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**DEPARTMENT OF LABOR**

**Veterans' Employment and Training Service**

**20 CFR Part 1011**

**[Docket No. VETS-2017-0001]**

**RIN 1293-AA21**

**HIRE Vets Medallion Program**

**AGENCY:** Veterans' Employment and Training Service (VETS), Labor.

**ACTION:** Final rule.

**SUMMARY:** VETS published a proposed rule implementing the Honoring Investments in Recruiting and Employing (HIRE) American Military Veterans Act of 2017 (HIRE Vets Act or Act). The HIRE Vets Act requires the Department of Labor (DOL or Department) to establish by rule a HIRE Vets Medallion Program (Medallion Program) and annually solicit and accept voluntary information from employers for consideration of employers to receive a HIRE Vets Medallion Award (the award). Under the Program, VETS will review applications and notify recipients of their awards, and announce their names at a time that coincides with Veterans Day. This final rule sets out the criteria for the different categories and levels of HIRE Vets Medallion Awards, the award application process, and the award fees. VETS invited written comments on the proposed rule, and any specific issues related to the proposal, from members of the public.

**DATES:** This rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Randall Smith, Veterans' Employment and Training Service, U.S. Department of Labor, Room S-1325, 200 Constitution Avenue NW, Washington, DC 20210, *email: HIREVETS@dol.gov*, *telephone: (202) 693-4700 or TTY (877) 889-5627* (these are not toll-free numbers).

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**SUPPLEMENTARY INFORMATION:**

*Background*

The HIRE Vets Act was enacted on May 5, 2017, as Division O of the Consolidated Appropriations Act, 2017, Public Law 115-31. The purpose of the Act is to create a voluntary program for recognizing efforts by employers to recruit, employ, and retain veterans through a HIRE Vets Medallion Award. The Act requires the Department to issue regulations establishing the HIRE Vets Medallion Program.

In preparation for drafting a rule to implement the Act, VETS conducted three stakeholder sessions during the week of June 5, 2017. During these stakeholder sessions, VETS obtained input from large, medium, and small employers, veterans service organizations, military service organizations, and other interested parties.

On August 18, 2017, VETS published a notice of proposed rulemaking (NPRM) to implement the HIRE Vets Act (82 FR 39371). VETS invited public comment on the proposed regulations, and included questions about specific issues. The comment period closed on September 18, 2017, and VETS has considered all timely comments received in response to the proposed regulations.

VETS received 18 comments from a wide variety of sources. Commenters included: veterans, employers, a national organization representing service providers, an employer association, and members of the public. While a few of the comments were general comments related to the benefit of the program or to veterans issues, the majority of comments specifically addressed issues contained in VETS' proposed rule.

### **Section-by-Section Summary of the Final Rule and Discussion of Comments**

This preamble summarizes the final rule, section by section, and evaluates and responds to the public comments received. The subparts of the preamble generally follow the subparts of the final rule. Within each subpart of the preamble, VETS addresses those public comments related to regulatory sections within that subpart of the rule. If a proposed regulatory section is not addressed in the discussion below, it is because the public comments submitted in response to the NPRM did not substantively address that specific section and no changes have been made to the regulatory text. Further, VETS has made a number of non-substantive changes to improve the readability and conform the document stylistically that are not discussed in the analysis below.

Before beginning the section-by-section analysis, however, VETS acknowledges and responds to comments that did not correspond to specific sections of the rule.

*Comments:* Several commenters expressed general support for the HIRE Vets Medallion Program and the proposed rule.

*Response:* VETS looks forward to honoring employers who make it a priority to invest in recruiting, employing, and retaining veterans. The HIRE Vets Medallion Award is based on transparent criteria and aims to honor all employers, from the smallest to the

largest, who meet these standards. The example set by recipients of this award will serve as models for other employers committed to hiring and retaining veterans.

*Comments:* Conversely, several commenters expressed skepticism as to the utility of the proposed program and whether the costs of the proposed program outweighed the program's benefits.

*Response:* No one is required to apply for a HIRE Vets Medallion Award. If the costs for an employer exceed the benefits, they need not apply. Nevertheless, VETS is of the opinion that some employers will find that the benefits of the award exceed the costs of applying. Congress determined that the HIRE Vets Medallion Program is a constructive way for the Federal Government to recognize companies that have made significant efforts to hire and retain veterans. The HIRE Vets Medallion Program will allow VETS to further leverage its existing Veteran Employment Outreach Program (VEOP) that directly supports efforts to assist employers in recruiting and employing veterans, along with existing partnerships with agencies such as the Small Business Administration (SBA) and State workforce agencies. This Program allows VETS to highlight and model employer efforts that can assist employers nationwide to develop veteran employment efforts further.

*Comment:* Finally, one commenter questioned why the HIRE Vets Medallion Program is not administered by the U.S. Department of Veterans Affairs.

*Response:* Under 38 U.S.C. 4102A(a)(1), the Assistant Secretary of Labor for VETS is responsible for all DOL employment and training programs that to the extent that they affect veterans. VETS' mission is to prepare America's veterans, service members, and their spouses for rewarding careers, provide them with employment

resources and expertise, protect their employment rights, and promote their employment opportunities. Consistent with that responsibility, Congress specifically assigned administration of the HIRE Vets Medallion Award to the Secretary of Labor (Secretary). VETS supports workforce resources for employers to develop a globally competitive workforce and the public workforce system is a valuable resource to support human capital development of workers across the country. The system offers essential tools to employers to help transform the workforce to meet the changing demands of the 21st-century economy, and to become more competitive.

#### **Subpart A—Introduction to the Regulations for the HIRE Vets Act**

Sections 1011.000 through 1011.015 detail the program’s purpose, scope, definitions, and award types. VETS received several comments on the definitions at § 1011.005 and on the employer size categories at § 1011.015.

##### *Definition of Veteran*

*Comment:* One commenter questioned the use of the definition of “veteran” at 38 U.S.C. 101. The commenter expressed a desire for VETS to incorporate National Guard members mobilized under U.S.C. title 32 into the definition of “veteran” as it implements the statute into final regulatory text.

*Response:* Section 8(c) of the Act states that the term “veteran” has the meaning given such term under 38 U.S.C. 101. Incorporating all mobilization under Title 32 would be inconsistent with the meaning of section 8(c) of the Act. Consequently, VETS declines to make this change. However, as we stated in the NPRM, VETS recognizes that most employers determine which employees are veterans according to the employee’s self-identification. VETS does not expect employers to change these practices in order to

guarantee that every employee who self-identifies as a veteran meets the definition of veteran set out in the Act. VETS' primary concern is that an employer applying for an award reports as accurately as it is reasonably able. VETS retains the language as proposed.

#### *Employer Size Categories*

*Comments:* Two commenters requested a change to the employer award size categories, expressing that it might be difficult for companies with more than 500 employees but fewer than 10,000 employees to compete with those employers that have more than 10,000 employees. One commenter questioned if perhaps revenue would be a better standard by which to categorize employers, while another recommended defining large employers as those with 10,000 or more employees.

*Response:* VETS retains the rule language as proposed because the employer category sizes are established by statute in section 3(b) of the Act. Consequently, VETS does not have the discretion to make this change.

#### **Subpart B—Award Criteria**

Sections 1011.100 through 1011.120 enumerate the award criteria for the various award categories and levels. VETS received a few comments suggesting additional criteria or requesting clarification on criteria. VETS also received several comments on the violation of labor law provision at § 1011.120. Because many of these comments apply across sections, this preamble first addresses comments that touch on multiple sections, then addresses comments on § 1011.120, and finally addresses comments suggesting new criteria.

#### *Comments on Proposed Criteria*

*Comment:* One commenter suggested that the same criteria should apply to all employers regardless of size.

*Response:* For the sake of simplicity, VETS retained consistency across awards to the extent possible. However, to recognize that employers of different sizes will likely have different resources, VETS proposed that small employers need not satisfy as many criteria as medium employers and that medium employers need not satisfy as many criteria as large employers. VETS concludes that the proposed language strikes the best balance between these two interests and retains the language as proposed.

*Comment:* A commenter requested that VETS ensure that there is a meaningful retention requirement. The commenter also suggested companies that hire veterans in order to meet award requirements and subsequently lay off those veterans be made to return any award they receive.

