

CHAIR, LABOR RELATIONS PRACTICE GROUP
Cara Crotty, Columbia, SC
Angelique Lyons, Tampa, FL

EDITOR IN CHIEF
Robin Shea, Winston-Salem, NC

MARKETING DIRECTOR
Victoria Whitaker, Atlanta, GA

JOB BANK TO SHUT DOWN, AND NO JOB-LISTING RULE IN SIGHT

By: Cara Y. Crotty
Columbia, SC

June 26, 2007

As most of our federal contractor readers know, America's Job Bank will cease operations on July 1, 2007. The Office of Federal Contract Compliance Programs had hoped to issue a Final Rule regarding regulatory changes to the mandatory job listing requirement before July 1.

However, the OFCCP announced yesterday that it would *not* be issuing a Final Rule before the July 1 closing.

Federal contractors are required to list all job openings with the appropriate local employment service office. For government contracts entered before December 1, 2003, this requirement could be met by posting with the Job Bank. The Jobs for Veterans Act, which applies to government contracts entered on or after December 1, 2003, eliminated the option of using the Job Bank as the sole method of listing jobs. The OFCCP published a proposed rule in January 2006, which allowed contractors to list employment openings with an employment service delivery system as well as with other service providers, such as the Job Bank or a national electronic job bank to be established by the Department of Labor.

With the closure of the Job Bank and no final regulations in place, companies with government contracts entered into after December 1, 2003 will have to list job openings with the local employment service office.

The [OFCCP website](#) indicates that the Agency will provide somewhat of a "safe harbor" for contractors who make good-faith efforts to recruit and hire covered veterans:

We appreciate that transitioning to a new job listing mechanism may cause difficulties for contractors posting jobs, veterans receiving priority referrals to those jobs from state agencies, and state agencies responsible for providing services to veterans. Accordingly, until further guidance is provided by OFCCP, **the agency, as a matter of enforcement discretion, will not cite a contractor for non-compliance solely because it has failed to list all of its employment openings with the appropriate employment service delivery system or the appropriate local employment service office, provided that it**

- Atlanta
-
- Asheville
-
- Austin
-
- Birmingham
-
- Columbia
-
- Fairfax
-
- Jacksonville
-
- Kansas City
-
- Lakeland
-
- Macon
-
- Nashville
-
- Tampa
-
- Winston-Salem

June 26, 2007

continues to make good faith efforts to recruit and employ qualified covered veterans. In order to ensure the continuation of both an effective job referral system for veterans and the recruitment of qualified veterans by Federal contractors, the agency will provide guidance as soon as possible.

(Emphasis added.)

To demonstrate good-faith efforts, the OFCCP recommends such actions as recruiting covered student veterans at educational institutions and establishing a relationship with the Local Veterans' Employment Representative. For further suggestions, go to the link above. A list of state job banks is also provided.

It should be noted that the OFCCP has not specified a time period for this interim enforcement position. For example, the agency does not state that contractors will not be cited for failure to list jobs before July 1. Accordingly, Constangy recommends that contractors continue to make every effort to list all job openings (except for top management or positions of three days or less) with the local employment service.

Constangy will continue to monitor the OFCCP's progress in addressing the demise of the Job Bank and alternative listing arrangements. If you have any questions, please contact a member of Constangy's Affirmative Action Practice Group or the Constangy attorney of your choice.

This is a publication of Constangy, Brooks & Smith, LLC. The information contained in this newsletter is not intended to be, nor does it constitute, legal advice. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience. No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.