

CHANGE REQUEST COVER SHEET

Change Request Number: 11-16

Date Received: 12/2/2010

Title: Equal Opportunity for Veterans

Name: Tim Eckert

Phone: (202) 267-7527

Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.2A.15 and clauses

Summary of Change: Updates to AMS Guidance T3.6.2A.15 and clauses 3.6.2- 12 and 3.6.2-14

Reason for Change: Implementation of Labor department regulations on equal opportunity provisions for military veterans based on revisions to Vietnam Era Veterans Readjustment Assistance Act.

Development, Review, and/or Concurrence: Acquisition Policy Division; Legal; and Contracting Organizations at FAA HQ, Centers, and Regions (ARC)

Target Audience: Contracting workforce and program offices

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK

1) <https://conwrite.faa.gov/cwclauselist.cfm?Show=Num,Title,Test,Pers&CatNum= 3.6.2>

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS EDITED:

Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 15 : Equal Opportunity for Veterans [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

SECTIONS EDITED:

Section 15 : Special Disabled and Vietnam Era Veterans

Old Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 15 : Special Disabled and Vietnam Era Veterans

a. The Vietnam Era Veterans Readjustment Act of 1972 (38 U.S.C. 4211 and 4212), Executive Order 11701, 41 CFR Part 60-250 and Part 61-250, and the Veterans Employment Act of 1998 (Public Law 105-339) require contractors and subcontractors, when entering into contracts subject to the Act, to list all suitable employment openings with the appropriate local employment service office and take affirmative action to employ, and advance in employment, qualified special disabled veterans and veterans of the Vietnam Era without discrimination based on their disability or veteran's status.

b. *Applicability.* The Act applies to all contracts for supplies, services, and construction of \$100,000 or more (including contracts with a State or local government, or any agency, instrumentality, or subdivision of that government, that does not work on or under the contract), unless waived by OFCCP.

c. *Waivers.*

(1) Subject to concurrence from the Director of OFCCP, the CO or Chief of Contracting Office (COCO) may waive any or all of the terms of the clause "Affirmative Action for Special Disabled and Vietnam Era Veterans," as follows:

(a) The CO may waive any individual contract if in the national interest; or

(b) The COCO may waive any groups or categories of contracts if in the national interest.

(2) The COCO, with the concurrence of OFCCP, may waive any implementing requirements of the Act when the COCO determines that the contract is essential to national security, and award without complying with such requirements is necessary to national security. The COCO will notify OFCCP in writing within 30 days of making this determination.

(3) The CO will prepare a written determination for waiver, with the appropriate signature level, delineating the reasons and authority for the waiver.

d. Department of Labor Notices and Reports.

(1) The CO will furnish notices for posting to the contractor when they are prescribed by OFCCP.

(2) Contractors will submit a report (Standard Form VETS-100, "Federal Contractor Veterans' Employment Report") at least annually to the Secretary of Labor regarding employment of Vietnam era and special disabled veterans unless all of the terms of the clauses "Affirmative Action for Special Disabled and Vietnam Era Veterans," have been waived.

e. Collective Bargaining Agreements. If performance under the Act could affect a revision of a collective bargaining agreement, the CO should advise the affected labor unions or management that DOL will give them appropriate opportunity to present their views.

f. Complaint Procedures. The CO should forward any complaints about administration of the Act to the Veteran's Employment Service of DOL, through the local Veteran's Employment Representative or designee, at the local State employment office. The Director of OFCCP is primarily responsible for investigating complaints.

g. Actions Because of Noncompliance. The CO should take necessary action as soon as possible after notification to implement any sanctions imposed on a contractor by DOL for violations of the clause.

New Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 15 : Equal Opportunity for Veterans

a. The Vietnam Era Veterans Readjustment Act of 1972 (38 U.S.C. 4211 and 4212), Executive Order 11701, 41 CFR Part 60-250 and Part 61-250, and the Veterans Employment Act of 1998 (Public Law 105-339) require contractors and subcontractors, when entering into contracts subject to the Act, to list all suitable employment openings with the appropriate local employment service office and take affirmative action to employ, and advance in employment, qualified special disabled veterans and veterans of the Vietnam Era without discrimination based on their disability or veteran's status.

b. Definitions.

(1) "Armed Forces service medal veteran" means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United State military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

(2) "Disabled Veteran" means:

(a) 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

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

(3) "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 laws administered by the Department of Defense.

