

U.S. Department of Labor
Office of Inspector General
Office of Audit

Audit of
**Office of Federal Contract
Compliance Programs**

Enforcement of Veterans' Employment Rights
Audit Period: July 1, 1999 through June 30, 2001

AUDIT REPORT NO. 05-02-004-04-410
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ACRONYMS/ABBREVIATIONS

AAP	Affirmative Action Program
ADA	Americans with Disabilities Act
AO	Area Office
CFR	Code of Federal Regulations
EEOC	Equal Employment Opportunity Commission
FCCM	Federal Contract Compliance Manual
FO	Field Office
OFCCP	Office of Federal Contract Compliance Programs
OIG	Office of Inspector General
USC	United States Code
VEVRAA	Vietnam Era Veterans' Readjustment Assistance Act

EXECUTIVE SUMMARY

The Office of Inspector General conducted an audit of the Office of Federal Contract Compliance Programs (OFCCP) and its enforcement of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA). This audit was initiated because of a congressional inquiry. Our objective was to determine whether OFCCP was fulfilling its enforcement responsibilities regarding veterans' complaints. We also reviewed case files to ensure that OFCCP checked employers' compliance with VEVRAA.

During the audit, we reviewed 85 complaint investigations and 34 compliance evaluation cases. We also mailed 77 surveys to complainants and evaluated 36 survey responses. Based on the data reviewed, we concluded that OFCCP has done an adequate job, overall, investigating veterans' complaints and evaluating compliance activities of employers that have contracts with the Federal Government.

Our audit also identified the following areas in OFCCP's VEVRAA enforcement program that can be improved:

- **Timeliness of Investigations and Feedback to Complainants**

We found that it took OFCCP an average of 316 days to provide complainants with the results of their complaints. We also found that OFCCP did not always contact complainants to discuss its findings prior to the conclusion of its investigation, in accordance with its Customer Service Plan.

- **Outreach to the Veterans Community**

Our analysis of the complaints and the information provided in response to our survey indicates that veterans do not have a clear understanding of what is covered under VEVRAA. As a result, veterans often file complaints seeking redress for activities not covered by VEVRAA and are dissatisfied when OFCCP does not rule in their favor.

We were informed that there were several variables that hindered timely completion of the complaint investigations, including resources, workloads, establishing jurisdiction and scheduling appropriate interviews. We were also informed that OFCCP discusses its findings with complainants but the contacts are not always documented. In addition, we found that VEVRAA requirements were not clearly understood by many veterans.

Recommendations

To improve customer satisfaction within the veterans community, we recommend that the Assistant Secretary for the Employment Standards Administration ensure that OFCCP:

- develops methods to reduce the process time it takes to complete investigations under VEVRAA;
- affords each complainant an opportunity to discuss the findings in his/her case prior to the conclusion of the investigation;
- maintains adequate documentation regarding discussions with complainants regarding the results of the investigation; and
- expands outreach efforts to better educate veterans regarding their rights under VEVRAA.

Agency Response

ESA concurred with our recommendations and agreed to implement them. ESA's response has been incorporated into appropriate sections of the report, along with our comments. The response is also included in its entirety as Appendix III of the report.

BACKGROUND/PRINCIPAL CRITERIA

The Office of Federal Contract Compliance Programs (OFCCP) is part of the U.S. Department of Labor's Employment Standards Administration. It has a national network of six regional offices, each with district and area offices in major metropolitan areas. OFCCP's responsibility is to enforce the nation's constitutional mandate of equal protection under the law pertaining to Federal Government contractors. The enforcement of affirmative action and equal opportunity policies on behalf of minorities, women, persons with disabilities, and covered veterans is the primary mission of OFCCP.

OFCCP administers and enforces the following equal employment opportunity laws pertaining to Federal Government contractors:

Executive Order 11246, as amended, prohibits discrimination in employment on the basis of race, color, gender, religion, and national origin, and requires Federal contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of employment.

Section 503 of The Rehabilitation Act of 1973, as amended, prohibits discrimination in employment on the basis of disability and requires Federal contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities.

Section 4212 of The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, prohibits employment discrimination and requires Federal contractors to take affirmative action to employ and advance in employment qualified covered veterans.

OFCCP also shares enforcement authority under Title I of the Americans with Disabilities Act of 1990 and the Immigration Reform and Control Act of 1986. The Immigration Reform and Control Act requires employers to maintain certain records pertaining to the citizenship status of new employees. These records are examined during the course of compliance reviews and complaint investigations. Results are reported to the Immigration and Naturalization Service. The Americans with Disabilities Act (ADA) establishes a clear and comprehensive prohibition of discrimination on the basis of disability.

Title 38 United States Code (U.S.C.), Section 4212 prohibits discrimination and requires affirmative action in all personnel practices for special disabled veterans and Vietnam Era Veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. It applies to all firms that have a nonexempt Government contract or subcontract of \$25,000 or more. Title 38 U.S.C. 4212 is codified in Title 41 Code of Federal Regulations (CFR) Chapter 60, Part 60-250.

OFCCP monitors compliance with veterans' equal opportunity and affirmative action requirements in accordance with 41 CFR Chapter 60, Part 60-250. Under this requirement, a compliance officer examines the contractor's affirmative action program and investigates

virtually all aspects of employment. OFCCP also investigates complaints filed by veterans alleging discrimination on the basis of their veteran status.