*Response:* VETS agrees that retention is a very important issue for veteran employees. Consequently, every award has a retention criterion. As to the commenter's concern about employers hiring veterans and then laying them off, these awards recognize actions taken and VETS will not revoke an award if an employer legitimately qualified for the award in the previous year. However, VETS can revoke an award for the reasons described in § 1011.230, including if the employer falsely attested to its retention numbers. Moreover, § 1011.225 allows VETS to review an application, if at any time VETS becomes aware of facts that indicate information provided by an employer may be incorrect, and § 1011.600 requires the employer to retain the information supporting its application for 2 years. VETS retains the language as proposed.

*Comment:* One commenter stated that for some industries, retention numbers are proprietary information and asked how employers could ensure that information used for judging the award would not be released to the public or their competitors.

*Response:* VETS cannot ensure that information submitted for evaluating an application will not be released to the public. Therefore, information submitted by an applicant may become available to the public. The HIRE Vets Medallion Program is a voluntary program. In order to ensure reviewability, all applicants must provide the required information in order to qualify for an award. VETS retains the language as proposed.

*Comment:* One commenter stated that the retained percentage should be compared to the number of actual hires and that employers should present the number of hires along with the number of veterans retained within a given timeframe.

*Response:* VETS agrees that the awards should include both hiring and retention and such criteria are included.

*Comment:* A commenter requested that VETS merge the requirements that employers establish internal organizations (such as the veteran organization or resource group) with the requirement that employers establish an assistance or training program. This commenter also suggested that the percentage of veteran employees enrolled in the veteran organization or resource group could be an additional weighted criterion.

*Response:* VETS retains the language as proposed. Section 3(b)(1) of the Act establishes these criteria as separate criteria intended to serve separate purposes. Veteran organizations or resource groups are support networks for veteran employees while the “assistance or training program” focuses on the provision of post-secondary education to

veteran employees. However, there can be overlap in how the employer satisfies its criteria. For instance, a large employer's human resources professional might run the employee veteran organization or resource group. Similarly, the tuition assistance program for post-secondary education might overlap with the programs established to enhance the leadership skills of veteran employees. As for the suggestion that the percentage of veteran employees enrolled in the veteran organization or resource group be an additional criterion, VETS declines to make this change because it would create an additional reporting burden for employers.

*Comment:* One commenter stated, in regard to the dedicated human resources professional criterion, that large employers might have hiring, training, and retention responsibilities spread across multiple departments.

*Response:* Large employers can have veteran hiring, training, and retention responsibilities spread across multiple departments and still meet the criterion at § 1011.100(b)(7). Large employers with more than 5,000 employees need to have at least one dedicated human resources professional per the requirements of section 3(b)(1)(C)(iv) of the Act, but the definition of *Dedicated Human Resources Professional* in § 1011.005 states that these duties can be split amongst multiple people so long as the time spent supporting the hiring, training, and retention of veteran employees is the equivalent of one full-time professional. Additionally, large employers that employ 5,000 or fewer employees need not have a dedicated human resources professional but may instead satisfy this criterion by having at least one human resources professional whose regular work duties include supporting the hiring, training, and retention of veteran employees. The proposed language is consistent with the Act and does not prohibit large

employers from having veteran hiring, training, and retention responsibilities spread across multiple departments. VETS retains the language as proposed.

*Comment:* One commenter expressed concern that the pay differential criterion was too vague, as it did not define the types of deployment to which the pay differential criterion applied. The commenter also questioned the length of time an employer would need to offer the pay differential in order to satisfy the criterion and whether small and medium employers would be able to afford the pay differential for more than a year.

*Response:* The definition of *Active Duty in the United States National Guard or Reserve* at § 1011.005 defines the types of deployment to which the pay differential criterion applies by reference to the definition of active duty in 10 U.S.C. 101(d)(1). Because this definition is well-established and sufficiently clear, VETS retains the proposed language without change. Additionally, VETS appreciates the commenter's concern that the pay differential applies for as long as the employee is on active duty. However, the pay differential is only included as part of the platinum award criteria and is only required for the large employer platinum award. Consequently, employers could receive all awards except the large employer platinum award without satisfying this criterion. VETS concludes that inclusion of the provision of pay differential for as long as the employee is on active duty is consistent with the higher standard expected of platinum awardees. Consequently, VETS retains the language as proposed.

*Comment:* One commenter requested an explicit list as to which programs constitute "assistance" or "training" programs.

*Response:* VETS retains the language as proposed in order to retain flexibility for employers to provide integration assistance that best suits their workforce. However,

VETS agrees that a non-exhaustive list of examples of post-secondary education programs that would satisfy the tuition assistance program criterion would be useful for employers. Examples of post-secondary programs and courses for which employers may provide tuition assistance include:

- Correspondence training
- Cooperative training
- Entrepreneurship training
- Flight training
- Independent and distance learning
- Undergraduate and graduate degrees
- Licensing and certification reimbursement
- Vocational/technical training and non-college degree programs
- National testing reimbursement
- On-the-job training and apprenticeships
- Tutorial assistance.

Also, as the proposed rule explained, the assistance provided through an employer's tuition assistance program may take many forms, including financial assistance, leave assistance, or discounts on post-secondary education.

VETS will continue to offer technical assistance on the types of activities and programs that satisfy the other integration assistance criteria.

*Comments on Veteran-Specific Labor Violations Criterion at § 1011.120*

Section 1011.120 outlines the circumstances that would disqualify or delay an employer from receiving a HIRE Vets Medallion Award for violations incurred under

labor laws protecting veterans as administered by, or in conjunction with, VETS and the Office of Federal Contract Compliance Programs (OFCCP). Commenters supported: the premise that an employer that does not take its obligations under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA) seriously is undeserving of an award; limiting the covered laws to USERRA and VEVRAA; and retaining discretion to delay an award if VETS has credible information suggesting that a significant violation may have occurred. A commenter also stated that no additional disqualifying events should be added to the list.

*Comment:* One commenter stated that while most of the regulation tracks the Act, the Act contained no corresponding section to the violation of labor law provision proposed at § 1011.120.

*Response:* Section 3(b)(1)(E) of the Act grants VETS authority to establish additional criteria for each level of award. VETS used this authority to establish the criterion described in § 1011.120. VETS chose to include this criterion because employers that have been proven to have violated, or have explicitly admitted violating the rights of their veteran employees should not receive an award from VETS for their veteran employment practices. VETS retains the language as proposed.

*Comment:* One commenter suggested that “technical or minor” violations of USERRA or VEVRAA should not be disqualifying. The commenter asserted that this provision in the proposed rule was similar to provisions in the guidance implementing the now rescinded Executive Order 13673, and that the effect could be employers being

disqualified for the award for issues unrelated to the recruitment, employment, and retention of veterans.

*Response:* The disqualification standard proposed in § 1011.120 is far narrower than the one used in the implementation of now rescinded Executive Order (E.O.) 13673. The E.O. covered numerous additional labor statutes (instead of just the veteran employment protections covered here) and would disqualify an employer for violation determinations made by the agency before judicial enforcement proceedings began. Since fairness requires that all applicants be subject to a clear and consistent standard, the final rule will retain the bright line standard instead of adopting a flexible standard. Additionally, VETS declines to revise the regulatory text to distinguish between purportedly major and minor violations for the purposes of this rule.

*Comment:* One commenter questioned whether one of the proposed disqualifying events, a settlement agreement in which the employer admits a violation of either USERRA or VEVRAA, should be included given the varying reasons that employers enter into settlement agreements. If VETS were to keep this provision, the commenter opined that it should not be expanded, so as to avoid creating a disincentive for settling allegations.

*Response:* VETS retains the language as proposed. The rule would only disqualify employers with settlement agreements in which the employer specifically admits to violating USERRA or VEVRAA, two laws closely related to veteran employment. If the employer has violated these laws and admits to doing so in a settlement agreement, VETS has concluded that this is as serious as the judgment of a court or tribunal and, thus, considers it a disqualifying event. Settlement agreements in which the employer

does not admit liability for violations of these statutes would not disqualify an employer from consideration.

*Comment:* One commenter suggested that the regulation more explicitly reference the VEVRAA requirement that covered Federal Government contractors and subcontractors follow mandatory job listing requirements.

*Response:* VETS retains the language as proposed because the fact that VETS has incorporated USERRA or VEVRAA into the rule should serve to highlight all USERRA and VEVRAA requirements for covered employers. Additionally, it is not appropriate to elevate this single aspect of the VEVRAA requirements when covered employers must comply with all requirements.

