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April 13, 2009

Memorandum:

TO: Ed Montgomery
Lorenzo Harrison

FROM: Rich Hobbie
Executive Director

SUBJECT: Need for Correct Interpretation of Law and Regulations

The purpose of this memorandum is to request the Office of Federal Contract Compliance (OFCC) of the U.S. Department of Labor (USDOL) to ensure the correct interpretation of federal law and regulation on contractor compliance with federal contractor job listing (FCJL) requirements in all regions, states and localities.

According to 41 CFR 60-300.5(a)(2), "Listing employment openings with the state workforce agency job bank or the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system...."

Unfortunately, some regional OFCC officials have misinterpreted this regulation to listing a job with "the local employment service delivery system where the opening occurs will"... not... "satisfy the requirements to list jobs with the appropriate employment service delivery system." Instead, they have informed employers listing jobs this way they are out of compliance and they must list their jobs with the "state workforce agency job bank."

We believe the above interpretation of the regulation and the law is incorrect. We ask OFCC to immediately correct any misunderstandings its field staff has of this regulation so employers will be able to comply by either "listing employment openings with the state workforce agency job bank or the local employment service delivery system where the opening occurs," as stated in the regulations.

Such a correction is needed urgently as the state workforce agencies and hundreds of employers have been relying on both authorized methods to meet compliance requirements since USDOL defunded America's Job Bank in the summer of 2007.

Thank you for your consideration. Please call me or NASWA Director of the National Labor Exchange Pam Gerassimides on 202.434.8020 if you have questions.