

## PART 61-250—ANNUAL REPORT FROM FEDERAL CONTRACTORS

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APPENDIX A TO PART 61-250—FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT VETS-100

AUTHORITY: 38 U.S.C. 101 *et seq.*, Pub. L. 93-508, 88 Stat. 2578, VEVRAA as amended.

SOURCE: 66 FR 52002, Oct. 11, 2001, unless otherwise noted.

### §61-250.1 What are the purpose and scope of this part?

(a) This part 61-250 implements 38 U.S.C. 4212(d). Each contractor or subcontractor who enters into a contract in the amount of \$25,000 or more with any department or agency of the United States for the procurement of personal property and non-personal services (including construction), and who is subject to 38 U.S.C. 4212(a) and the Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR part 60-250, must submit a report according to the requirements of §61-250.10.

(b) Notwithstanding the regulations in this part, the regulations at 41 CFR part 60-250, administered by OFCCP, continue to apply to contractors' and subcontractors' affirmative action obligations regarding veterans.

(c) Reporting requirements of this part regarding veterans will be deemed waived in those instances in which the Deputy Assistant Secretary, OFCCP, has granted a waiver under 41 CFR 60-250.4(b)(1), or has concurred in granting a waiver under 41 CFR 60-250.4(b)(2), from compliance with all the terms of the equal opportunity clause for those establishments not involved in government contract work. Where OFCCP

grants only a partial waiver, compliance with these reporting requirements regarding veterans will be required.

(d) 41 CFR 60-250.42 and Appendix B to part 60-250 provide guidance concerning the affirmative action obligations of Federal contractors and subcontractors toward applicants for employment who are protected veterans.

### §61-250.2 What definitions apply to this part?

(a) For purposes of this part, and unless otherwise indicated in paragraph (b) of this section, the terms set forth in this part have the same meaning as set forth in 41 CFR part 60-250.

(b) For purposes of this part:

(1) *Hiring location* (this definition is identical to *establishment* as defined by the instructions for completing Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report)) means an economic unit which produces goods or services, such as a factory, office, store, or mine. In most instances the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity. Units at different locations, even though engaged in the same kind of business operation, should be reported as separate establishments. For locations involving construction, transportation, communications, electric, gas, and sanitary services, oil and gas fields, and similar types of physically dispersed industrial activities, however, it is not necessary to list separately each individual site, project, field, line, etc., unless it is treated by the contractor as a separate legal entity with a separate Employer Identification Number (EIN). For these physically dispersed activities, list as establishments only those relatively permanent main or branch offices, terminals, stations, etc., which are either:

(i) Directly responsible for supervising such dispersed activities, or

(ii) The base from which personnel and equipment operate to carry out these activities. (Where these dispersed activities cross State lines, at least one such establishment should be listed for each State involved.)

(2) *Employee* means any individual on the payroll of an employer who is an

employee for purposes of the employer's withholding of Social Security taxes except insurance salespersons who are considered to be employees for such purposes solely because of the provisions of section 3121(d)(3)(B) of the Internal Revenue Code (26 U.S.C.). The term *employee* does not include persons who are hired on a casual basis for a specified time, or for the duration of a specified job, and who work on remote or scattered sites or locations where it is not practical or feasible for the employer to make a visual survey of the work force within the report period; for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employees' work at the site; persons temporarily employed in any industry other than construction, such as mariners, stevedores, waiters/waitresses, movie extras, agricultural laborers, lumber yard workers, etc., who are obtained through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement; or persons on the payroll of a temporary service agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control.

(3) *Job category* means any of the following: Officials and managers, professionals, technicians, sales workers, office and clerical, craft workers (skilled), operatives (semiskilled), laborers (unskilled), service workers, as required by the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report), as defined as follows:

(i) *Officials and managers* means occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operation. Includes: Officials, executives, middle management, plant managers, department managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains and mates (except fishing boats), farm operators and managers, and kindred workers.