*Comment:* One commenter raised the specific concern that Federal contractors attempting to comply with the mandatory job listing requirement set forth in the VEVRAA statute and regulations may nevertheless have violations alleged against them, which could result in their disqualification from receiving an award. The commenter expressed concern over an employer not being able to qualify for an award because, although the employer provides job vacancies to a State or local employment service as required by law, the employment service fails to post the vacancies.

*Response:* This concern is misplaced. First of all, the specific situation described by the commenter, in which a contractor provides the required job vacancy information to the employment service delivery system (ESDS) location and the ESDS does not post it, does not constitute a violation of VEVRAA. Per the relevant VEVRAA regulations, so long as the contractor provides the job vacancy information “in any manner and format permitted” by the appropriate ESDS, it has satisfied its obligation under the regulations,

and would not be disqualified from receiving an award as a result. See 41 CFR 60-300.5(a)(2). Second, an “alleged” violation of VEVRAA’s mandatory job listing requirement would not alone trigger disqualification. As this final rule makes clear, only a decision of an administrative law judge that is not appealed and becomes the final agency action, or a settlement agreement in which the employer explicitly admits that it violated VEVRAA, could result in disqualification.

*Suggested New Criteria*

*Comment:* One commenter requested that VETS create an alternative criterion to the veteran employee percentage criterion that weighs the number of veterans who are applying for employment, potentially tracking progress for employers with nascent veteran hiring programs. The commenter expressed concern that the alternative veteran employee percentage criterion does not always correlate with the effort that employers put into a veterans hiring initiative, favoring employers with already established programs.

*Response:* The number of veteran applications, while an integral part of recruitment, does not necessarily equate to hiring or retention, the focus of the Act. Therefore, in order to best reflect the focus of the Act and to retain simplicity, VETS retains the language as proposed instead of adding an additional alternative criterion.

*Comment:* One commenter requested that a portion of the application allow employers to outline military/veteran-friendly initiatives or awards that the employers have received.

*Response:* The application form contains an optional item that allows employers to describe efforts to support the veteran and military community. However, this item is

not a criterion for recognition and will not factor into whether an employer receives an award. It will instead be used to facilitate the sharing of good practices for veteran hiring and retention. The HIRE Vets Medallion Program is a recognition program to honor employer commitment to, and investment in, veteran recruiting and employment. Therefore, VETS declines to establish a criterion for the HIRE Vets Medallion Program related to other military/veteran-friendly initiatives and awards.

*Comment:* A commenter requested inclusion of an additional criterion more specifically targeting community and charitable services provided by employers to the veteran community.

*Response:* Section 2(a) of the Act states that the purpose of the Act is to recognize efforts by employers to recruit, employ, and retain veterans and to provide community and charitable services supporting the veteran community. VETS agrees that community and charitable services are an integral part of supporting the veteran community. However, VETS declines to establish an additional criterion related to community and charitable services because these services are already integrated throughout the large employer criteria that serve as the basis for the small and medium employer criteria. Consequently, VETS retains the language as proposed.

*Comment:* One commenter suggested an additional criterion that employers use the workforce development system to list their job openings, either directly with State job banks or through the National Labor Exchange (NLX). The commenter expressed concern that if such a criterion is not established, then the high-quality jobs offered by employers applying for the award might not reach the veterans, transitioning service members, and spouses served by the Department.

*Response:* NLx is recognized as a workforce system tool that collects and disseminates job postings, including through State job banks. VETS encourages employers to use State job banks as a resource to help with the recruitment of veteran employees. Although VETS encourages the use of State job banks, it declines to add a related criterion in order to retain flexibility for employers in structuring how they satisfy the award criteria.

*Comment:* One commenter also suggested an additional criterion requiring engagement with the workforce development system or that, at the very least, additional consideration be provided to applications that reflect collaboration with the workforce development system. The commenter stated that employers could use the workforce development system to screen job applicants and facilitate participation in career and hiring events, as well as for help with many other activities. The commenter noted that these services might be particularly critical for small employers who lack a human resources professional. The commenter also noted that employers can serve on State and Local Workforce Development Boards where they can participate in the design and operation of services in their area.

*Response:* The public workforce system includes a nationwide network of over 2,400 American Job Centers (AJCs), a network operated in partnership by Local Workforce Development Boards, State Workforce Agencies, and DOL. VETS will continue to work closely with Federal and State partners to provide coordinated information and services to job seekers and employers while continually facilitating and developing meaningful employment and training opportunities for transitioning service members, veterans, and military families. *VETERANS.GOV* enables employers to directly

contact VETS' VEOP to request assistance in hiring veterans. Although, as with the comment on including a State job bank or NLx criterion, VETS encourages employers to take advantage of the public workforce system, it declines to add a related criterion in order to retain flexibility for employers.

*Comment:* One commenter suggested adding a criterion for procedural descriptions of a 6-month onboarding process for veteran employees.

*Response:* Although VETS agrees that effective onboarding of veteran employees is important to the establishment of a successful working environment for veteran employees, the final rule retains the language as proposed because the various forms of integration assistance covered by the proposed criteria already answer the purpose of this request. For example, the veteran organization or resource group criterion requires that the organization or resource group assist “*new* veteran employees” (emphasis added).

### **Subpart C—Application Process**

Subpart C sets out the application process for the HIRE Vets Medallion Award. VETS received two comments on subpart C.

*Comment:* A commenter asked that VETS reconsider § 1101.210 and that employers be allowed to win an award every year.

*Response:* The requirement at § 1011.210 is a requirement of the Act. Section 2(d) of the Act states that “[a]n employer who receives a HIRE Vets Medallion Award for one calendar year is not eligible to receive a HIRE Vets Medallion Award for the subsequent calendar year.” Consequently, VETS does not have discretion to make this change. However, for purposes of clarity, VETS has amended proposed § 1011.210 to reference section 2(d) of the HIRE Vets Act.

*Comment:* A commenter also asked VETS to clarify who will be reviewing applications for the medallion awards.

*Response:* VETS is responsible for the application review and award determination for the HIRE Vets Medallion Program.

VETS also made a nonsubstantive change to § 1011.230(a), clarifying that VETS can deny an award if an employer fails to satisfy all application requirements. This is not a substantive change; this requirement was already included in § 1011.010. However, VETS has added it to the language of § 1011.230 for additional clarity.

#### **Subpart D—Fees and Caps**

Subpart D sets out the fees for the HIRE Vets Program and the application caps that VETS can utilize.

*Comment:* One commenter requested clarity as to whether it is VETS' understanding that the fee authorized by section 5(b) of the Act can only be collected if a future appropriations action triggers the fee collection.

*Response:* Section 5(b) of the Act grants VETS authority to collect fees and states that VETS “shall establish the amount of the fee such that the amounts collected as fees and deposited into the [HIRE Vets Medallion Award] Fund are sufficient to cover the costs associated with carrying out this division.” Therefore, the Act grants VETS authority to collect fees and does not require a future appropriations action to trigger this authority.

*Comment:* One commenter expressed concern about the accountability of the award fund and asked what safeguards would be in place to protect money in the fund.

*Response:* Funds contained in the HIRE Vets Medallion Award Fund will be subject to the same protections and safeguards that are applied to all Federal Government funds.

#### **Subpart E—Design and Display**

VETS received no comments on subpart E.

#### **Subpart F—Requests for Reconsideration**

VETS received no comments on subpart F.

#### **Subpart G—Record Retention**

VETS received no comments on subpart G.

### **PROCEDURAL DETERMINATIONS**

#### **Executive Orders 12866 and 13563: Regulatory Planning and Review**

##### **Introduction**

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, select those approaches that maximize net benefits. Executive Order 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether a regulatory action is significant and therefore subject to the requirements of that Executive Order and to review by OMB (58 FR 51735). Section 3(f)

of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule that: (1) has an annual effect on the economy of \$100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866. *Id.*

VETS has determined that this rule is not an economically significant regulation—neither the costs nor the benefits exceed \$100 million dollars in any given year. VETS has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866. VETS analyzed costs and benefits of this rule using 2016 employment and wage data from the Bureau of Labor Statistics (BLS). The cost analysis uses a 10-year time horizon. The benefits analysis is qualitative and appears at the end of this section. Since the benefits analysis is qualitative, there will be no analysis of net benefits (benefits minus costs). VETS’ estimates of costs are presented as follows:

- Veteran employment and potential eligibility for the award—Estimates how many employers may meet the application requirements of the award.