When complaint investigations are completed, a notice of results of investigation is sent to the complainant and the contractor. If no violations are found, a request for reconsideration can be made within 30 days. When violations are found in either a complaint investigation or compliance evaluation, OFCCP will attempt to negotiate a conciliation agreement with the employer. If OFCCP finds a violation during its compliance evaluation or complaint investigation and the violation has not been corrected in accordance with the conciliation agreement, the case may be referred to the Solicitor of Labor with a recommendation for enforcement proceedings.

The criteria used to plan and perform the audit and evaluate audit results include:

- Title 38 U.S.C. 4212 – Vietnam Era Veterans’ Readjustment Assistance Act;
- Title 41 CFR Part 60-250 – Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Vietnam Era Veterans; and
- Federal Contract Compliance Manual (FCCM).

OBJECTIVE

Our audit objective was to evaluate the adequacy and effectiveness of OFCCP’s enforcement of veterans’ employment rights. This audit was initiated because of a congressional inquiry. Specifically, we focused primarily on the congressional concern whether OFCCP was fulfilling its enforcement responsibilities regarding veterans’ complaints. We also reviewed case files to ensure that OFCCP checked employers’ compliance with VEVRAA.

SCOPE AND METHODOLOGY

We performed an audit of OFCCP’s investigations, evaluations and enforcement actions under VEVRAA. Our audit period was July 1, 1999 through June 30, 2001.

OFCCP’s activities under VEVRAA during our audit period and our audit sample were as follows:

Investigations & Evaluations	OFCCP VEVRAA Activities *	Audited Sample	Percent Sampled
Closed Complaints:			
• Closed by Regional Offices (lack of jurisdiction)	182	20	11%
• Closed after being Investigated by District/Area Offices	442	82	19%
Open Complaints	74	3	4%
Total Complaints at District/Area Offices	516	85	16%
Closed Evaluations	1,881	34	2%
Open Evaluations	31	0	0%
Totals	2,610	139	5%

* Data provided by OFCCP and not validated by OIG

We requested data from OFCCP covering the VEVRAA activities during the audit period. Using the data, we attempted to identify the number of complaints filed and the number of complaint investigations conducted. We also performed various analyses on the database to detect duplicate complaints, multiple complaints and any unusual trends.

We found that the information provided did not clearly identify the district/area office that conducted the investigations. Although we were informed that the district/area office could be derived from the case number for each complaint investigation, we found that the case number only identified the region to which the complaint was assigned. Therefore, we sorted the closed complaint investigations by zip codes in order to identify which district/area office most likely conducted the investigation.

We selected 11 of OFCCP’s 53 district/area offices for review. The specific offices selected for review and the respective sample sizes are presented as follows:

District/Area Offices	Reason Selected	Number of Cases Reviewed	
		Complaint Investigations	Compliance Evaluations
Boston District Office	1	9	1
Washington District Office	1	11	2
Richmond District Office	1	10	3
Birmingham District Office	1	9	5
Orlando District Office	1	8	7
Detroit District Office	1	10	2
Los Angeles District Office	1	13	3
Santa Ana Area Office	2	3	0
San Diego District Office	2	1	4
San Jose District Office*	3	4	3
Seattle District Office	1	7	4
Total		85	34

* One file had to be sent to the Regional Office from the Oakland District Office

- 1 – Large Number of Complaint Investigations
- 2 – Proximity to Larger District Office
- 3 – Class Action

We reviewed all closed complaint investigation cases and judgmentally sampled open complaint investigations and closed compliance evaluation cases at each of the 11 district/area offices.

We also selected the Pacific and Midwest Regions to evaluate the complaint intake process and regional oversight. The Pacific Region was selected because of the five district/area offices included in our sample. The Midwest Region was selected due to the proximity of the audit office. We judgmentally selected 10 complaints in each region (total of 20) that were closed without being investigated (due to a lack of jurisdiction). We also sent survey questionnaires to the 77 veterans that submitted the 85 complaints selected for review.

We interviewed key OFCCP staff, gained an understanding of management controls and examined case files of complaint investigations and compliance evaluations done by OFCCP. We did not, however, visit any government contractor’s location to examine their records or attest to the extent of their implementation of affirmative action programs under VEVRAA. Instead, we evaluated the effectiveness of OFCCP’s procedures for enforcing VEVRAA through documentation maintained in its case files.

Our audit was performed in accordance with generally accepted auditing standards and the Government Auditing Standards issued by the Comptroller General of the United States.

FINDINGS AND RECOMMENDATIONS

We audited the adequacy and effectiveness of OFCCP's enforcement of veterans' employment rights by examining a total of 139 complaint investigation and compliance evaluation cases, and evaluating 36 survey responses. Based on the cases we reviewed, we concluded that OFCCP has done an adequate job, overall, investigating veterans' complaints of employers that have contracts with the Federal Government.

However, we noted the following:

- OFCCP needs to be timelier when conducting the investigations and to give better feedback to complainants prior to completing its investigations; and
- OFCCP needs to provide more educational outreach to the veteran community.

