

Veterans' Employment and Training

§ 61-300.2

PART 61-300—ANNUAL REPORT FROM FEDERAL CONTRACTORS

Sec.

61-300.1 What are the purpose and scope of this part?

61-300.2 What definitions apply to this part?

61-300.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?

61-300.11 On what form must the data required by this part be submitted?

61-300.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

61-300.99 What is the OMB control number for this part?

APPENDIX A TO PART 61-300—FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT VETS-100A

AUTHORITY: 38 U.S.C. 4211 and 4212.

SOURCE: 73 FR 28716, May 19, 2008, unless otherwise noted.

§ 61-300.1 What are the purpose and scope of this part?

(a) This part 61-300 implements 38 U.S.C. 4212(d) as amended by the Jobs for Veterans Act. Each contractor or subcontractor who enters into or modifies a contract or subcontract on or after December 1, 2003, in the amount of \$100,000 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), must submit a report according to the requirements of part 61-300. Any contractor or subcontractor whose only contract with any department or agency of the United States for the procurement of personal property and non-personal services (including construction) was entered into before December 1, 2003 (and not modified as described above) must follow part 61-250 implementing 38 U.S.C. 4212(d). Any contractor or subcontractor who has both a contract subject to part 61-250 and a contract subject to part 61-300 is required to file both the VETS-100 Report and the VETS-100A Report.

(b) Notwithstanding the regulations in this part, the regulations at 41 CFR part 60-300, 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 60-300.4(b)(1), or has concurred in the granting of a waiver under 41 CFR 60-300.4(b)(3), 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 60-300.42 and Appendix B to part 60-300 provide guidance concerning the affirmative action obligations of Federal contractors and subcontractors toward applicants for employment who are qualified covered veterans.

§ 61-300.2 What definitions apply to this part?

(a) For the 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 those set forth in 41 CFR part 60-300.

(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. 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 sales agents who are considered to be employees for such purposes solely because of the provisions of 26 U.S.C. 3121(d)(3)(B) (the Internal Revenue Code). Leased employees are included in this definition. Leased employee means a permanent employee provided by an employment agency for a fee to an outside company for which the employment agency handles all personnel tasks including payroll, staffing, benefit payments and compliance reporting. The employment agency shall, therefore, include leased employees in its VETS-100A Report. The term employee shall not include persons who are hired on a casual basis for a specified time, or for the duration of a specified job (for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employee's work at the site); persons temporarily employed in any industry other than construction, such as temporary office workers, mariners, stevedores, lumber yard workers, etc., who are hired through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement, or persons (except leased employees) on the payroll of an employment 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 (Executive/Senior Level Officials and Managers and First/Mid Level Officials and

Managers), professionals, technicians, sales workers, administrative support workers, craft workers, operatives, laborers and helpers, and service workers, as required by the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report), as follows:

(i) *Officials and managers* as a whole is to be divided into the following two subcategories: Executive/Senior Level Officials and Managers and First/Mid Level Officials and Managers.

(A) *Executive/Senior Level Officials and Managers* means individuals who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products and services, within the parameters approved by boards of directors of other governing bodies. Residing in the highest levels of organizations, these executives plan, direct, or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO, whose responsibilities require frequent interaction with the CEO. Examples of these kinds of managers are: Chief executive officers, chief operating officers, chief financial officers, line of business heads, presidents or executive vice presidents of functional areas or operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

(B) *First/Mid Level Officials and Managers* means individuals who serve as managers, other than those who serve as Executive/Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations. These managers receive directions from Executive/Senior Level management and typically lead major business units. They implement policies, programs and directives of Executive/Senior Level management through subordinate managers and within the parameters set by Executives/Senior Level management. Examples of these kinds of managers are: Vice presidents and directors; group, regional or divisional

controllers; treasurers; and human resources, information systems, marketing, and operations managers. The First/Mid Level Officials and Managers subcategory also includes those who report directly to middle managers. These individuals serve at functional, line of business segment or branch levels and are responsible for directing and executing the day-to-day operational objectives of enterprises/organizations, conveying the directions of higher level officials and managers to subordinate personnel and, in some instances, directly supervising the activities of exempt and non-exempt personnel. Examples of these kinds of managers are: First-line managers; team managers; unit managers; operations and production managers; branch managers; administrative services managers; purchasing and transportation managers; storage and distribution managers; call center or customer service managers; technical support managers; and brand or product managers.