- Unit costs—Estimates the unit costs of complying with the application requirements of the award.
- Participation rates—Estimates how many eligible employers will potentially choose to apply for the award.
- Government costs—Estimates the costs to the Government for processing the applications and the costs to develop the system to support the review and approval process.
- Total annualized costs—Estimates the total annualized private and Government costs of the program.

Costs for this regulation are uncertain, due partly to the program being entirely new with no obvious equivalents; VETS cannot anticipate the number of employers that will choose to participate in the program. For this reason, this analysis contains estimates that are based on very limited data. This is the first veteran hiring award established by VETS to recognize employers for their accomplishments in recruiting, retaining, and hiring veterans.

### **Introduction**

The methodology for these estimates will remain the same as those presented in the NPRM. No public comments were received addressing the methodology for estimating costs of the regulation. VETS did receive public comments related to some aspects of the analysis, as well as comments on the benefits to employers and veteran employees. VETS responds to these comments in the remainder of this section.

## **Veteran Employment and Potential Eligibility for the Award**

As of 2016 there were 20.9 million veterans,<sup>1</sup> making up 10 percent of the civilian non-institutionalized population over the age of 18. While the total number of veterans varies over time, there are between 240,000 and 360,000 service members who leave military service each year, according to a 2013 White House report.<sup>2</sup> In 2016 there were 10 million veterans employed according to data collected from the Current Population Survey and reported by BLS, making up close to 7 percent of the U.S. employed population.

The three leading industry sectors for veteran employment are manufacturing (North American Industry Classification System (NAICS) code 31-33), with 1.3 million veterans; wholesale and retail trade (NAICS code 42, 44-45) with 1.1 million veterans; and professional and business services (NAICS code 54-56) with 1.1 million veterans. Evaluating veteran employment as a percentage of total employment by industry highlights the various industries where veterans make up more than 7 percent of the employed population. Based on the data, it appears there are many industries where a typical employer can readily meet the basic criteria of hiring 7 percent or more veteran employees, while it may be more difficult in other industries.

Veteran employment levels at the 3-digit NAICS level (industry subsectors) were mapped to BLS data from the Current Employment Statistics survey to derive veteran employment as a percentage of total employees by NAICS code. The results of this

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<sup>1</sup> BLS, DOL, Current Population Survey, 2016.

<sup>2</sup> Watson, Ben, (2014) Veteran Unemployment Rate Drops, But Still Outpaces the Rest of the Country. *www.defenseone.com*, May 2, 2014. Retrieved from: <http://www.defenseone.com/news/2014/05/D1-Watson-veteran-unemployment-rate-drops-still-outpaces-rest-country/83692/>

comparison are presented in Table 1. A majority of private industry subsectors have veteran employment of 7 percent or higher; the industries with the highest percentages were the Petroleum and coal products industry with 22.4 percent veteran employment, followed by Utilities with 20.5 percent veteran employment. The two industries with the lowest percentage of veteran employment are: management of companies and enterprises with 0.5 percent and internet publishing and broadcasting and web search portals with 1.0 percent veteran employment. Other industry sectors where the percentage of veterans employed is lower than the national average are the healthcare and social assistance sector with 3.5 percent, and the accommodations and food services sector with 1.6 percent veteran employment. The concentration of veteran employment in utilities and manufacturing industries is a reflection of the type of military experience many veterans offer when seeking jobs that match their skill set.

**Table 1. Veteran Employment in 2016**

<b>Industry</b>	<b>Veteran Employment<sup>1</sup> (in thousands)</b>	<b>Total Employment<sup>2</sup> (in thousands)</b>	<b>% of Veterans Employed</b>
<b>Total Employment</b>	<b>10,129</b>	<b>151,423</b>	<b>6.7%</b>
<b>Mining, Quarrying, and Oil and Gas</b>	<b>92</b>	<b>626</b>	<b>14.7%</b>
<b>Construction</b>	<b>588</b>	<b>6711</b>	<b>8.8%</b>
<b>Manufacturing</b>	<b>1,285</b>	<b>12,348</b>	<b>10.4%</b>
<b><u>Durable Goods Manufacturing</u></b>	<b>898</b>	<b>7,719</b>	<b>11.6%</b>
Nonmetallic Mineral Products	39	408	9.6%
Primary Metals and Fabricated Metal Products	156	1,763	8.8%
Machinery Manufacturing	125	1,080	11.6%
Computers and Electronic Products	113	1,048	10.8%
Electrical equipment and Appliances	30	383	7.8%
Transportation Equipment	269	1,625	16.6%
Wood Products	34	392	8.7%
Furniture and Fixtures	28	389	7.2%
Miscellaneous Manufacturing	103	591	17.4%
<b><u>Nondurable Goods Manufacturing</u></b>	<b>387</b>	<b>4,629</b>	<b>8.4%</b>
Food Manufacturing	92	1,554	5.9%
Beverage and Tobacco Products	26	233	11.2%
Textiles, Apparel, and Leather	23	371	6.2%

<b>Industry</b>	<b>Veteran Employment<sup>1</sup> (in thousands)</b>	<b>Total Employment<sup>2</sup> (in thousands)</b>	<b>% of Veterans Employed</b>
Paper and Printing	76	818	9.3%
Petroleum and Coal Products	25	112	22.4%
Chemicals	106	811	13.1%
Plastics and Rubber Products	38	699	5.4%
<b>Wholesale and Retail Trade</b>	<b>1,090</b>	<b>21,687</b>	<b>5.0%</b>
<u>Wholesale Trade</u>	260	5,867	4.4%
<u>Retail Trade</u>	830	15,820	5.2%
<b>Transportation and Utilities</b>	<b>753</b>	<b>5,546</b>	<b>13.6%</b>
<u>Transportation and Warehousing</u>	638	4,989	12.8%
<u>Utilities</u>	114	556	20.5%
<b>Information</b>	<b>180</b>	<b>2,772</b>	<b>6.5%</b>
<u>Publishing, Except Internet</u>	15	730	2.1%
<u>Motion Pictures and Sound Recording Industries</u>	13	420	3.1%
<u>Radio and TV Broadcasting and Cable Subscriptions Programming</u>	42	269	15.6%
<u>Internet Publishing and Broadcasting and Web Search Portals</u>	2	201	1.0%
<u>Telecommunications</u>	96	795	12.1%
<u>Data Processing, Hosting, and Related Services</u>	10	300	3.3%
<u>Libraries, Archives, and Other Information Services</u>	2	59	3.4%
<b>Financial Activities</b>	<b>496</b>	<b>8,285</b>	<b>6.0%</b>
<u>Finance and Insurance</u>	309	6,142	5.0%
Finance	174	3,559	4.9%
Insurance	135	2,583	5.2%
<u>Real Estate and Rental and Leasing</u>	187	2,143	8.7%
Real Estate	146	1,559	9.4%
Rental and Leasing Services	41	583	7.0%
<b>Professional and Business Services</b>	<b>1,092</b>	<b>20,136</b>	<b>5.4%</b>
<u>Professional and Technical Services</u>	658	8,877	7.4%
<u>Management, Administrative, and Waste Services</u>	433	11,259	3.8%
Management of Companies and Enterprises	11	2,241	0.5%
Administrative and Support Services	384	8,613	4.5%
Waste Management and Remediation Services	38	405	9.4%
<b>Education and Health Services</b>	<b>826</b>	<b>22,616</b>	<b>3.7%</b>
<u>Educational Services</u>	161	3,560	4.5%
<u>Health Care and Social Assistance</u>	664	19,056	3.5%
Hospitals	266	5,025	5.3%
Health Services, Except Hospitals	322	10,396	3.1%
Social Assistance	76	3,636	2.1%
<b>Leisure and Hospitality</b>	<b>344</b>	<b>15,620</b>	<b>2.2%</b>
<u>Arts, Entertainment, and Recreation</u>	128	2,235	5.7%
<u>Accommodation and Food Services</u>	216	13,386	1.6%
Accommodation	49	1,947	2.5%
Food Services and Drinking Places	167	11,439	1.5%
<b>Other Services</b>	<b>351</b>	<b>5,685</b>	<b>6.2%</b>
<u>Other Services, Except Private Households</u>	337	4,961	6.8%
Repair and Maintenance	150	1,289	11.6%
Personal and Laundry Services	68	1,445	4.7%
Membership Associations and Organizations	119	2,950	4.0%
<b>Government – Local<sup>3</sup></b>	<b>708</b>	<b>14,339</b>	<b>4.9%</b>