1. Need for More Timely Investigations and Improved Feedback to Complainants

Our audit revealed that OFCCP was not completing its investigations timely. Furthermore, we discovered that OFCCP needs to provide better feedback to complainants prior to completing its investigations.

A. OFCCP Should Take Steps to Increase the Timeliness of Its Investigations

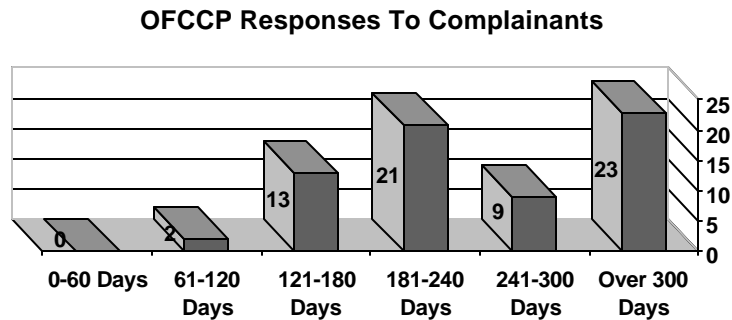
We found that for 68 closed complaint investigations,¹ it took OFCCP over a year to respond to many of the veterans' complaints. OFCCP procedures for handling complaints involve intake performed by the regions and investigations conducted by the district/area offices. The regions determine if OFCCP has jurisdiction for the complaints prior to sending the complaints to the district/area offices for investigation. Complaints averaged 316 days from the time they are filed until the complainants received the results. In addition, 58 percent (21 of 36) of the veterans who responded to our survey indicated that they believed their investigations were not handled on a timely basis.

Title 38 U.S.C. 4212, states in part:

If any veteran . . . believes any contractor . . . has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint. . . .

¹ Only 68 of the 85 investigated cases were analyzed because we excluded 3 cases that were open, 12 that were withdrawn by the complainants or resolved internally, and 2 that were administratively closed.

The following chart outlines the time it took complainants to receive responses:



OFCCP's regional offices have complaint intake responsibility.² Each regional office has the flexibility to establish specific procedures, although they generally follow the same process. Our audit showed that the intake process time ranged from 5 to 639 days before the complaints were forwarded to the district/area offices for investigation.

During the initial processing stage, complaints are date stamped and given to the responsible individual. The region determines timeliness, program jurisdiction, and if contract coverage exists over the respondent. When evaluating timeliness, a determination is made whether the date the complaint is received exceeds 300 days from the last date of discrimination. If so, a letter is sent to the complainant closing out the complaint. The letter gives the complainant information on appeal rights to the National Office (filing time can be extended if the complainant can show good cause for not meeting the filing requirement). Complaints covered under VEVRAA are reviewed for a signed Form CC-4 (Complaint of Discrimination in Employment Under Federal Government Contracts), a DD-214 (Armed Forces of the United States Report of Transfer or Discharge) and a nexus between the discrimination alleged and the veteran status. Contract coverage is then determined.

If the complaint is missing information or if additional information is needed, a letter is sent to the complainant with the specific request. If a response is not received within 2 weeks, a followup letter is sent to the complainant. If the complainant does not respond within 60 days from the date of the request, the complaint is closed. The complainant is then sent a letter notifying him/her of the complaint closure.

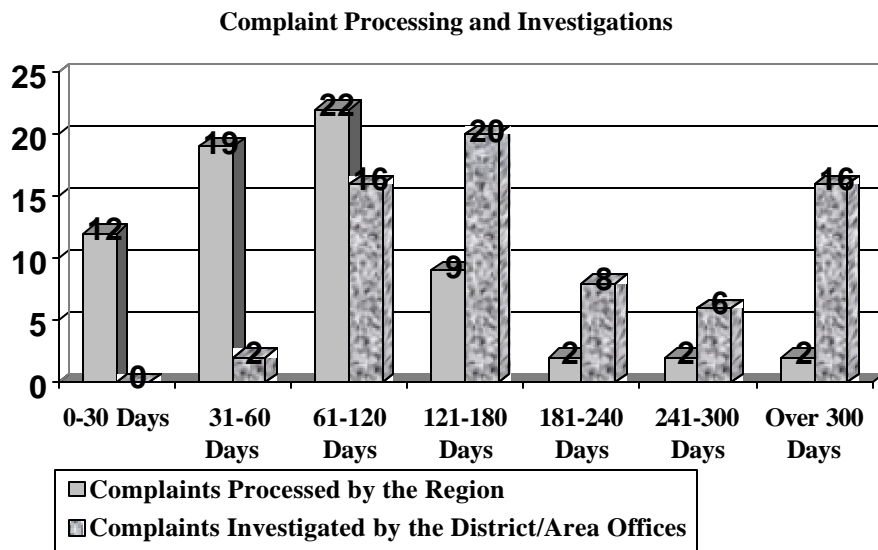
If contract coverage cannot be established from resources available, a letter is sent to the contractor. If a response is not received within 2 weeks, a followup letter is sent to the contractor.

After the OFCCP regional office determines that a complaint meets the timeliness requirements, program jurisdiction, and contract coverage, a file is sent to the district/area office for investigation.

