

**DEPARTMENT OF LABOR****Veterans' Employment and Training Service**

RIN 1293-AA07

**Annual Report From Federal Contractors****AGENCY:** Veterans' Employment and Training Service, Department of Labor.**ACTION:** Notice of guidance.

**SUMMARY:** The Veterans' Employment and Training Service (VETS) is providing guidance on methodologies for calculating the maximum and minimum number of employees for the Federal Contractor Veterans' Employment Report VETS-100.

**EFFECTIVE DATE:** This guidance is effective February 14, 2003.

**FOR FURTHER INFORMATION CONTACT:** Norman Lance, Chief, Investigation and Compliance Division, VETS, at (202) 693-4731 or by e-mail at [Lance-Norman@dol.gov](mailto:Lance-Norman@dol.gov). Individuals with hearing impairments may call (800) 670-7008 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

**Authority:** 38 U.S.C. 4212(d).

**Background:** The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (VEVRAA) contains affirmative action and reporting requirements for Federal contractors and subcontractors regarding several classes of protected veterans. One VEVRAA requirement is that covered Federal contractors and subcontractors file an annual Federal Contractor Veterans' Employment Report VETS-100 (VETS-100 Report). Prior to the enactment of the Veterans Employment Opportunities Act of 1998 (VEOA), the VETS-100 Report required contractors to report, for each hiring location, the number of protected veterans by job category, and number of new hires, including protected veterans hired during the reporting period covered by the report. VEOA amended the VEVRAA's reporting requirements by adding the requirement that the maximum number and minimum number of persons employed during the reporting period be included in the VETS-100 Report.

VETS published a Notice of Proposed Rulemaking (65 FR 59684, October 5, 2000) to implement the provisions of VEOA, including the requirement for reporting the maximum and minimum number of employees. The Notice of Proposed Rulemaking did not contain guidance on how covered contractors were to determine the maximum and minimum number of employees. A

commenter asserted that the proposed rule was unclear about how the maximum and minimum number of employees had to be determined, and asked for clarification. To respond to the concerns of the commenter, VETS added clarifying language to the final rule (66 FR 51998, October 11, 2001) explaining how the maximum and minimum number of employees had to be determined.

After publication of the final rule, it was brought to the attention of VETS that the revised language might have inadvertently increased the record keeping burden on some contractors. To permit contractors flexibility in how they determine the maximum and minimum number of employees, VETS published an Interim Final Rule (66 FR 65452, December 19, 2001) that withdrew the language specifying how contractors were to determine the maximum and minimum number of employees. The basic statutory requirement to report the maximum and minimum number of employees remained.

In the preamble to the interim final rule, VETS requested comments about the methods covered contractors and subcontractors proposed to use to calculate the maximum and minimum number of employees. VETS intended to consider these comments in the development of guidance or regulations about the issue. VETS was concerned that the request for comments solely within the preamble to the interim final rule might be overlooked. Consequently, VETS published a Notice on March 8, 2002 (67 FR 10804) reiterating the request for comments about how to determine the maximum and minimum number of employees.

**Development of Guidance:** VETS received four comments: two from human resource consultants, one from an association representing human resource professionals, and one from an association that represents employers. Commenters described the practical difficulties with creating a "one size fits all" procedure for reporting the maximum and minimum number of employees. For example, some contractors utilize payroll records to track the number of employees while others use headcounts. Some contractors maintain records by organizational unit while others maintain records by physical location. Some contractors count everyone on payroll as "active employees" while others count as employees only those actually paid in a particular period, and do not count employees on temporary leaves of absence or on other unpaid leave status. Two commenters

recommended methodologies for computing the maximum and minimum number of employees. Additionally, one commenter requested that VETS eliminate the maximum and minimum number of employees reporting requirement. The final commenter asked how to determine the maximum and minimum number when an employer exercises the option to consolidate hiring locations by state.

VETS is unable to eliminate the reporting requirement for the maximum and minimum number of employees because this reporting requirement is mandated by VEOA. As discussed below, contractors determining the maximum and minimum number of employees when exercising the option to consolidate hiring locations by state may calculate their maximum and minimum number of employees by any reasonable method of computation. We appreciate receiving the thoughtful comments. We have considered all concerns and recommendations made by the commenters in developing VETS policy.

**Guidance:** VETS understands that contractors and subcontractors have developed many different methods to count the maximum and minimum number of employees in their workforces during the VETS-100 reporting period. Consequently, VETS has decided to permit contractors to utilize any reasonable method for contractors to compute the maximum and minimum number of employees in their workforces. Consideration of whether a procedure is reasonable will include how the employer normally maintains records about its employees and whether the employer has been consistent in its methodology for counting employees across reporting cycles.

The following are examples of methodologies identified in the public comments that VETS determined would be reasonable approaches for computing the maximum and minimum number of employees for the VETS-100 Report. These examples are provided as illustrations only and other reasonable methods are considered acceptable. Further, the examples assume that they are based on the current record keeping practice of the employer and that the employer consistently uses the same method from year to year.

**Methodology Based on Organizational Structure**

\* The number of active employees are identified each month by job categories within an establishment and then totaled. At the end of the reporting period, the largest number recorded is

the maximum number of employees and the smallest number recorded is the minimum number of employees for each location.

#### Methodologies Based on Payroll Systems

\* The payroll system identifies the number of active employees for each day for each location and saves that information for the whole year. At the end of the reporting period, the largest number of active employees recorded is the maximum number of employees and the smallest number of active employees recorded is the minimum number of employees.

\* Payroll system data is collected on a quarterly basis about the number of employees at each establishment who either were paid wages or benefits, or were eligible to be paid wages or benefits, that quarter. The number of employees in the quarter with the largest number of employees is the maximum number and the number of employees in the quarter with the smallest number of employees is the minimum number.

\* Payroll information is collected on a monthly basis about the number of employees at each establishment who either were paid wages or benefits, or were eligible to be paid wages or benefits, that month. The number of employees in the month with the largest number of such employees is the maximum number and the number of such employees in the month with the smallest number of employees is the minimum number of employees.

\* A single payroll system for all employees in a single establishment is utilized. Payroll records for each pay period are maintained. The number of employees in the payroll period with the largest number of employees would be the maximum number of employees and the number of employees in the payroll period with the fewest number of employees would be the minimum number of employees for the reporting period.

#### Methodology Based on Company Headcount

\* Many employers maintain daily establishment headcount records for financial planning and budgeting purposes. The number of employees on the day with the highest headcount would be the maximum number of employees and the number of employees on the day with the least number of employees would be the minimum number.

The above methodologies are provided as guidance only and any reasonable method of computation of

the maximum and minimum number of employees is considered acceptable.

Signed at Washington, DC, this 10th day of February, 2003.

Frederico Juarbe Jr.,

*Assistant Secretary of Labor for Veterans' Employment and Training Service.*

[FR Doc. 03-3671 Filed 2-13-03; 8:45 am]

BILLING CODE 4510-79-P

### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

#### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before March 31, 2003. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

**ADDRESSES:** To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740-6001. Requests also may be transmitted by

FAX to 301-837-3698 or by e-mail to [records.mgt@nara.gov](mailto:records.mgt@nara.gov). Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-3120. E-mail: [records.mgt@nara.gov](mailto:records.mgt@nara.gov).

**SUPPLEMENTARY INFORMATION:** Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the government and of private persons directly affected by the government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full