Source:

<sup>1</sup> BLS, Current Population Survey, 2016

<sup>2</sup> BLS, Current Employment Statistics survey, 2016

<sup>3</sup> U.S. Census of Governments, 2012

(See Spreadsheets, Docket No. VETS-2017-0001-0002 for all sources and derivation)

The job posting site, Indeed.com, identified five occupational categories where veterans have the highest levels of employment: transportation and material moving, installation maintenance and repair, protective service, management, and construction and extraction. Many veterans find the skills and experience they developed while in the military align better with these occupations than with others, making the transition to a civilian job easier.<sup>3</sup>

Due to the fact the award program requires a fee, it was determined that employers with fewer than five employees are relatively unlikely to participate in the program (although they are still eligible to apply for the award if they choose). Very small employers with fewer than five employees will most likely not hire often or may not choose to invest resources in actions that would qualify them for the award program, thus this analysis contains three groupings of employer size: small employers with 5 to 49 employees; medium employers with 50 to 499 employees; and large employers with 500 or more employees. These groupings were based on the availability of data in the U.S. Census Bureau 2014 Statistics of U.S. Businesses (SUSB),<sup>4</sup> which closely approximates the definition of small, medium and large employers in the statute. The SUSB data show a total of 2,379,033 employers with more than four employees. However, knowing the percentage of veterans in an industry's workforce does not indicate how many employers in that industry can meet the quantitative criteria for receiving the award. For example, if 7 percent of an industry's workforce is veterans, there will be many employers that are

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<sup>3</sup> Culbertson, Daniel, (2016) A Deep Look at the Data: How Are Veterans Doing in Today's Workforce? Indeed blog, November 10, 2016. Retrieved from: <http://blog.indeed.com/2016/11/10/veterans-employment/>

<sup>4</sup> U.S. Census Bureau, 2014. SUSB Annual Datasets by Establishment Industry: U.S. & States, NAICS, detailed employment sizes. Accessed on 6/15/2017 at: <https://www.census.gov/data/datasets/2014/econ/susb/2014-susb.html>  
Eligibility estimates by VETS. See text and spreadsheets (Docket No. VETS-2017-0001-0002).

above and below this average in any given year's hiring. In order to estimate the number of potentially eligible employers (those meeting the quantitative criteria) in an industry, we need to be able to estimate the effects of turnover on the ability to meet retention criteria, the percentage of employers that hire veterans as 7 percent or more of their total number of new hires for the applicable time period, and the percentage with 7 percent veterans in their current workforces. The effects of turnover on the ability to meet retention criteria may be the most difficult quantitative criteria to estimate. Average separation rates across all industries are such that, if veterans' rates are equal to the typical rates of all workers considered together, a 75 percent retention rate would be difficult to meet.<sup>5</sup> However, published separation rates include seasonal and temporary employments, which are excluded under the definition of "employee" and subsequently from the calculation of retention rates in this final rule. Absent comments on the methodology and more detailed data, VETS retains its assumption from the NPRM that half of the employers able to meet a 7 percent hiring rate will not be able to meet a requirement for 75 percent retention. For this analysis, if we make the simplifying assumptions that the percentage of veterans currently in the workforce are typical of available new hires in an industry, and that each new hire and each employee have an equal chance of being a veteran, then we can use the binomial distribution to estimate the probability that an employer has more than 7 percent veterans among new hires or more than 7 percent veterans among existing employees. The binomial distribution used here is designed to calculate the probability that 7 percent or more employees in a set of employees are veterans given the probability of an event (whether a given new hire or

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<sup>5</sup> BLS Job Openings And Labor Turnover (2017). News Release ; For release 10 AM (EDT), July 11, 2017 <https://www.bls.gov/news.release/pdf/jolts.pdf>

employee is a veteran). The application of the binomial distribution requires estimates of the number of new hires per year and the number of employees. For this purpose, VETS used 2014 SUSB<sup>6</sup> data on the number of employers and employees for small employers, medium employers and large employers. These averages of new hires were 13 employees per employer for small employers, 123 employees per employer for medium employers and 3,000 employees per employer for large employers. VETS estimated that these employers would hire 25 percent of their workforce in any given year. Of the 2,379,033 employers with more than four employees, VETS estimates that 424,952, or 18 percent of all employers in the three size ranges, would be potentially eligible for the program.

The complete formulas for the probability calculations are given in the supplemental spreadsheets (Docket No. VETS-2017-0001-0002). There are four probabilities needed for these calculations:

PH=the probability that more than 7 percent of new hires are veterans;

PE=the probability that more than 7 percent of employees are veterans;

PR=the probability that 75 percent of veteran hires are retained (estimated to be 0.5 in all cases); and

PLYH=the probability that an employer hired at least one veteran in the year prior to the current year.

Given these probabilities the formula used in the calculations for small and medium employers is:

$$\text{Total probability} = \text{PH} + (1 - \text{PH}) * \text{PE} * \text{PLYH} * \text{PR}$$

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<sup>6</sup> U.S. Census Bureau, 2014. SUSB Annual Datasets by Establishment Industry: U.S. & States, NAICS, detailed employment sizes. Accessed on 6/15/2017 at <https://www.census.gov/data/datasets/2014/econ/susb/2014-susb.html>  
Eligibility estimates by VETS. See text and spreadsheets (Docket No. VETS-2017-0001-0002).

For large employers, the formula is somewhat simpler:

$$\text{Total Probability} = PH + (1-PH) * PLYH * PR$$

Table 2 shows the results for the estimate of potentially eligible employers by size class and industry.

**Table 2. Estimate of Eligible Employers**

Industry	Total Employers (5+)	Potentially Eligible Employers			Total
		Small Employers (5-49)	Medium Employers (50-499)	Large Employers (500+)	
<b>Forestry, Logging, Fishing, Hunting, and Trapping</b>	2,837	536	389	93	1,017
<b>Mining, Quarrying, and Oil and Gas Extraction</b>	9,350	3,377	1,322	0	4,700
<b>Construction</b>	204,561	51,059	8,464	915	60,438
<b>Nonmetallic Mineral Products</b>	6,136	1,430	699	244	2,374
<b>Primary Metals and Fabricated Metal Products</b>	35,064	7,638	3,613	1,025	12,276
<b>Machinery Manufacturing</b>	14,706	3,928	2,432	682	7,043
<b>Computers and Electronic Products</b>	7,439	1,743	1,279	519	3,541
<b>Electrical Equipment and Appliances</b>	3,359	553	398	210	1,161
<b>Transportation Equipment</b>	6,458	2,121	1,575	550	4,246
<b>Wood Products</b>	7,325	1,588	705	165	2,457
<b>Furniture and Fixtures</b>	7,641	1,417	456	84	1,958
<b>Miscellaneous Manufacturing</b>	11,429	5,057	1,344	340	6,741
<b>Food Manufacturing</b>	13,073	1,812	722	59	2,593
<b>Beverage and Tobacco Products</b>	2,653	773	247	90	1,110
<b>Textiles, Apparel, and Leather</b>	6,238	998	264	24	1,286
<b>Paper and Printing</b>	14,483	3,426	1,404	350	5,179
<b>Petroleum and Coal Products</b>	710	253	197	113	563
<b>Chemicals</b>	6,476	1,746	1,341	589	3,676
<b>Plastics and Rubber Products</b>	7,397	788	517	18	1,323
<b>Wholesale Trade</b>	133,958	15,239	2,664	2	17,905
<b>Retail Trade</b>	258,174	37,563	4,402	42	42,007
<b>Transportation and Warehousing</b>	61,190	20,258	6,418	2,245	28,921
<b>Utilities</b>	2,837	1,185	640	194	2,019
<b>Publishing, Except Internet</b>	9,340	455	37	0	493
<b>Motion Pictures and Sound Recording Industries</b>	4,802	395	30	0	425
<b>Radio and TV Broadcasting and Cable Subscriptions Programming</b>	2,857	1,127	344	111	1,582

