Model Notice to State Employment Delivery Agency for Federal Contractors and Subcontractors Complying with VEVRAA

Practice Tips

*Federal contractors/subcontractors with a single contract of $100,000 or more are required to post most open positions with the state job service as a means to attract qualified veteran applicants.*

*Prior to the* ***March 24, 2014*** *effective date of the new rules, no particular format was required when federal contractors/subcontractors notified the local state job service office of open positions.*

*The new regulations require that the contractor/subcontractor specifically advise the state that it is a contractor complying with VEVRAA, and that the contractor provide specific contact information for the “hiring official” for each location in the state with openings.*

*VEVRAA’s posting requirement has not changed, so that all open positions must be posted with the state job service except (1) positions filled exclusively through the use of internal recruiting, (2) positions completed in 3 days or less, (3) “executive and top management” positions, and (4) positions filled through the use of a union hiring hall. This language should be used beginning* ***March 24, 2014****.*

[Company Letterhead]

**State Employment Delivery Agency**

**Address**

**Dear Sir or Madam:**

1. [***Company***] is a federal contractor or subcontractor subject to the requirements of the Vietnam Era Veterans Readjustment Assistance Act (VEVRAA).
2. [***Company***] desires the state to send priority referrals of protected veterans for job openings at all [***Company’s***] locations within the state.
3. The following is a list of all of the company’s hiring locations within the state and the contact information for the hiring official at each location.
   1. ***[Name of company’s first hiring location in the state]***

Address of first hiring location in the state

Name of hiring official at this location

Contact information (address, phone, email, etc.)  
for hiring official at this location

* 1. ***[Name of company’s next hiring location in the state***

***Address of next hiring location in the state]***

Name of hiring official at this location

Contact information (address, phone, email, etc.)  
for hiring official at this location

* 1. Etc.

1. We are also using [***name of external job search organization(s***)] to assist us in hiring. The name and contact information for this organization is as follows:
2. If/when any of our contact information changes, we will notify you of these changes simultaneously with our next posting.

**Sincerely,**

Model Job Advertisement Tagline

Practice Tips

*Federal contractors/subcontractors have been required to include an assurance of equal employment opportunity in job advertisements for many years.*

*Today, a simple “EOE” or “Equal Opportunity Employer” satisfies this requirement and is sometimes referred to as the job advertisement “tagline.”*

*OFCCP’s Frequently Asked Questions for the new rules clarify that the tagline must specifically mention veterans and the disabled, and those terms must not be abbreviated. “Vet” and “disabled” are the preferred terms.*

*This tagline must be used beginning* ***March 24, 2014****.*

EOE/M/F/Vet/Disabled  
or  
EOE/Minorities/Females/Vet/Disabled

**Model Subcontract Incorporation  
by Reference Language**

**Practice Tips**

*The material in plain type is “old language” that continues to be valid and required.*

*The language in bold type is* ***new****, and the rules specifically require that the new clauses appear in bold type. This language should be used beginning on* **March 24, 2014***, the effective date of the new rules.*

If applicable, the parties hereby incorporate the requirements of 41 CFR §§60‑1.4(a)(7), and 29 CFR Part 471, Appendix A to Subpart A.

**If applicable, this contractor and subcontractor shall also abide by the requirements of 41 CFR § 60‑300.5(a) and 41 CFR § 60‑741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

**Model Subcontractor Notice**

**Practice Tips**

*New to federal contractors and subcontractors under these regulations is a requirement that all subcontractors, not just “covered subcontractors,” receive notification that your company is a federal contractor/subcontractor. This notice is designed to place all vendors and subcontractors on notice that your company is a federal contractor/subcontractor and that you engage in affirmative action with regard to veterans and individuals with disabilities. This notice should be sent to current vendors/suppliers as soon as practicable after the March 24, 2014 effective date of the regulations, and then to new vendors/suppliers one time at the beginning of the contractual relationship.*

*Note that this obligation is separate from and in addition to the contract clause mentioned above.*

Please be advised that [Company] is a covered federal contractor [or subcontractor] and must comply with certain affirmative action efforts. Also, pursuant to 41 C.F.R. § 60-300.44(f)(i)(ii), implementing 38 U.S.C. § 4212, a portion of the Vietnam Era Veterans Readjustment Assistance of 1974, and 41 C.F.R. § 60-741.44(f)(i)(ii), implementing Section 503 of The Rehabilitation Act of 1973; [our Company] must send you written notification of our affirmative action efforts on behalf of protected veterans and individuals with disabilities.