(ii) *Professionals* means occupations requiring either college graduation or experience of such kind and amount as to provide a background comparable to college education. Includes: Accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, surveyors, teachers, and kindred workers.

(iii) *Technicians* means occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: Computer programmers and operators, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

(iv) *Sales* means occupations engaging wholly or primarily in direct selling. Includes: Advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks and cashier-checkers, and kindred workers.

(v) *Office and clerical* includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

(vi) *Craft workers (skilled)* means manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes

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involved in their work. These workers exercise considerable independent judgment and usually receive an extensive period of training. Includes: The building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, arts occupations, hand painters, coaters, decorative workers, and kindred workers.

(vii) *Operatives (semiskilled)* means workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: Apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, stationary firefighters, truck and tractor drivers, weavers (textile), welders and flamecutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, handpackers and packagers, and kindred workers.

(viii) *Laborers (unskilled)* means workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and grounds keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

(ix) *Service workers* means workers in both protective and non-protective service occupations. Includes: Attend-

ants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection workers, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, servers, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

(4) *Special disabled veteran* means:

(i) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability:

(A) Rated at 30 percent or more, or

(B) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(5) *Veteran of the Vietnam era* means a veteran:

(i) Who served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975, or

(B) Between August 5, 1964 and May 7, 1975 in any other location; or

(ii) Who was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(B) Between August 5, 1964, and May 7, 1975, in any other location.

(6) *Other protected veterans* means any other veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a

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campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era.

(7) *OFCCP* means the Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor.

(8) *VETS* means the Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor.

(9) *States* means each of the several States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

(10) *Eligibility period* means the calendar year (January 1 through December 31) preceding the year in which the report must be filed. This calendar year is the same year in which the contractor received the Federal contract.

(11) *NAICS* means the North American Industrial Classification System.

**§61-250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?**

Each contractor or subcontractor described in §61-250.1 must submit reports in accordance with the following reporting clause, which must be included in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract). Such clause is considered as an addition to the equal opportunity action clause required by 41 CFR 60-250.5. The reporting requirements clause is as follows:

**EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER PROTECTED VETERANS**

(a) The contractor or subcontractor agrees to report at least annually, as required by the Secretary of Labor, on:

(1) The number of current employees in each job category and at each hiring location who are special disabled veterans, the number who are veterans of the Vietnam era, and the number who are other protected veterans;

(2) The total number of new employees hired during the period covered by the report, and of that total, the number who are special disabled veterans, the number who are veterans of the Vietnam era, and the number who are other protected veterans; and

(3) The maximum number and minimum number of employees of such contractor at each hiring location during the period covered by the report.

(b) The above items must be reported by completing the form entitled "Federal Contractor Veterans" Employment Report VETS-100."

(c) VETS-100 reports must be submitted no later than September 30 of each year beginning September 30, 2001. The eligibility period (the period during which an employer received a Federal contract) for this report and all subsequent reports is the calendar year (January 1 through December 31) that precedes the year in which the report is submitted.

(d) The employment activity report required by paragraphs (a)(2) and (a)(3) of this clause must reflect total new hires and maximum and minimum number of employees during the 12-month period preceding the ending date that the contractor selects for the current employment report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period July 1 through August 31 of the year the report is due; or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report).

(e) The number of veterans reported according to paragraph (a) above must be based on data known to contractors and subcontractors when completing their VETS-100 Reports. Contractors' and subcontractors' knowledge of veterans status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60-250.42, voluntary self-disclosures by protected incumbent veterans, or actual knowledge of an employee's veteran status by a contractor or subcontractor. Nothing in this paragraph (e) relieves a contractor from liability for discrimination under 38 U.S.C. 4212. (OMB No. 1293-0005)

[66 FR 52002, Oct. 11, 2001, as amended at 66 FR 65453, Dec. 19, 2001]

**§61-250.11 On what form must the data required by this part be submitted?**

(a) Data items required in paragraph (a) of the contract clause set forth in §61-250.10 must be reported for each