Industry	Total Employers (5+)	Potentially Eligible Employers			Total
		Small Employers (5-49)	Medium Employers (50-499)	Large Employers (500+)	
Telecommunications	3,705	1,097	498	160	1,755
Data Processing, Hosting, and Related Services	4,885	334	88	0	422
Libraries, Archives, and Other Information Services	3,237	269	37	0	307
Finance	33,143	3,767	1,228	8	5,003
Insurance	33,515	4,844	476	14	5,334
Real Estate	47,711	12,428	2,509	778	15,714
Rental and Leasing Services	9,613	1,774	424	166	2,364
Professional and Technical Services	205,067	42,079	7,476	2,116	51,670
Management of Companies and Enterprises	23,944	66	6	0	72
Administrative and Support Services	108,014	12,007	2,405	3	14,415
Waste Management and Remediation Services	8,782	2,240	570	168	2,977
Educational Services	43,887	4,718	1,320	1	6,039
Hospitals	3,407	16	388	36	441
Health Services, Except Hospitals	247,348	20,285	1,726	0	22,011
Social Assistance	67,460	3,486	270	0	3,756
Arts, Entertainment, and Recreation	42,698	6,202	1,700	59	7,962
Accommodation	29,467	1,935	130	0	2,065
Food Services and Drinking Places	273,382	10,708	262	0	10,970
Repair and Maintenance	61,091	20,895	1,820	610	23,325
Personal and Laundry Services	58,697	7,987	395	0	8,382
Membership Associations and Organizations	121,174	13,647	1,017	0	14,664
Government – Local	40,882	0	8,273	0	8,273
<b>Total</b>	<b>2,311,602</b>	<b>337,247</b>	<b>74,922</b>	<b>12,784</b>	<b>424,952</b>

Source: U.S. Census Bureau, 2014. SUSB Annual Datasets by Establishment Industry: U.S. & States, NAICS, detailed employment sizes. Accessed on 6/15/2017 at <https://www.census.gov/data/datasets/2014/econ/susb/2014-susb.html>  
U.S. Census Bureau, 2012. Government Organization Summary Report: 2012. Accessed on 7/21/2017 at [https://www2.census.gov/govs/cog/g12\\_org.pdf](https://www2.census.gov/govs/cog/g12_org.pdf)  
Eligibility estimates by VETS.  
See text and spreadsheets (Docket No. VETS-2017-0001-0002).

In the NPRM, data from BLS on veteran employment were presented as a key input for estimating the number of eligible employers. VETS did not receive comments on the use of BLS data for estimating the number of employers meeting the criterion of 7 percent veteran employment. The methodology presented in the NPRM to estimate the number of eligible employers has not been modified, although there were various commenters who recommended changes to the regulation that could have impacts on the

eligibility estimates. For reasons explained in the responses to public comments above, VETS did not make changes to the rule in response to public comments. Therefore, no changes were made to the employer eligibility estimates used in the NPRM.

### **Unit Cost**

Using the information provided in the stakeholder meetings, as well as estimates from similar analysis done by other DOL agencies, burden costs were estimated by employer size for each aspect of the application process, including rule familiarization, collection, filling out the form, and follow-up/requests for reconsideration. VETS used the data from the May 2016 BLS Occupational Employment Statistics (OES) survey. For the purposes of this analysis, VETS estimates a fully loaded wage rate to include fringe benefits and overhead, resulting in a doubling of the OES wage rate.<sup>7,8</sup>

Rule familiarization costs are estimated to take 1 hour for all employers regardless of size; this is based on the Occupational Safety and Health Administration's (OSHA's) recordkeeping rule updated in 2014.<sup>9</sup> This activity would typically be performed by a human resources manager at a large or medium employer or by a person with equivalent responsibilities at a small employer. Using the data from the OES survey, the mean hourly wage of the human resources manager is \$57.79. Adding overhead and fringe benefits, the fully loaded hourly wage rate being used to estimate the cost of familiarization is \$115.58. The regulation is structured by employer size, which would not require employers to consider all aspects of eligibility, but only those that pertain to

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<sup>7</sup> The value of two is recommended by HHS in HHS, Guidelines for Regulatory Analysis, 2016, p. 33.

<sup>8</sup> BLS OES survey (2017). Fringe markup is from the following BLS release: Employee Costs for Employee Compensation news release text; For release 10:00 AM (EDT), June 9, 2017 <https://www.bls.gov/news.release/pdf/ecec.pdf>

<sup>9</sup> Occupational Injury and Illness Recording and Reporting Requirements: North American Industry Classification System Update and Reporting Revisions (docket number: OSHA-2010-0019-0127)

their size. For these reasons, 1 hour was estimated for rule familiarization of the award program requirements of eligibility and the application form instructions.

The eligibility requirements for the award program require that all employers compile information needed to fill out the application form and retain the information for 2 years. VETS estimated this would require 5 hours for large employers and 3 hours for medium and small employers. Each criterion for eligibility will have an entry in the application form. Information requested will include the following: employer address and other identifying information, veteran employment data, descriptions of the relevant veteran programs, and descriptions of the benefits offered to veterans. These estimates are an average for the gold and platinum award requirements. This activity will likely be performed by human resources specialists for a large or medium employer. Using the data from the May 2016 BLS OES survey, the mean hourly wage of the human resources specialist is \$31.20. Adding overhead and fringe benefits, the fully loaded hourly wage rate used to estimate the collection of information is \$62.40. For a small employer, this activity is anticipated to be done by a payroll and timekeeping clerk, the mean hourly wage for this position as reported by BLS is \$20.95, and adding the fringe benefits and overhead results in an hourly wage of \$41.90.

Three hours of labor were estimated by VETS for medium and small employers to compile information for the form; this was determined based on the number of award criteria, and due to human resources staff in medium and small employers being more familiar with the day-to-day management of an employer. At the stakeholder meetings held the week of June 5, 2017, smaller employers stated all the information needed to apply would come directly from the owner and would be easily obtained. VETS

estimated 5 hours for large employers due to the additional information required to match the criteria for eligibility and the time for a human resources manager to determine if the programs offered by the employer meet the regulation criteria. Larger employers at the stakeholder meetings provided a range of 1 to 4 days, based on their past experience in applying for other award programs such as the Employer Support of the Guard and Reserve (ESGR) Freedom Award.<sup>10</sup> The application form for VETS' award program requires employers to provide employment and descriptive information for as many as seven fields to as few as one field depending on the size of the employer and the award level. This is less time consuming than the information requested for the ESGR Freedom Award. For these reasons, an average of 5 hours was estimated for large employers, and an average of 3 hours for medium and small employers, to collect and retain needed information.

Large and medium employers are expected to incur the cost for running a query to identify the number of veterans hired and veterans retained for the years requested on the application form. The majority of large and medium employers will have a database system for managing their workforce; this system typically includes the hire date and various demographic information about their employees. Running a query specifically for this application form is estimated to take 2 hours by a database administrator at a large or medium employer according to comments received from the stakeholder meeting in early June of 2017. Using the data from the May 2016 BLS OES Survey, the mean wage of the

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<sup>10</sup> The ESGR Freedom Award is given to employers who are nominated to recognize those that support their employees who serve in the United States National Guard or Reserve. There are up to 15 awards presented each year by firm size and to the public sector. <http://www.freedomaward.mil/>.

database administrator is \$41.89. Adding overhead and fringe benefits,<sup>11</sup> the total wage used to estimate the cost of this task is \$83.78. Small employers with 50 or fewer employees typically do not manage their workforce using a database, and due to the closer interactions among employees at small employers, the payroll clerk would know most of the employees individually. Thus, a small employer would not have a need to run a query.

Once the information has been gathered by an employer, applicants will need to enter the information in the form and enter the payment information needed on [www.pay.gov](http://www.pay.gov); this was estimated to take 2 hours for a large employer, 1.5 hours for a medium employer, and 1 hour for a small employer. These burden estimates are an average for the gold and platinum award requirements. A large employer is expected to take 2 hours due to the additional criteria required to be eligible for the award; this activity would be done by a human resources specialist. A medium employer is expected to take 1.5 hours because there are fewer criteria than for a large employer; this activity would be done by a human resources specialist. Using the data from the May 2016 BLS OES survey, the mean wage of a human resources specialist is \$31.20. Adding overhead and fringe benefits, the total wage used to estimate the cost of this task is \$62.40. A small employer is estimated to take 1 hour because there are fewer criteria than for a medium employer. For a small employer, a payroll and timekeeping clerk would most likely perform this task, with a mean hourly wage of \$20.95 as reported in the BLS 2016 OES survey; with added fringe benefits and overhead, this results in an hourly wage of \$41.90.