Our affirmative action efforts related to protected veterans and individuals with disability are set out and described our affirmative action plan for protected veterans and individuals with a disability. If you have any questions or you would like to view the affirmative action plan, please contact \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Model Notice to Labor Organizations**

**Practice Tips**

*Federal contractors and subcontractors must also notify labor unions with which they have a collective bargaining agreement of the company’s status as federal contractor/subcontractor. This notice is designed to place the labor organization on notice that the company is a federal contractor/subcontractor and that the company invites the union’s cooperation in its affirmative action efforts.*

[Company] is a covered federal contractor [or subcontractor] and must comply with certain affirmative action efforts. [Company] is bound to the requirements of the Vietnam Era Veterans Readjustment Assistance of 1974, and The Rehabilitation Act of 1973, which require that the Company not discriminate against individuals with disabilities, and that the Company take affirmative action to employ and advance in employment protected veterans and individuals with disabilities.

Please be advised that pursuant to 41 C.F.R. § 60-300.5(a)(10) and 41 C.F.R. § 60-741.5(a)(5), we are notifying your organization of [Company’s] obligations under these laws. We would appreciate your assistance in contributing to our efforts to fulfill our legal and regulatory obligations.

If you have any questions or comments, please do not hesitate to contact \_\_\_\_\_\_\_\_\_.

Model Invitation to Self-Identify (VEVRAA)

**Practice Tips**

*Under current OFCCP rules, federal contractors/subcontractors are required to invite individuals to self-identify as protected veterans one time, after a conditional offer of employment has been extended.*

*OFCCP’s new rules, effective* ***March 24, 2014****, will require that the invitation be extended two times: First, at the time of application, and second, following a conditional offer of employment. Slightly different language for the pre- and post-offer invitations will be required and are included below.*

*In addition, OFCCP has stated in its online Frequently Asked Questions that the disability self-identification form may not be modified or altered in any way. For this reason, we recommend* ***NOT*** *combining the veterans and disability self-identification forms as many contractors do today. Because the self-identification requirement resides in Part C of the new rules, contractors/subcontractors do not have to begin using this form until the first day of the AAP year that begins after the* ***March 24, 2014*** *effective date of the new rules.*

*For example, a contractor with a July 1 plan year should begin this new self-identification process no later than July 1, 2014. A contractor with a January 1 plan year should begin using the new self-identification forms no later than January 1, 2015.*

1. This employer is a Government contractor subject to the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended by the Jobs for Veterans Act of 2002, 38 U.S.C. § 4212 (VEVRAA), which requires Government contractors to take affirmative action to employ and advance in employment: (1) disabled veterans; (2) recently separated veterans; (3) active duty wartime or campaign badge veterans; and (4) Armed Forces service medal veterans. These classifications are defined as follows:

A “*disabled veteran*” is one of the following: 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 a person who was discharged or released from active duty because of a service‑connected disability.

A “*recently separated veteran*” means any 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.

An “*active duty wartime or campaign badge 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.

An “*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.

Protected veterans may have additional rights under USERRA—the Uniformed Services Employment and Reemployment Rights Act. In particular, if you were absent from employment in order to perform service in the uniformed service, you may be entitled to be reemployed by your employer in the position you would have obtained with reasonable certainty if not for the absence due to service.

For more information, call the U.S. Department of Labor’s Veterans Employment and Training Service (VETS), toll‑free, at 1‑866‑4‑USA‑DOL.

