

One Minute Memo™



Imminent Government Guidance Precedes Closure of America's Job Bank

Seyfarth Shaw has recently learned that the OFCCP is extremely close to disclosing its final regulations implementing the Jobs for Veterans Act (JVA). It is expected that these final rules will be published before the June 30, 2007 shutdown of America's Job Bank (AJB) and will include the agency's formal policy position regarding the JVA job posting obligation.

Since the U.S. Department of Labor announced the imminent shutdown of the AJB, it has not provided much guidance to federal contractors about replacement solutions. This anticipated announcement by the Agency is extremely important because it indicates progress toward a remedy to the situation. For the past 18 months, Federal contractors have been faced with the challenge of evaluating alternatives that may satisfy the JVA posting obligation while keeping associated costs at a minimum. Several third parties have begun to market their sites as proposed alternative solutions and to date there is no evidence that the Agency has endorsed any specific private job board or portal as a replacement. We anticipate that the final rule may have built in flexibility as to how contractors will be able to meet their obligation and will refer generically to third party alternatives. Reliability will most likely be a major factor for these third party sites as they look forward to helping contractors continue to fulfill the posting requirement.

The Agency has also announced that as of the June 30 drop dead date, "any AJB materials" including resumes, cover letters, and other record information stored with the AJB will cease to exist. The absence of this information will create additional challenges for Federal contractors who may need to prove their use of the AJB to satisfy the JVA posting requirement. Federal contractors should consider obtaining this type of records information from the AJB before it is no longer available. This is increasingly significant for those contractors who have received notice letters from the OFCCP as these records may be especially valuable in the event of an audit. In this circumstance, a contractor may want to contemplate obtaining more than one year's worth of proof.

In the remaining days of the AJB's existence, the agency has constructed a "splash" page that can be accessed through the AJB website. The page provides users with links to state job banks, private Internet job boards and portals. No matter how helpful this may appear, it does not provide a one-stop solution for replacing the AJB. The page is currently up and running and will remain so for an unspecified period of time after the AJB site is permanently shut down.

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