² The regions process complaints for Executive Order 11246, Section 503 of The Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act of 1990, the Immigration Reform and Control Act of 1986, and 38 U.S.C. Section 4212.

District/area offices took an average of 223 days to complete the investigations. District/area offices are responsible for conducting thorough and timely investigations. As part of their initial preparation, district/area offices send letters to complainants and contractors, and develop investigative plans that outline major actions to be taken. Attempts are made to schedule an initial interview with the complainant and set up an onsite visit (when possible) with the contractor. During the investigative process, district/area offices examine evidence furnished by the complainant and the contractor, and interview appropriate witnesses. Upon completion of the investigation, the facts gathered are analyzed and an investigative report is written. Once a conclusion is reached, the district/area office sends the complainant and the contractor a Notice of Results of Investigation.

The following graph depicts the elapsed time complaints were at the regions and the district/area offices.



OFCCP has set forth guidelines in its compliance manual for the district/area offices to complete investigations.

Federal Contract Compliance Manual, Chapter 6-D-03, states:

The AO/FO must complete the investigation within 60 days after receiving the complaint from the RO, unless an extension of this period is granted by the Assistant Regional Administrator (ARA). . . .

Although 74 percent of the cases had documented approval in the case files, only two investigations were completed within the 60-day time frame established in OFCCP's compliance manual. Regional and district/area office officials explained that it is difficult to establish jurisdiction and complete investigations timely because of impediments, including resources, workload, and difficulties reaching the complainants to gather additional information or

scheduling interviews. The problem is compounded by untimely responses from employers and the numerous witnesses that have to be interviewed. Nevertheless, the length of time between receiving the complaints and responding to complainants needs to be improved.

Recommendation

We recommend that the Assistant Secretary for Employment Standards ensure that OFCCP develops methods to reduce the process time it takes to complete investigations and respond to the complainants.

Agency Response

The Acting Assistant Secretary for Employment Standards concurred with the recommendation and stated that OFCCP will develop uniform procedures with a goal of processing complaints within a 180-day timeframe. Furthermore, OFCCP will modify the FCCM to address timeliness for complaint intake and processing.

However, ESA's response noted that six of the 85 cases in our sample involved highly unusual circumstances. ESA stated that the six cases were not representative and believed that a calculation of median time to complete an investigation would have presented a more complete picture of the true distribution of OFCCP's cases.

OIG Conclusion

This recommendation is resolved and open. To close this recommendation, ESA needs to provide documentation regarding the steps taken to improve complete investigations and respond to the complainants.

B. OFCCP Needs to Provide Better Feedback to Complainants Prior to Completing Its Investigations

OFCCP developed a Customer Service Plan that outlines various actions the office will undertake to accomplish its mission and better serve its customers. Among other things, OFCCP's Customer Service Plan provides for discussing its findings with the complainants before concluding an investigation.

OFCCP's Customer Service Plan states in part that:

If you are an applicant or employee filing a discrimination complaint, you can expect OFCCP to:

. . . Provide you an opportunity to discuss OFCCP's findings prior to the conclusion of the investigation and an opportunity to provide additional information to support your complaint. . . .

Our review of closed complaint investigations revealed that most district/area offices were not complying with the Customer Service Plan. We reviewed 68 closed complaint investigations and found that in 50 cases, OFCCP either did not contact or did not document the contact with the complainants regarding discussions on the results of the findings prior to concluding the investigation. This was reinforced by our survey responses from complainants where the majority of veterans indicated they were not contacted by OFCCP prior to concluding its investigation.

Some district/area office officials were unaware of the Customer Service Plan, and others did not place much emphasis on the Plan because it was not a regulatory requirement. Some district/area office officials acknowledged the lack of evidence in the file, but believed that complainants were contacted. One district office official indicated that there is constant interaction with complainants and the complainants are always aware of the status. However, district/area office officials indicated that greater emphasis would be placed on documentation.

In the Customer Service Plan, OFCCP made a commitment to contact complainants to discuss the results of its findings. We believe that the discussion should include witnesses interviewed, evidence used to support or dispute any allegations, and reasons for not interviewing witnesses or discounting certain evidence.

When contact is not made, OFCCP not only fails to fulfill its commitment, but complainants are not afforded the opportunity to discuss the findings or provide additional support on their behalf. The absence of such discussions can often leave complainants with doubts as to whether their complaints were thoroughly investigated. More importantly, when results are not discussed, it increases the likelihood of an appeal resulting in the use of additional OFCCP resources to address the same issues.

Recommendations

We recommend that the Assistant Secretary for Employment Standards ensure that OFCCP:

- implements procedures that ensure each complainant is afforded an opportunity to discuss the findings in his/her case prior to the conclusion of the investigation; and
- ensures that the files contain adequate documentation to support the discussions.

Agency Comments

The Acting Assistant Secretary for Employment Standards concurred with these recommendations and stated that OFCCP will modify its FCCM to address discussing its findings with complainants and maintaining adequate documentation to support the discussions. OFCCP will also address the issue in its annual compliance officers training.

OIG Conclusion

This recommendation is resolved and open. To close this recommendation, ESA needs to provide documentation regarding the steps taken to improve complete investigations and respond to the complainants.