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<sup>11</sup> BLS OES (2017). Fringe markup is from the following BLS release: Employee Costs for Employee Compensation news release text; For release 10:00 AM (EDT), June 9, 2017  
<https://www.bls.gov/news.release/pdf/ecec.pdf>

The form requires the attestation of an executive (chief executive officer, chief human resources officer, or equivalent official) that the information on the form is accurate and true. It is expected that this would take 15 minutes for all employers applying for the award and would most likely require the executive to take the time to review the form. For a large or medium employer, this activity will be performed by an executive with a mean hourly wage of \$93.44 as reported in the BLS 2016 OES survey; adding fringe benefits and overhead, the hourly wage for this task would be \$186.88. At a small employer where the executive positions may not exist, this task may be done by someone with equivalent responsibilities and duties, such as the owner. For the purposes of estimating the cost of attestation for small employers we are using the wage rate of a human resources manager with a mean hourly wage of \$57.79 as reported in the BLS 2016 OES survey; adding fringe benefits and overhead results in a fully loaded wage for this task of \$115.58.

Following up on incomplete applications is estimated to take 30 minutes for 5 percent of employers applying, and a request for reconsideration would take 30 minutes for 1 percent of employers applying. At a large or medium employer, following up on an application would be done by the human resources specialist with an hourly wage of \$62.40 (including fringe benefits and overhead), and a request for reconsideration would be handled by a human resources manager with an hourly wage of \$115.58 (including fringe benefits and overhead). At a small employer, the payroll clerk may likely follow up on an application, with an hourly wage of \$41.90 (including fringe benefits and overhead), and the human resources manager equivalent would be involved in a request for reconsideration of a denied application, with an hourly wage of \$115.58 (including

fringe benefits and overhead). The majority of large and medium employers have human resources staff that manage different aspects of the workforce, or outsource the managing of the database for tracking the employer's workforce over time. As a result, large and medium employers are expected to have the same occupations involved in the process of applying for the award, while a different set of occupations were identified for small employers, which typically do not have dedicated human resources staff or a database administrator.

**Table 3. Burden Costs by Employer Size\***

<b>Tasks by Employer Size</b>	<b>Resource</b>	<b>Wage</b>	<b>Hours</b>	<b>Cost</b>
<b>Large Employer Activities</b>				
Rule familiarization	HR manager	\$116	1.0	\$116
Data collection large employers	HR specialists	\$62	5.0	\$310
Query report large employers	DB Administrators	\$84	2.0	\$168
Filling form, large employers	HR specialists	\$62	2.0	\$125
Executive signature	Executive	\$187	0.25	\$47
Follow up (assume 5 percent)	HR specialists	\$62	0.5	\$31
Reconsideration if denied award (1 percent)	HR manager	\$116	0.5	\$58
		<b>Average unit cost per employer</b>		<b>\$855</b>
<b>Medium Employer Activities</b>				
Rule familiarization	HR manager	\$116	1.0	\$116
Data collection medium employers	HR specialists	\$62	3.0	\$186
Query report medium employers	DB Administrators	\$84	2.0	\$168
Filling form medium employers	HR specialists	\$62	1.5	\$93
Executive signature	Executive	\$187	0.25	\$47
Follow up (assume 5 percent)	HR specialists	\$62	0.5	\$31
Reconsideration if denied award (1 percent)	HR manager	\$116	0.5	\$58
		<b>Average unit cost per employer</b>		<b>\$699</b>
<b>Small Employer Activities</b>				
Rule familiarization	HR manager	\$116	1.0	\$116
Data collection small employers	Payroll and timekeeping clerks	\$42	3.0	\$126
Filling form, small employers	Payroll and timekeeping clerks	\$42	1.0	\$42
Executive signature	HR manager	\$116	0.25	\$29

<b>Tasks by Employer Size</b>	<b>Resource</b>	<b>Wage</b>	<b>Hours</b>	<b>Cost</b>
Follow up (assume 5 percent)	Payroll and timekeeping clerks	\$42	0.5	\$21
Reconsideration if denied award (1 percent)	HR manager	\$116	0.5	\$58
<b>Average unit cost per employer</b>				<b>\$392</b>

Source: BLS, OES 2016.

\*Wages and costs are rounded values.

(See Spreadsheets, Docket No. VETS-2017-0001-0002 for all sources and derivation)

The burden estimates were mainly driven by the duration of time expected for each aspect of the application process, and the type of occupation identified as performing the various activities for the employer size.

The rulemaking docket includes a spreadsheet used to estimate the unit costs to employers who apply for the award. The unit costs in the spreadsheet included burden costs by employer size for each aspect of the application process, including rule familiarization, collection, filling out the form, and follow-up/requests for reconsideration. VETS received a few public comments related to these aspects of the cost estimation. For example, a commenter stated that there are “small employer[s] who may lack a dedicated Human Resources professional, and rel[y] on the AJC staff for many hiring functions.” VETS agrees that smaller employers often will not employ the same type of human resources professionals as medium or larger employers do, and this is reflected in the cost estimates and criteria for applying. Other commenters suggested changes in certain program criteria, which, if adopted by VETS, could have impacted unit costs associated with filling out the forms. However, as explained in the responses to public comments above, VETS did not make any changes to the award criteria in response to public comments. Therefore, no changes were made to the unit cost estimates used in the NPRM.

In the NPRM, estimates for cost and burden were based on comments received from stakeholder meetings and OSHA's recordkeeping rule update in 2014.

### **Government Costs**

The cost to the Government involves the intake, review, verification, and processing of the applications, and notification/distribution of the award. To efficiently process applications, VETS will develop and maintain a system to electronically receive applications, review applications to determine eligibility, and issue the awards. The cost for such a system would include IT hardware and software, IT maintenance, helpdesk costs, and VETS program management personnel costs. VETS has estimated lifecycle costs. The estimated cost of creating an application system and form is approximately \$933,100, which annualized over 10 years at a 3 percent discount rate results in a cost of \$109,388 per year.

The business process for the intake, review, and processing of applications was estimated using average wage data from BLS occupation codes for each phase, including solicitation, application processing, application review, award notification, and reporting to Congress. The cost to the Government for processing is estimated to be \$2.5 million dollars per year based on 10,000 applications being processed per year.

As part of the business process there will be costs associated with program outreach, messaging, and notification of award winners. This is estimated to cost \$245,086 annually. An outreach specialist is estimated to spend 1,140 hours involved in these tasks. The mean hourly wage rate for an outreach specialist is \$45.42, as reported by the Office of Personnel Management (OPM) for a General Schedule (GS)-13 (Step 1)

in 2017<sup>12</sup>; plus fringe benefits and overhead, the hourly wage for this task would be \$90.84. These tasks will also involve a program manager spending 1,000 hours with an hourly wage rate of \$53.67 (GS–14 Step 1); plus fringe benefits and overhead, the hourly wage would be \$107.36. An IT specialist (GS–12 Step 1) would also be involved in supporting tasks with messaging and recognition of award winners, spending 100 hours, with an hourly wage of \$38.20; plus fringe benefits and overhead, the hourly wage would be \$76.40.

The application process will require support from contractors to set up the process, the receipt of the forms and the processing of the applications; this is estimated to cost \$1,896,940 annually. A program specialist will spend 200 hours annually with a mean hourly wage rate of \$59.31 as reported in the BLS 2016 OES survey<sup>13</sup>; plus fringe benefits and overhead, the hourly wage rate would be \$118.62. An IT specialist will spend 40 hours to support these activities with an hourly wage rate of \$42.25<sup>14</sup>; plus fringe benefits and overhead, the hourly wage is \$84.50. The program manager<sup>15</sup> is estimated to spend 151 hours processing applications, with an hourly wage rate of \$58.70; plus fringe benefits and overhead, the hourly wage is \$117.40. A program specialist<sup>16</sup> will perform the bulk of the application review tasks, totaling 18,569 hours with an hourly wage rate of \$35.99; plus fringe benefits and overhead, the hourly wage will be \$71.98.

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<sup>12</sup> OPM [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/DCB_h.pdf)

<sup>13</sup> BLS OES occupation code 11-2031 Public Relations and Fundraising Managers.

<sup>14</sup> BLS OES occupation code 15-0000 Computer and Mathematical Occupations.

<sup>15</sup> BLS OES occupation code 11-1021 General and Operations Managers.

<sup>16</sup> BLS OES occupation code 13-1199 Business Operations Specialists.

