

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL
CONTRACT COMPLIANCE PROGRAMS,
DIRECTEMPLOYERS ASSOCIATION
AND
THE NATIONAL ASSOCIATION OF STATE WORKFORCE
AGENCIES**

I. **Parties**

This Memorandum of Understanding (MOU) is made and entered into by and between the United States Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP), DirectEmployers Association (DE) and the National Association of State Workforce Agencies (NASWA), collectively referred to as "the parties."

II. **Purpose and Scope**

The parties recognize the value of establishing a collaborative relationship to promote voluntary compliance by employers that are covered federal contractors and subcontractors (hereinafter referred to collectively as "contractors") with their mandatory obligations under the laws OFCCP administers, and specifically with regard to this MOU, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 38 U.S.C. § 4212, and its implementing regulations at 41 CFR part 60-300. The parties are entering into this MOU with the specific and mutual goals of working together to support OFCCP's contractor and compliance officer education and training related to compliance with specific aspects of the VEVRAA statute and regulations, in order to increase the efficiency of OFCCP's compliance evaluations and investigations of contractors, enable voluntary compliance with OFCCP's regulations, and minimize, to the extent feasible, the cost of compliance by contractors.

Under this collaborative arrangement, OFCCP will share with DE and NASWA certain training materials it develops for compliance officers and contractors regarding VEVRAA's mandatory job listing requirement (hereinafter "training materials"),¹ for the purpose of obtaining any feedback DE and NASWA might have on the topic of listing employment openings with the appropriate employment service delivery system (ESDS). Such feedback may be useful to OFCCP in addressing specific

¹ 38 U.S.C. § 4212(a)(2); 41 CFR §§ 60-300.5(a)(2)-(6)

questions and concepts that OFCCP's regulated community may have about their VEVRAA mandatory job listing requirements.

III. **Authority**

OFCCP is responsible for securing compliance by all contractors with the laws and regulations that it administers and enforces, including VEVRAA. This responsibility includes not only conducting compliance evaluations and investigations, but also facilitating proactive compliance with the terms of the contracts entered into by federal agencies and their contractors related to nondiscrimination and affirmative action obligations. *See* 38 U.S.C. § 4212(a); 41 CFR §§ 60-300.5, 60-300.40.

This MOU, like other measures undertaken by OFCCP to educate and support contractor compliance regarding their contractual nondiscrimination and affirmative action obligations, generally promotes economy and efficiency in federal procurement.

IV. **Provisions**

OFCCP is a civil rights agency within DOL that protects the rights of workers by ensuring that contractors comply with their legal obligations to provide equal employment opportunity, including prohibitions on discrimination on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. In addition, contractors are prohibited from discharging or otherwise discriminating against applicants or employees who inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations.

DE is a nonprofit employer association that provides services to contractors to assist them in meeting their OFCCP obligations, including specifically the mandatory job listing requirement under VEVRAA. Because of its relationship with NASWA, DE is well positioned to address protected veteran recruitment compliance.

NASWA is a nonprofit national trade association representing the state workforce agencies in all 50 states, the District of Columbia, and U.S. territories, including Puerto Rico. State workforce agencies deliver training, employment, career, and business services, in addition to administering the state-level unemployment insurance, veteran reemployment, and labor market information programs within the United States. NASWA provides policy expertise, shares promising state practices, and promotes state innovation and leadership in workforce development.

DE and NASWA have entered into a partnership and have developed the National Labor Exchange ("NLx"), the intention of which is to allow DE member companies to list available jobs in the manner and format the ESDSs around the country permit.² See 41 CFR § 60-300.5(a)(2).

OFCCP's Commitments

Pursuant to the MOU, OFCCP makes the below commitments.

- a. OFCCP will create the training materials identified herein, and will share such training materials with DE and NASWA prior to finalizing and publishing them.
- b. Prior to sharing the training materials, OFCCP will provide a nondisclosure agreement (NDA) to DE and NASWA prohibiting the disclosure or dissemination of any or all parts of the training materials to any other entities prior to their final publication by OFCCP.
- c. OFCCP will consider, but is not bound to accept, any feedback from DE and/or NASWA on these training materials.
- d. OFCCP's national office leadership agrees to meet, to the extent feasible, once annually with DE and NASWA, at DE's annual member meeting and at a NASWA meeting of its board of directors respectively.

DE's and NASWA's Commitments

Pursuant to the MOU, DE and NASWA make the below commitments.

- a. DE and NASWA agree to enter into an NDA with OFCCP prior to receiving any draft OFCCP training materials.
- b. DE and NASWA will provide any feedback on the OFCCP training materials within a timeframe mutually agreed to by the parties. Neither DE nor NASWA, however, is required to provide any feedback under this arrangement.

² This statement does not connote a determination that any contractors using NLx are compliant with their obligations under 38 U.S.C. § 4212(a)(2) and 41 CFR § 60-300.5(a)(2). Such a determination can be made by OFCCP only in the context of a compliance evaluation or investigation authorized under VEVRAA's implementing regulations.

V. **Effect of Agreement**

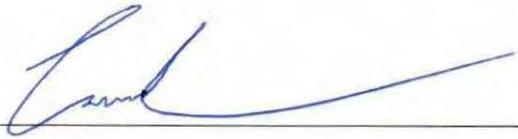
- i. Nothing in this MOU limits OFCCP's interpretation or enforcement of its laws and regulations.
- ii. This MOU does not authorize the expenditure or reimbursement of any funds. Nothing in this MOU obligates OFCCP to expend appropriations or enter into any contract or other obligation not explicitly referenced in this agreement.
- iii. This agreement will be performed in full compliance with all applicable laws, including the Privacy Act of 1974, the Freedom of Information Act, and the Federal Records Act.
- iv. This MOU does not intend to create an advisory committee under the Federal Advisory Committee Act (FACA). This MOU must be interpreted and implemented in a manner consistent with this intent.
- v. By entering into this MOU, the parties do not imply an endorsement or promotion by any party of the policies, priorities, or services of the others.
- vi. Nothing in this MOU shall be interpreted as limiting, superseding, or otherwise affecting OFCCP's normal operations and functions.
- vii. This MOU does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- viii. This MOU contains all of the terms and conditions agreed upon by the parties. None of its terms or conditions, or other understandings, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or be legally binding upon the parties. This MOU is not intended to confer any right upon any private person or third party.

VI. **Resolution of Disagreements**

Any disputes arising under this MOU will be resolved informally by discussions between the signatories to this agreement or other officials designated by each party.

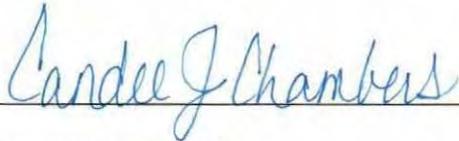
VII. **Period of Agreement and Modifications**

The provisions of this agreement are effective on the date of signature, and the parties can modify the MOU only by mutual consent. This MOU is effective for a three-year period unless extended by mutual agreement, in writing, by the parties. Any party can unilaterally terminate this MOU by providing 30-day written notice to the other parties.



Craig E. Leen
Director
Office of Federal Contract Compliance Programs

Date Signed: 2/13/2020



Candee J. Chambers
Executive Director
DirectEmployers Association

Date Signed: 2/13/2020



Scott B. Sanders
Executive Director
National Association of State Workforce Agencies

Date Signed: 2/13/2020