2. Need for More Educational Outreach to the Veteran Community

OFCCP issues posters, flyers and other informational pamphlets that outline the laws the agency enforces including VEVRAA.

For the period July 1, 1999 through June 30, 2001, OFCCP received and investigated 442 complaints under VEVRAA regarding violations of employment rights. Of the 442 complaints filed, OFCCP concluded that 8 cases (1.8 percent) had violations. There were 16 violations found in the 8 cases, which included hiring, job assignment, job benefit, handicap accommodation and retaliation.

In an effort to determine why the number of violations cited by OFCCP was small in proportion to the number of complaints filed, we analyzed veterans' complaints in our sample. We found that, in most cases, a nexus between the complainants' veteran status and the adverse action could not be established by OFCCP. For example, one veteran's complaint stated, "I feel that a managerial selection committee with a bias for advancing females within city government passed me over for this position." OFCCP found no clear evidence that the complainant was not promoted because of his veteran status.

In another example, a veteran filed a complaint when he was not hired after being scheduled for an interview during a job fair. After arriving at the company, the complainant became discontent when there was confusion about when his interview was scheduled. Because the complainant had to wait several hours before he was allowed to interview, he became argumentative and was asked to leave. The complainant alleged he was harassed and denied employment because of his veteran status. OFCCP found that this case lacked sufficient evidence to support a connection between the allegation and the complainant veteran's status.

Additionally, we wanted to determine if some veterans filed multiple complaints because they believed their employment rights were violated based on their veteran status. Therefore, we analyzed the 442 cases to ascertain the number of veterans who filed multiple complaints. We

found that only 7 veterans filed multiple complaints, which included one veteran who filed 63 complaints.

Some Veterans Do Not Have a Clear Understanding of What is Covered Under VEVRAA.

We determined that some complainants believe VEVRAA offers preferential or special treatment in promotion and other employment opportunities. Our review of the 85 veteran complaints showed that 30 veterans filed complaints because they believed that under VEVRAA, their veteran status entitled them to special consideration in hiring, promotion, and lay-offs.

Title 38 U.S.C. 4212 (VEVRAA), states in part that:

. . . party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. . . . (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its employment openings
. . . (2) each such local office shall give such veterans priority in referral to such employment openings. . . .

Title 41 CFR Part 60-250 sets forth standards for compliance with the VEVRAA. Subpart B addresses discrimination and Subpart C addresses the Affirmative Action Program.

Subpart C states:

§60-250.40(a) . . . every Government contractor that has 50 or more employees and a contract of \$50,000 or more. (b) . . . prepare and maintain an affirmative action program at each establishment. . . . shall set forth the contractor's policies and procedures in accordance. . . .

§60-250.41. The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. . . .

§60-250.42. The contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a special disabled veteran who may be covered by the Act and wishes to benefit under the affirmative action program. . . .

§60-250.43. . . . contractors shall not discriminate . . . and shall take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era at all levels of employment, including the executive level. . . .

§60-250.44. Acceptable affirmative action programs shall contain . . .

- (a) Policy statement.
 . . . the policy should state, among other things, that the contractor will: recruit, hire, train and promote persons in all job titles, and ensure that all other personnel actions are administered, without regard to special disabled veteran or Vietnam era veteran status; and ensure that all employment decisions are based only on valid job requirements. . . .
- (b) Review of personnel processes.
 . . . contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees who are known special disabled veterans or veterans of the Vietnam era for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available.
- (c) Physical and mental qualifications.
- (d) Reasonable accommodation to physical and mental limitations.
- (e) Harassment.
- (f) External dissemination of policy, outreach and positive recruitment.
- (g) Internal dissemination of policy.
- (h) Audit and reporting system.
- (i) Responsibility for implementation.
- (j) Training.

Many veterans that filed complaints interpreted the wording “employ and advance in employment,” cited in the Act, to be more proactive than what is set forth in the implementing regulations. Other veterans believe that VEVRAA carries the same goals as Federal laws that apply to other protected groups. For example, one Vietnam era veteran stated, “They did not give me preference [sic] as a disabled vet when I requested a transfer to another job. . . .” Another veteran wrote, “While I make no claim of veteran discrimination in the decision to select me for layoff, I do contend that the company took no affirmative action to find another position for me prior to or as a result of the layoff; there were many positions held by non-veterans for which I could have qualified based on education, training and experience.” Yet another veteran wrote, “[Company Name] work was a Federal job and according to the law, Veterans should have top priority.”

The misunderstanding can often lead to false expectations concerning employment rights and contribute to the number of unwarranted complaints filed by veterans. Moreover, when some veterans learned that there was no preference, they became dismayed about the law and the agency responsible for enforcement.

To alleviate some of the misunderstanding, OFCCP should enhance its outreach efforts and undertake measures to advance the awareness of coverage under VEVRAA. Outreach could

include issuing fact sheets that explain in simple details what employers have to do to comply with the Act, and what veterans should expect in terms of employment rights.

We believe that OFCCP should make a concentrated effort to inform veterans of the precise coverage under VEVRAA or veterans will continue to file complaints expecting unrealistic results.

Recommendation

We recommend that the Assistant Secretary for Employment Standards ensure that OFCCP increases its outreach efforts to better educate veterans of their rights under the law by exploring new, innovative approaches utilizing the latest technology and expanding its current efforts to reach veterans groups and state workforce agencies.