(4) "Qualified disabled veteran" means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

(5) "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.

(6) "United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

c. Applicability. The Act applies to all contracts for supplies, services, and construction of \$100,000 or more (including contracts with a State or local government, or any agency, instrumentality, or subdivision of that government, that does not work on or under the contract), unless waived by OFCCP.

d. Waivers.

(1) Subject to concurrence from the Director of OFCCP, the CO or Chief of Contracting Office (COCO) may waive any or all of the terms of the clause "Equal Opportunity for Veterans (AMS 3.6.2-12)," as follows:

(a) The CO may waive any individual contract if in the national interest; or

(b) The COCO may waive any groups or categories of contracts if in the national interest.

(2) The COCO, with the concurrence of OFCCP, may waive any implementing requirements of the Act when the COCO determines that the contract is essential

to national security, and award without complying with such requirements is necessary to national security. The COCO will notify OFCCP in writing within 30 days of making this determination.

(3) The CO will prepare a written determination for waiver, with the appropriate signature level, delineating the reasons and authority for the waiver.

e. Department of Labor Notices and Reports.

(1) The CO will furnish notices for posting to the contractor when they are prescribed by OFCCP. See the DOL website.

(2) Contractors will submit a report (Standard Form VETS-100, "Federal Contractor Veterans' Employment Report") at least annually to the Secretary of Labor regarding employment of Vietnam era and special disabled veterans unless all of the terms of the clauses "Equal Opportunity for Veterans," have been waived.

f. Collective Bargaining Agreements. If performance under the Act could affect a revision of a collective bargaining agreement, the CO should advise the affected labor unions or management that DOL will give them appropriate opportunity to present their views.

g. Complaint Procedures. The CO must forward any complaints about administration of the Act to the Veteran's Employment and Training Service of DOL, or to the Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, N.W., Washington, DC 20210, or to any OFCCP regional, district, or area office or through the local Veteran's Employment Representative or designee, at the local State employment office. The Director of OFCCP is primarily responsible for investigating complaints.

h. Actions Because of Noncompliance. The CO should take necessary action as soon as possible after notification to implement any sanctions imposed on a contractor by DOL for violations of the clause.

Red Line Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 15 : ~~Special Disabled and~~ Equal Opportunity for ~~Vietnam Era~~ Veterans

a. The Vietnam Era Veterans Readjustment Act of 1972 (38 U.S.C. 4211 and 4212), Executive Order 11701, 41 CFR Part 60-250 and Part 61-250, and the Veterans Employment Act of 1998 (Public Law 105-339) require contractors and subcontractors, when entering into contracts subject to the Act, to list all suitable employment openings with the appropriate local employment service office and take affirmative action to employ, and advance in employment, qualified special disabled veterans and veterans of the Vietnam Era without discrimination based on their disability or veteran's status.

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

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(5) "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.

(6) "United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin islands, and Wake Island.

c. Applicability. The Act applies to all contracts for supplies, services, and construction of \$100,000 or more (including contracts with a State or local government, or any agency, instrumentality, or subdivision of that government, that does not work on or under the contract), unless waived by OFCCP.

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(1) Subject to concurrence from the Director of OFCCP, the CO or Chief of Contracting Office (COCO) may waive any or all of the terms of the clause "~~Affirmative~~Equal ~~Action~~Opportunity for ~~Special Disabled and Vietnam Veterans Era~~(AMS Veterans 3.6.2-12)," as follows:

(a) The CO may waive any individual contract if in the national interest; or

(b) The COCO may waive any groups or categories of contracts if in the national interest.

(2) The COCO, with the concurrence of OFCCP, may waive any implementing requirements of the Act when the COCO determines that the contract is essential to national security, and award without complying with such requirements is necessary to national security. The COCO will notify OFCCP in writing within 30 days of making this determination.

(3) The CO will prepare a written determination for waiver, with the appropriate signature level, delineating the reasons and authority for the waiver.

***de.** Department of Labor Notices and Reports.*

(1) The CO will furnish notices for posting to the contractor when they are prescribed by OFCCP (*see* <http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm>).

(2) Contractors will submit a report (Standard Form VETS-100, "Federal Contractor Veterans' Employment Report") at least annually to the Secretary of Labor regarding employment of Vietnam era and special disabled veterans unless all of the terms of the clauses "~~Affirmative Action~~ ***Equal Opportunity*** for ~~Special Disabled and Vietnam Era~~ Veterans," have been waived.

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