2. **[THE FOLLOWING TEXT SHOULD BE USED WHEN EXTENDING THE “PRE‑OFFER” INVITATION AS REQUIRED BY 41 CFR § 60‑300.42(a). THE DEFINITIONS OF THE SEPARATE CLASSIFICATIONS OF PROTECTED VETERANS SET FORTH IN PARAGRAPH 1 MUST ACCOMPANY THIS SELF‑IDENTIFICATION REQUEST.]** If you believe you belong to any of the categories of protected veterans listed above, please indicate by checking the appropriate box below. As a Government contractor subject to VEVRAA, we request this information in order to measure the effectiveness of the outreach and positive recruitment efforts we undertake pursuant to VEVRAA.

[ ] IDENTIFY AS ONE OR MORE OF THE CLASSIFICATIONS OF PROTECTED VETERAN LISTED ABOVE

[ ] I AM NOT A PROTECTED VETERAN

**[THE FOLLOWING TEXT SHOULD BE USED IF REQUIRED TO EXTEND THE “POST‑OFFER” INVITATION DESCRIBED IN 41 CFR § 60‑300.42(b). THE DEFINITIONS OF THE SEPARATE CLASSIFICATIONS OF PROTECTED VETERAN INCLUDED IN THE POST‑OFFER INVITATION MUST ACCOMPANY THIS SELF‑IDENTIFICATION REQUEST.]**

As a Government contractor subject to VEVRAA, we are required to submit a report to the United States Department of Labor each year identifying the number of our employees belonging to each specified “protected veteran” category. If you believe you belong to any of the categories of protected veterans listed above, please indicate by checking the appropriate box below.

I BELONG TO THE FOLLOWING CLASSIFICATIONS OF PROTECTED VETERANS (CHOOSE ALL THAT APPLY):

[ ] DISABLED VETERAN

[ ] RECENTLY SEPARATED VETERAN

[ ] ACTIVE WARTIME OR CAMPAIGN BADGE VETERAN

[ ] ARMED FORCES SERVICE MEDAL VETERAN

[ ] I am a protected veteran, but I choose not to self‑identify the classifications to which I belong.

[ ] I am NOT a protected veteran.

If you are a disabled veteran it would assist us if you tell us whether there are accommodations we could make that would enable you to perform the essential functions of the job, including special equipment, changes in the physical layout of the job, changes in the way the job is customarily performed, provision of personal assistance services or other accommodations. This information will assist us in making reasonable accommodations for your disability.

3. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information provided will be used only in ways that are not inconsistent with the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended.

4. The information you submit will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if you have a condition that might require emergency treatment; and (iii) Government officials engaged in enforcing laws administered by the Office of Federal Contract Compliance Programs, or enforcing the Americans with Disabilities Act, may be informed.

5. ***[The contractor should here insert a brief provision summarizing the relevant portion of its affirmative action program.]***

Final Self-Identification  
Form for Disability

Practice Tips

***OFCCP obtained OMB approval for the use of this form on January 22, 2014****. This form is required pre‑offer and again post‑conditional offer. In addition, it must be extended to all employees once every five years, the first occasion taking place within the first year of the new regulations, or by* ***March 24, 2015****. Under current rules, a similar self‑identification process is required only one time, at the post‑conditional offer of employment stage.*

*Contractors should consider the confidentiality provisions of the ADAAA and Rehabilitation Act, and to the extent practical, how to effectively segregate disability disclosures from decision makers. In addition, requests for reasonable accommodations should be noted and addressed in accordance with the company’s ongoing compliance with the ADAAA and Rehabilitation Act. Because the self‑identification requirement resides in Part C of the new rules, contractors/subcontractors do not have to begin using this form until the first day of the AAP year that begins after the March 24, 2014 effective date of the new rules.*

*For example, a contractor with a July 1 plan year should begin this new self‑identification process no later than July 1, 2014. A contractor with a January 1 plan year should begin using the new self‑identification forms no later than January 1, 2015.*

*In addition, OFCCP has stated in the Frequently Asked Questions on its website that this form may not be modified or altered in any way. For this reason, we recommend NOT combining the veterans and disability self-identification forms as many contractors do today. In addition, the same Frequently Asked Questions direct the size (11-point or greater) and kind of font (sans-serif such as Calibri or Arial) required for this self-identification form, and mandate the display of the OMB approval number and expiration date.*



