

Justification
Non Substantive Change Request to Publish the Guam Recruitment Standard,
OMB 1205-0484, in the Federal Register

Under the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84), DOL must issue contractor recruitment standards before contractors can hire employees for Guam base realignment construction projects. The U.S. Department of Defense is nearly ready to begin hiring, but the hiring cannot commence until DOL issues its standards, which OMB approved in draft form when approving the request on October 19, 2011.

In response to the Federal Register Notice published September 23, 2011, “Agency Information Collection Activities: Submission for OMB Emergency Review: Comment Request, Guam Military Base Realignment Contractors Recruitment Standard,” DOL received two comments. One comment was received after the deadline, which DOL will address in the upcoming request for a regular extension for this information collection.

Regarding the other comment, in accordance with DOL’s response to Guam Senator Benjamin F.J. Cruz’s recommendation, DOL is submitting a non-substantive change request to implement the change and to make minor clarifying edits to the recruitment standard.

All of the proposed changes are explained in a table below the revised recruitment standard.

Proposed Recruitment Plan

Guam military base realignment contractors must take the following actions to recruit U.S. workers.

1. At least 60 days before the start date of workers under a base realignment contract, contractors must
 - a. Submit a job posting with GDOL at http://dol.guam.gov/index.php?option=com_jobline&Itemid=0&task=add, or by submitting a completed Job Order (Form GES 514) in person at the Guam Employment Service office. The job posting must be posted on the GDOL Job Bank for at least 21 consecutive days;
 - b. Submit a job posting with the state workforce agency’s (SWA) Internet job bank in American Samoa at www.usworks.com/americansamoa/, the Commonwealth of the

Northern Mariana Islands at <https://marianaslabor.net/employer.asp> , and in the following states:

- i. Alaska (www.jobs.state.ak.us);
- ii. California (www.caljobs.ca.gov);
- iii. Hawaii (www.hirenethawaii.com);
- iv. Oregon (www.emp.state.or.us/jobs); and
- v. Washington (<https://fortress.wa.gov/esd/worksource/Employment.aspx>).

The job posting must be posted for at least 21 consecutive days. If for any reason the Internet job bank in American Samoa is not available, the contractor must place an advertisement on two Sundays in a newspaper that 1) is of general circulation in the territory; 2) has a reasonable distribution and is appropriate to the occupation; and 3) is likely to be seen by workers interested in applying for construction employment.

- c. Submit a job posting with an Internet-based job bank that is
 - i. national in scope, including the entire United States, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico;
 - ii. allows job postings for all occupations; and is
 - iii. free of charge for job seekers and their intermediaries in One-Stop Career Centers and the U.S. employment service delivery system nationwide.
- d. Where the occupation or industry is customarily unionized, contact the local union in Guam in writing to seek U.S. workers who are qualified and who will be available for the job opportunity.

The postings are separate and distinct requirements — i.e., a posting under Section 1(b) cannot be used to satisfy the posting requirement under Section 1(c).

2. Each job posting in (1)(a) through (d) must include, at a minimum, the following:
 - a. The contractor's name and appropriate contact information for applicants to inquire about the job opportunity or to send applications and/or résumés directly to the employer;
 - b. The geographic area of employment, with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the services or labor;
 - c. If applicable, a statement that daily transportation to and from the worksite(s) will be provided by the employer;
 - d. A description of the job opportunity with sufficient information to apprise U.S. workers of the services or labor to be performed, including the duties, the minimum education and experience requirements, the work hours and days, and the anticipated start and end dates of the job opportunity;
 - e. If applicable, a statement that on-the-job training will be provided to the worker;
 - f. If applicable, a statement that overtime will be available to the worker and the wage offer for working any overtime hours;
 - g. The wage offer, and the benefits, if any, offered;
 - h. A statement that the position is temporary; and
 - i. The total number of job openings the employer intends to fill.
3. During the 28-day recruitment period, which begins on the earliest date of posting, contractors must interview all qualified and available Guam and U.S. construction workers who have applied for the employment opportunity.