Agency Comments

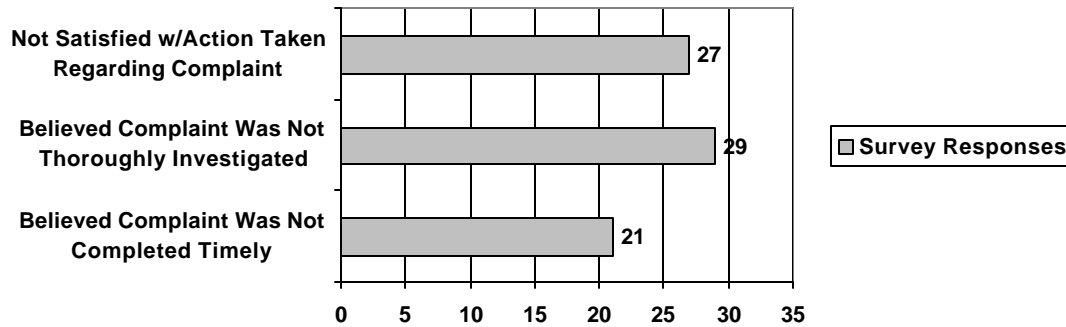
The Acting Assistant Secretary for Employment Standards concurred with this finding and committed to engaging in outreach, education, and compliance assistance to better explain veteran rights to individuals and various veterans' organizations.

CONCLUSION

We sent surveys to those veterans in our sample whose complaints were investigated and whose files we reviewed in an attempt to get the views of veterans on their experience with OFCCP and to evaluate their satisfaction with the agency. We sent 77 survey questionnaires to veterans requesting that they rate their experiences with OFCCP on a scale ranging from 1 (Poor) to 10 (Excellent).

Most responses were generally unfavorable toward OFCCP and many veterans expressed discontent with its investigations. We received 38 responses, of which 36 had responded in a manner that allowed us to tabulate the results. Seventy-two percent of the veterans rated their satisfaction with OFCCP's handling of their complaints as poor (3 or less). Only 16 percent of the veterans gave OFCCP a high satisfaction rating (score of 8 or above). Although we realize the responses received may not be fully representative, we believe that the responses are indicative of veteran dissatisfaction. (See Appendix II.)

The following chart summarizes information obtained from the survey responses:



Responding to our survey, some veterans indicated that they believe OFCCP is pro-business and has a tendency to place more credence on information obtained from the contractors. Still others expressed disenchantment and faulted OFCCP for not considering all relevant evidence, not interviewing all witnesses, and not addressing all the issues in their complaints.

We believe that OFCCP's satisfaction rating with the veterans will significantly improve when OFCCP reduces the complaint process time, contacts the complainants to discuss the findings prior to the conclusion of the investigation, and increases its outreach efforts to better educate the veterans of their rights under the law.

Overall, we believe that OFCCP is doing an adequate job of investigating veterans' complaints within the guidelines set forth in the implementing regulations.

GLOSSARY OF TERMS

Complaint	A written charge filed with OFCCP by an employee, former employee, applicant for employment or by a third party alleging specific violations of 38 U.S.C. §4212.
Compliance	Meeting the requirements and obligations imposed by 38 U.S.C. §4212, and its implementing regulations.
Conciliation Agreement	A binding written agreement between a contractor and OFCCP that details specific contractor commitments to resolve the alleged violations set forth in the agreement.
Special Disabled Veteran	A veteran who: (a) is entitled to compensation (or who, but for the receipt of military retirement pay, would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability that is (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under Section 1506 of the Veterans' Rehabilitation and Education Act Amendments of 1980 to have a serious employment handicap; or (b) was discharged or released from active duty because of a service-connected disability.
Veteran of the Vietnam Era	A person who: (a) served on active duty for more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released there-from with other than a dishonorable discharge; or (b) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1975.

Appendix I: Veterans' Survey Questionnaire

**U.S. Department of Labor
Office of Inspector General/Chicago Regional Audit Office
Audit of OFCCP's Enforcement of Veterans' Employment Rights**

OFCCP records show the following information regarding a complaint filed by you against the below listed contractor. Please complete the questionnaire and return it in the enclosed self-addressed envelope as soon as possible.

1. **Complainant's Name:**
2. **Date of Birth:**
3. **Sex:**
4. **Contractor's Name:**
5. **Date Complaint Filed:**
6. **Violations You Identified as Committed by the Contractor Include:**

PLEASE COMPLETE THE FOLLOWING QUESTIONS

7. **Nationality/Race:**

- White Black/African American Asian
 American Indian or Alaskan Native
 Hispanic or Latino
 Native Hawaiian or Other Pacific Islander
 Other _____

8. **Veteran Status:**

- Special Disabled Veteran Vietnam Era Veteran
 Other protected Veteran (Specify conflict):

Appendix I: Veterans' Survey Questionnaire

9. How did you become aware that the OFCCP is the enforcement entity for the employment rights of veterans employed with federal contractors?

- a. Posted at contractor's facility.
- b. Local Veterans' Employment Representative.
- c. Department of Veterans Affairs.
- d. Local Veterans' Group.
- e. Employment Service Agency.
- f. Other.

