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LEGAL ALERT



Legal Alert: DOL Publishes Rule Implementing Amendments to Veteran Reporting Requirements for Federal Contractors

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The Department of Labor has published a rule revising the regulations that implement the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA) to incorporate amendments to the VEVRAA made by the Veterans' Benefit and Health Care Improvement Act of 2000 (VBHCIA).

The VEVRAA requires Federal contractors to report annually the number of employees and new hires that belong to the categories of veterans protected under the statute. The VBHCIA amended the VEVRAA by extending the protections of that law to a new category of veterans called "recently separated veterans." The term "recently separated veterans" means any veteran during the three-year period beginning on the date of the veteran's discharge or release from active duty with respect to contracts entered into on or after December 1, 2003. For all contracts entered into prior to December 1, 2003, the term "recently separated veterans" means any veteran during the one-year period beginning on the date of the veteran's discharge or release from active duty. The new rule revises the VEVRAA regulations found in 41 CFR Part 61-250 to include "recently separated veterans" in the definitions section of the regulation.

The new rule also revises Part 61-250 to provide clarification regarding which set of regulations contractors should use. The DOL has published two sets of regulations to implement the reporting requirements under the VEVRAA. Part 61-250 applies to government contracts of \$25,000 or more that were entered into before December 1, 2003, and requires contractors to use the VETS-100 Report form to provide the required information.

The regulations located at 41 CFR Part 61-300, published by the DOL in May 2008, implement the amendments to the VEVRAA made by the 2002 Jobs for Veterans Act (JVA). The JVA amendments increased to \$100,000 the dollar amount threshold that triggers the VEVRAA reporting requirement. In addition, the JVA amendments changed the categories of covered veterans under VEVRAA and thus the categories of veterans that contractors are required to track and report on annually. The regulations in Part 61-300 require contractors to use the VETS-100A Report form to provide the required information on their employment of covered veterans. These regulations apply to contracts entered into or modified on or after December 1, 2003.

The new rule reiterates that the regulations in Part 61-250 apply to any

contract or subcontract of at least \$25,000 entered into before December 1, 2003. It also clarifies that the regulations in Part 61-300, not the Part 61-250 regulations, apply to such a contract if it is modified on or after December 1, 2003 and the contract as modified is for \$100,000 or more. The preamble to the new rule states that this should help contractors determine whether the reporting requirements in Part 61-250 and/or the reporting requirements in Part 61-300 apply to their contracts.

The new rule was published in the Federal Register on November 5, 2008, and takes effect December 5, 2008.

If you have any questions regarding the new rule, or other federal contractor reporting requirements, please contact the Ford & Harrison attorney with whom you usually work or Karen Tyner, kytyner@fordharrison.com, 864-699-1134 or Michelle Harkavy, mharkavy@fordharrison.com or 901-291-1500.