4. After the close of the recruitment period, and no later than 30 days before the start date of workers under a contract, the contractor must provide a report including the following information via e-mail to GDOL at ndaa.recruitment@dol.guam.gov documenting its efforts to recruit U.S. workers from the United States and all U.S. territories:
 - a. A description of all the recruitment approaches used to recruit realignment workers. The description must include identification of the Internet job banks where the postings occurred, the occupation or trade, a description of wages and other terms and conditions of employment, the date of each posting, and the job order or requisition number. If newspaper advertisements were used, the description must also include the dates that these ads appeared in the newspaper;
 - b. A copy of each job posting;
 - c. A detailed description of how each response to the job postings was handled, including:
 - i. the number of job applications received;
 - ii. the name of each applicant;
 - iii. the position applied for;
 - iv. the final employment determination for each applicant or job candidate; and
 - v. for each U.S. job applicant not hired, a description of the specific, lawful, job-related reason for rejecting the applicant for employment, which includes a comparison of the job applicant's skills and experience against the terms listed in the original job posting.

<u>Draft Recruitment Standard Approved by OMB 10-19-11</u>	Revised Wording in Recruitment Standard Shown Above	Basis for Change
Response to Guam Senator Cruz		
2. “The job postings in (1)(a) through (c)”	“Each job posting in (1) (a) through (d)”	The substitution of “(d)” for “(c)” was in response to the public comment from Senator Cruz received on October 18, and has the effect of applying the requirements in Section 1 to communications with labor unions. ETA’s response to this comment, submitted to OMB on October 19 stated that “USDOL will adjust the contractor recruitment standard to indicate that the job posting information should also be shared with labor unions to ensure that construction labor unions obtain the same information available on job openings in Guam Job Bank and on the Internet.” DOL notified OMB that it would take this action, and OMB subsequently approved the package.
Minor, clarifying edits		Except in cases where more explanation is provided, the edits in this category were made to improve the clarity or internal consistency of the document.
1. At least 60 days “prior to”	1. At least 60 days “before”	
1. Contractors “shall”	1. Contractors “must”	
1(b) “Post the job opportunity”	1(b) b. Submit a job posting”	
1(b) “is of general circulation in that state or territory”	1(b) “is of general circulation in the territory”	The provision only applies to American Samoa, which is a territory.
1(b) “that workers likely to apply for construction jobs will have the opportunity to see the job listing”	1(b) “is likely to be seen by individuals interested in construction employment”	
1(b) “job listing”	1(b) “job posting”	
1(c) “Post the job opportunity”	1(c) “List a job posting”	

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2(h) A statement that the position is temporary and the total number of job openings the employer intends to fill.	2(h) A statement that the position is temporary; 2(i) the approximate total number of job openings the employer intends to fill	This change does not alter a contractor's requirements, but merely separates former subsection (h) into two separate subsections.
3. "During the 28-day recruitment period, contractors shall"	3. "During the 28-day recruitment period, which begins on the earliest date of posting, contractors must"	The statement indicating that the recruitment period begins on the earliest date of posting does not change a contractor's duties under the recruitment standard, but was added to clarify when the 28 day period begins.
4. the contractor "shall"	4. the contractor "must"	
4. "its" efforts	4. efforts	
4(a) "the Internet job bank where the posting occurred"	4(a) "the Internet job banks where the postings occurred"	The plural form was used to reflect the fact that posting in more than one job bank was already required.
4(a) "the date of posting"	4(a) "the date of each posting"	
4(c)(ii) "the name of the applicants"	4(c)(ii) "the name of each applicant"	
2(g) The wage offer, or in the event that there are multiple wage offers, the range of applicable wage offers	2(g) The wage offer, and the benefits, if any, offered	DOL requests OMB's permission to make this edit.
4(c)(v) "a description of the specific reason for rejecting the applicant"	4(c)(v) "a description of the specific, lawful, job-related reason for rejecting the applicant"	The phrase "lawful, job-related" was added to conform to other statutory and regulatory language. DOL believes that employers would need to provide a lawful, job-related reason not to hire the U.S. worker. The added language makes that clearer and more explicit.