10. Did you originally file your complaint with the OFCCP?

- a. Yes
- b. No

If YES, go to number 11.

If NO, what agency did you file your complaint with?

How did your complaint reach OFCCP? (After responding, go to number 14)

11. How did you file your complaint?

- a. Correspondence
- b. Telephone
- c. Form CC-4 (Complaint of Discrimination in Employment Under Federal Government Contracts)

12. Did you encounter difficulties filing your complaint?

- a. Yes
- b. No

If YES, explain:

13. Did you contact OFCCP for any assistance in preparing your complaint?

- a. Yes
- b. No

If YES, how was the quality of its assistance? [*Please give a rating between 1 (Poor) and 10 (Excellent)*]

Appendix I: Veterans' Survey Questionnaire

14. How did OFCCP keep you informed of the progress of your complaint investigation?

- a. Contacted periodically.
- b. Contacted frequently.
- c. Received a letter when the complaint was filed and when the investigation was completed.
- d. Did not have any contact with OFCCP.
- e. Other

15. Did OFCCP contact you to discuss its finding prior to issuing the results of the investigation?

- a. Yes
- b. No

16. How would you rate OFCCP's enforcement procedures in handling your complaint? [Please give a rating between 1 (Poor) and 10 (Excellent)]

17. How satisfied were you with OFCCP handling of your complaint? [Please give a rating between 1 (Poor) and 10 (Excellent)]

18. Do you feel that your complaint was handled in a timely basis?

- a. Yes
- b. No

19. Do you feel that your complaint was thoroughly investigated ?

- a. Yes
- b. No

20. Were you satisfied with the actions that were taken regarding your complaint?

- a. Yes
- b. No

If NO, explain:

21. Do you have any comments and/or recommendations on how OFCCP should improve their enforcement procedures?

Appendix II: Summary of Responses from Veterans' Survey Questionnaires

Note: This chart summarizes the results of 36 veterans that addressed the questions in the survey. Two other veterans replied. One veteran indicated that the survey was inadequate and provided what he thought should be our focus. The other veteran's reply was in the form of a complaint. Percentages are based on the 36 responses.

Questions	Responses	Percentage of Total Responses (Rounded)
3. Sex:		
Male	35	97%
Female	1	3%
7. Nationality/Race:		
White	29	81%
Black	7	19%
8. Veteran Status:		
Vietnam Era Veterans	30	83%
Special Disabled Veterans	5	14%
Other Protected Veterans (Navy Retired)	1	3%
9. How did you become aware that the OFCCP is the enforcement entity for the employment rights of veterans employed with federal contractors?		
Posted at Contractor's Facility	11	31%
Local Veterans' Employment Representative	4	11%
Department of Veterans Affairs	2	6%
Local Veterans' Group	3	8%
Other	16	44%
10. Did you originally file your complaint with the OFCCP?		
Yes	28	78%
No	8	22%

Appendix II: Summary of Responses from Veterans' Survey Questionnaires

Questions	Responses	Percentage of Total Responses (Rounded)
11. How did you file your complaint?		
Correspondence	14	39%
Telephone	1	3%
Form CC-4	21	58%
12. Did you encounter difficulties filing your Complaint?		
Yes	12	33%
No	24	67%
13. Did you contact OFCCP for any assistance in preparing your complaint?		
Yes	12	33%
No	24	67%
If YES, how was the quality of its assistance?		
Rating of -1	1	8%
Rating of 0	2	17%
Rating of 1	2	17%
Rating of 2	1	8%
Rating of 4	1	8%
Rating of 5	2	17%
Rating of 7	1	8%
Rating of 10	2	17%
14. How did OFCCP keep you informed of the progress of your complaint investigation?		
Contacted Periodically	11	31%
Contacted Frequently	4	11%
Received Letter	12	33%
Other	9	25%
15. Did OFCCP contact you to discuss its findings prior to issuing the results of the investigation?		
Yes	9	25%
No	27	75%

Appendix II: Summary of Responses from Veterans' Survey Questionnaires

Questions	Responses	Percentage of Total Responses (Rounded)
16. How would you rate OFCCP's enforcement procedures in handling your complaint?		
Rating of -10	2	6%
Rating of -1	2	6%
Rating of 0	1	3%
Rating of 1	18	50%
Rating of 2	1	3%
Rating of 3	2	6%
Rating of 4	1	3%
Rating of 5	2	6%
Rating of 6	1	3%
Rating of 8	3	8%
Rating of 10	3	8%
17. How satisfied were you with OFCCP's handling of your complaint?		
Rating of -10	2	6%
Rating of -1	1	3%
Rating of 0	1	3%
Rating of 1	18	50%
Rating of 2	2	6%
Rating of 3	2	6%
Rating of 4	1	3%
Rating of 5	2	6%
Rating of 6	1	3%
Rating of 8	2	6%
Rating of 9	1	3%
Rating of 10	3	8%
18 Do you feel that your complaint was handled in a timely manner?		
Yes	15	42%
No	21	58%

Appendix II: Summary of Responses from Veterans' Survey Questionnaires

Questions	Responses	Percentage of Total Responses (Rounded)
19. Do you feel that your complaint was thoroughly investigated?		
Yes	7	19%
No	29	81%
20. Were you satisfied with the actions that were taken regarding your complaint?		
Yes	9	25%
No	27	75%

AGENCY COMMENTS



MAR 27 2002

MEMORANDUM FOR ELLIOT P. LEWIS

Acting Deputy Inspector General
for Audit

A handwritten signature in black ink, appearing to read "D.M. Wilson", written over a horizontal line.

