OFCCP contacts ES staff at the American Job Center (AJC), also known as one-stop center, used by the contractor and requests confirmation that the contractor has listed its employment openings with that office. When OFCCP receives a listing of the job orders the contractor placed, by job title and date, from the appropriate ES staff or the SWA responsible for ES activities, OFCCP compares the list with the list of jobs the contractor has filled through new hires, identifies any jobs not listed with the employment office, and determines whether they should have been listed.

¹ 41 CFR 60-300.84.

ES providers are required, as part of their annual funding agreement with the Department of Labor (TEGL 25-12), to assure that they will comply with all applicable requirements including Federal laws, executive orders, regulations, and policies that govern the ES program. Regulatory requirements at 41 CFR 60-300.84 require the ES provider, upon OFCCP request, to provide information pertinent to whether a contractor is in compliance with the mandatory job listing requirements. OFCCP has identified the job listing described above as information pertinent to their compliance evaluations and investigations. The job listings must be provided at no cost to OFCCP. OFCCP staff will not request ES offices to develop any further analysis beyond the job listings.

- 4. Action Requested.** The ES or SWA responsible for ES activities will provide OFCCP with information regarding Federal contractor compliance with the VEVRAA mandatory job listing requirement at no cost to OFCCP.

OFCCP issued revised regulations implementing VEVRAA, which became effective on March 24, 2014. The revised VEVRAA regulations do not affect this reiteration of State Workforce Agencies' responsibility to provide the information described above. Additional information about the revised VEVRAA regulations is available at:
www.dol.gov/ofccp/regs/compliance/vevraa.htm .

- 5. Inquiries.** Questions concerning this guidance should be directed to the appropriate Regional Office.
- 6. Attachment.** Sample OFCCP Letter used to Request Job Listing from ES or SWA.