(ii) *Professionals* means individuals in positions that require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications. Examples of these kinds of positions include: Accountants and auditors; airplane pilots and flight engineers; architects; artists; chemists; computer programmers; designers; dietitians; editors; engineers; lawyers; librarians; mathematical scientists; natural scientists; registered nurses; physical scientists; physicians and surgeons; social scientists; teachers; and surveyors.

(iii) *Technicians* means individuals in positions that include activities requiring applied scientific skills, usually obtained by post secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required. Examples of these types of positions include: Drafters; emergency medical technicians; chemical technicians; and broadcast and sound engineering technicians.

(iv) *Sales workers* means individuals in positions including non-managerial activities that wholly and primarily in-

volve direct sales. Examples of these types of positions include: Advertising sales agents; insurance sales agents; real estate brokers and sales agents; wholesale sales representatives; securities, commodities, and financial services sales agents; telemarketers; demonstrators; retail salespersons; counter and rental clerks; and cashiers.

(v) *Administrative support workers* means individuals in positions involving non-managerial tasks providing administrative and support assistance, primarily in office settings. Examples of these types of positions include: Office and administrative support workers; bookkeeping; accounting and auditing clerks; cargo and freight agents; dispatchers; couriers; data entry keyers; computer operators; shipping, receiving and traffic clerks; word processors and typists; proofreaders; desktop publishers; and general office clerks.

(vi) *Craft workers* means individuals in positions that include higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: Boilermakers; brick and stone masons; carpenters; electricians; painters (both construction and maintenance); glaziers; pipelayers, plumbers, pipefitters and steamfitters; plasterers; roofers; elevator installers; earth drillers; derrick operators; oil and gas rotary drill operators; and blasters and explosive workers. This category also includes occupations related to the installation, maintenance and part replacement of equipment, machines and tools, such as: Automotive mechanics; aircraft mechanics; and electric and electronic equipment repairers. This category also includes some production occupations that are distinguished by the high degree of skill and precision required to perform them, based on clearly defined task specifications, such as: Millwrights; etchers and engravers; tool and die makers; and pattern makers.

(vii) *Operatives* means individuals in intermediate skilled occupations and includes workers who operate machines or factory-related processing equipment. Most of these occupations do not

usually require more than several months of training. Examples include: Textile machine workers; laundry and dry cleaning workers; photographic process workers; weaving machine operators; electrical and electronic equipment assemblers; semiconductor processors; testers, graders and sorters; bakers; and butchers and other meat, poultry and fish processing workers. This category also includes occupations of generally intermediate skill levels that are concerned with operating and controlling equipment to facilitate the movement of people or materials, such as: Bridge and lock tenders; truck, bus or taxi drivers; industrial truck and tractor (forklift) operators; parking lot attendants; sailors; conveyor operators; and hand packers and packagers.

(viii) *Laborers and helpers* means individuals with more limited skills who require only brief training to perform tasks that require little or no independent judgment. Examples include: Production and construction worker helpers; vehicle and equipment cleaners; laborers; freight, stock and material movers; service station attendants; construction laborers; refuse and recyclable materials collectors; septic tank servicers; and sewer pipe cleaners.

(ix) *Service workers* means individuals in positions that include food service, cleaning service, personal service, and protective service activities. Skill may be acquired through formal training, job-related training or direct experience. Examples of food service positions include: Cooks; bartenders; and other food service workers. Examples of personal service positions include: Medical assistants and other healthcare support positions; hairdressers; ushers; and transportation attendants. Examples of cleaning service positions include: Cleaners; janitors; and porters. Examples of protective service positions include: Transit and railroad police and fire fighters; guards; private detectives and investigators.

(4) *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 Secretary of Veterans Affairs, or

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

(5) *Other protected veteran* means a 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 campaign badge has been authorized under the laws administered by the Department of Defense.

(6) *Armed Forces service medal veteran* means a veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209, 3 CFR, 1996 Comp., p. 159).

(7) *Recently separated veteran* means a veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(8) *Covered veteran* means a veteran as defined in paragraphs (b)(4) through (b)(7) of this section.

(9) *Qualified* means, with respect to an employment position, having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

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

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

(12) *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.

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

(14) *Covered incumbent veteran* means a veteran as defined in paragraphs (b)(4) through (b)(7) of this section who is employed by a covered contractor.