FROM:

DIXON M. WILSON
Acting Assistant Secretary

SUBJECT:

Audit of the Office of Federal Contract Compliance
Programs Enforcement of Veterans' Employment Rights
Draft Audit Report No. 05-02-004-04-410

This memorandum is in response to your March 12, 2002 request for our review and comments on the subject report. The Office of Inspector General (OIG) conducted an audit of the Office of Federal Contract Compliance Programs (OFCCP) and its enforcement of veterans' employment rights for the period of July 1, 1999, through June 30, 2001. The objective of the audit was to determine whether OFCCP was fulfilling its enforcement responsibilities regarding veterans' complaints. The OIG determined that OFCCP overall has done an adequate job investigating veterans' complaints and evaluating compliance activities of employers that have contracts with the Federal Government.

In summary, the OIG has recommended that OFCCP: (1) develop methods to reduce the process time it takes to complete investigations under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA); (2) afford each complainant an opportunity to discuss the findings in his or her case prior to the conclusion of the investigation; (3) maintain adequate documentation regarding discussions with complainants regarding the results of the investigation; and (4) expand outreach efforts to educate veterans more effectively regarding their rights under VEVRAA. ESA has reviewed the report and our response to the four recommendations is attached.

If you have any questions regarding this response, please contact Rose Broadwater at 693-0285 or Michelle Ouellet at 693-1106.

Attachment

Working to Improve the Lives of America's Workers

Employment Standards Administration

Office of Federal Contract Compliance Programs
Enforcement of Veterans' Employment Rights
OIG Audit Period: July 1, 1999 through June 30, 2001
Draft Report No. 05-02-004-04-410

Recommendations:

To improve customer satisfaction within the veterans' community, we recommend that the Assistant Secretary for the Employment Standards Administration ensure that OFCCP:

Recommendation One: Develop methods to reduce the process time it takes to complete investigations under VEVRAA.

Management's Response and Action: OFCCP agrees with this recommendation. However, we note that the sample of 85 cases reviewed by the OIG included six outliers, each of which took over 1,000 days to complete the investigations, significantly longer than the average time required to complete the investigations in the majority of cases comprising the sample. In addition, these outlying complaint investigations involved highly unusual circumstances. For example, four of the complaints (General Mills – 7,131 days; Budd Co. – 1,724 days; Detroit Diesel Corp. – 1,705 days; and Chrysler Corp. – 1,393 days) were filed by the same complainant, a repeat filer. Much of the delay arose from seeking a legal opinion from the Regional Solicitor as to whether investigations were required under those special circumstances. Another very lengthy investigation, Lee vs. L.A. County Fire Department (1,025 days), was delayed due to the difficulty in establishing jurisdiction over this county agency—a question that is still unresolved and is pending in the Regional Solicitor's Office. Because your office calculated the average time to complete an investigation from a sample which included nonrepresentative investigations, it might have been appropriate to include a calculation of the median time to complete an investigation in order to present a more complete picture of the true distribution of all OFCCP cases.

Subsequent to your review, the OFCCP Division of Program Operations (DPO) conducted audits of complaint processing in several regions. Our audits disclosed several areas of concern, including the protracted length of time it took to process complaints. The regional offices have agreed to review their intake procedures and to ensure that complaints are received and assigned for investigation in a more timely manner. In addition, DPO plans to establish a task force of National Office staff and field personnel to develop uniform procedures with the goal of processing complaints within the 180-day timeframe. The Division of Policy Planning and Program Development (Policy) will modify the Federal Contract Compliance Manual (FCCM), as appropriate, to address the timeliness issue as it pertains to complaint intake and processing.

Recommendation Two: Implement procedures that ensure each complainant is afforded an opportunity to discuss the findings in his or her case prior to the conclusion of the investigation.

Management's Response and Action: OFCCP agrees with this recommendation and Policy will modify the FCCM, as appropriate, to address the need to discuss OFCCP's findings with the complainant, to the extent that such information is not prohibited by the Privacy Act. This issue will also be addressed in annual compliance officer (CO) training to ensure COs comply with OFCCP's Customer Service Plan.

Recommendation Three: Ensure that the files contain adequate documentation to support discussions.

Management's Response and Action: OFCCP agrees with this recommendation and Policy will address case file documentation at annual CO training sessions. In addition, to the extent the FCCM requires modification to address this issue adequately, we will revise it.

Recommendation Four: Increase its outreach efforts to better educate veterans of their rights under the law by exploring new innovative approaches utilizing the latest technology and expanding its current efforts to reach veterans groups and state workforce agencies.

Management's Response and Action: OFCCP agrees with this recommendation and Policy commits to engaging in outreach, education, and compliance assistance to enable OFCCP to better explain to various veterans' organizations and individuals their rights under the regulations.