As part of the review process of the applications, VETS will need to verify applicants do not have adverse labor law decisions, stipulated agreements, contract debarments, or contract terminations against them under USERRA; or the VEVRAA. This verification process will involve VETS and OFCCP checking their databases for award applicants. VETS estimates it will take each agency, OFCCP and VETS, an average of 15 minutes per application for this review. A GS-13 would perform the check with a loaded hourly wage of \$90.84 and spend 13 minutes per employer on the list, and a GS-15 with a loaded hourly wage of \$126.28 would spend 2 minutes per employer on the list verifying the findings in the initial check. The IT process developed to support this review will be maintained by a contractor<sup>17</sup> spending 240 hours, with a loaded hourly wage of \$84.50 (hourly mean wage from BLS without fringe benefits or overhead is \$42.25).

The notification of the award will also be executed by a contractor, and it will involve 50 hours of a program manager's<sup>18</sup> time, with a loaded hourly wage of \$117.40, and 40 hours of a program specialist's<sup>16</sup> time, with a loaded hourly wage of \$71.98.

The oversight of the contract for the application processing will be done by VETS personnel. This will take 312 hours of a program manager's time (GS-14), with a loaded hourly wage of \$107.36, and 120 hours of a program specialist's time (GS-13), with a loaded hourly wage of \$90.84.

The statute requires a report to Congress; this will be done by VETS personnel, and it will cost a total of \$10,406 dollars annually. This task will take a program manager

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<sup>17</sup> BLS OES occupation code 15-0000 Computer and Mathematical Occupations.

<sup>18</sup> BLS OES occupation code 11-1021 General and Operations Managers.

(GS-14), 80 hours with a loaded hourly wage of \$107.36, and another 20 hours of time for a program specialist's time (GS-13), with a loaded hourly wage of \$90.84.

The cost to the Government was estimated in two parts: the costs to efficiently process applications and the costs of creating the application system. VETS solicited comments on the costs to the Government to develop a system to accept and review applications but none were received.

The supplemental spreadsheet in the docket includes the methodology used in the NPRM to estimate the costs to the Government to process the application and the creation of the application system; no changes are being made to the Government cost calculations.

### **Application Fee**

The HIRE Vets Act provides that the Secretary may assess a reasonable fee on employers that apply for receipt of a HIRE Vets Medallion Award and that the amount of the fee must be sufficient to cover the costs associated with carrying out the HIRE Vets Act. The fee will cover the costs of solicitation of applications, processing applications, vetting applicants for labor law violations, and award notifications, as well as the maintenance cost of the IT system used in the processing of applications.

In processing the applications, VETS will need to verify the information on the form being submitted by employers. Given that the number of criteria varies by employer size, and will consequently require additional review by VETS, the fee will vary by employer size to reflect the cost of reviewing additional criteria. For example, the large employer platinum award requires the applicant to provide information about five types

of integration assistance. However, the small employer platinum award only requires that the applicant provide information about two types of integration assistance.

Consequently, the large employer award will take longer to review than the small employer award will.

In recognition of these differences in the number of criteria and the amount of information needing to be reviewed and verified as part of processing awards, the fees will be graduated to reflect the differences in the amount of review VETS would need to perform for large, medium, and small employers. The fee for large employers is \$495 per applicant, the fee for medium employers is \$190 per applicant, and the fee for small employers is \$90 per applicant, which covers the anticipated cost to VETS for processing 4,152 applications in the first year. The fees were estimated by taking the average cost to VETS of \$300 per application, and multiplying it using factors of time that reflect the information needed to be reviewed. Large employers would take VETS 1.6 times longer than the estimated average cost to process the application; for medium employers it would be 0.6 times the average cost, and for small employers it would be 0.3 times the average cost.

**Table 4. Government Costs**

Application Processing	Employers		
	4,152	6,228	10,728
Solicitation	\$245,086	\$245,086	\$245,086
Receipt and Processing	\$565,828	\$823,693	\$1,382,564
Violation Vetting by VETS and OFCCP	\$200,119	\$299,335	\$514,376
Award Notification	\$160,333	\$236,118	\$400,366
Contract Oversight	\$44,397	\$44,397	\$44,397
IT Support and Maintenance	\$20,280	\$20,280	\$20,280
Report to Congress	\$10,406	\$10,406	\$10,406
<b>Total Processing Cost</b>	<b>\$1,246,449</b>	<b>\$1,679,315</b>	<b>\$2,617,473</b>

<b>Average Government Cost per Application</b>	<b>\$300</b>	<b>\$270</b>	<b>\$244</b>
<b>Sunk Development Costs</b>			
Development of Application System			\$98,625
Application Form Development			\$834,474
<b>Total Development Costs</b>			<b>\$933,099</b>

Source: OSHA, Directorate of Standards and Guidance, Office of Regulatory Analysis  
(See Spreadsheets, Docket No. VETS-2017-0001-0002 for all sources and derivation)  
Average cost per application = total processing cost / # of employers

The proposed fee in the NPRM was estimated to cover the cost to the Government, which includes solicitation of applications, processing applications, vetting applicants for labor law violations, and award notifications, as well as the maintenance cost of the IT system used in the processing of applications. VETS did not receive comment on the cost estimates for the Government, nor the estimated graduated fee by employer size.

The same calculation found in the spreadsheet and discussed in the NPRM is used to derive a graduated application fee by employer size.

### **Participation and Costs per Year**

VETS based its estimates of the level of participation partly on the CBO estimate of 4,000 employers in the first year and on the impact the criteria would have on the participation levels.

There were no comments on the estimated level of participation; these estimates will stay the same. As indicated in the Summary and Explanation section of this document, some commenters expressed doubt that employers would be interested in participating in the HIRE Vets Medallion Program but no commenter provided specific data or evidence regarding how this supposition would impact the participation rates estimated in the NPRM.

CBO originally developed an estimate that 4,000 employers would participate in the program in the first year. This estimate was based on the assumption that only 2 percent of employers would be potentially eligible and 25 percent of medium and large employers potentially eligible would apply for the program. In CBO's estimate, small employers were excluded from being able to apply based on an earlier version of the HIRE Vets bill. If CBO had included small employers in their estimate using the same methodology, the number of employers applying would increase to close to 50,000 employers.

As noted above, VETS, making use of BLS veterans' labor force participation rate data, estimates that far more than 2 percent of employers that are eligible may choose to participate. Due to the lack of data for more accurate participation rates, VETS assumes that approximately 4,152 employers will apply in the first year, but that this would increase to 6,228 employers in the second year and to 10,728 per year in succeeding years. Table 5 shows the estimated participation rates by employer size class for each year and the resulting estimated costs of applications.

**Table 5. Estimated Participation Rates and Numbers of Applicants by Year**

Size Class	1 <sup>st</sup> Year Participation Rate	1 <sup>st</sup> Year Number of Applicants	2 <sup>nd</sup> Year Participation Rate	2 <sup>nd</sup> Year Number of Applicants	3 <sup>rd</sup> Year Participation Rate	3 <sup>rd</sup> Year Number of Applicants
Small	0.1%	304	0.2%	674	0.6%	2,023
Medium	3.0%	2,248	4.0%	2,997	6.5%	4,870
Large	12.5%	1,601	20.0%	2,557	30.0%	3,835
Total	Not Applicable	4,152	Not Applicable	6,228	Not Applicable	10,728

VETS Estimates (See Spreadsheets, Docket No. VETS-2017-0001-0002 for all sources and derivation)

Table 6 shows the results of multiplying the employer unit costs of applying for the award, developed in the previous Unit Cost section, by the number of anticipated participants to obtain the costs by size class and total application costs for each year.

These costs reflect the time and resources incurred by the employer when applying for the award program; this includes all the tasks discussed in the previous Unit Cost section.

**Table 6. Employer Application Costs by Year**

Size Class	1 <sup>st</sup> Year Costs	2 <sup>nd</sup> Year Costs	3 <sup>rd</sup> Year Costs
Small	\$95,215	\$211,589	\$634,767
Medium	\$1,377,355	\$1,836,473	\$2,984,269
Large	\$1,230,468	\$1,965,603	\$2,948,405
Total	\$2,703,038	\$4,013,665	\$6,567,441

VETS Estimates (See Spreadsheets, Docket No. VETS-2017-0001-0002 for all sources and derivation)

There are multiple factors that would contribute to the participation rate of large, medium, and small employers, such as the application fee, amount of outreach by VETS, and the potential benefits gained by the employers receiving the award. The problem here is a classically difficult one in economics—that of estimating demand for new products. In this case, we have little data and few comparable products on which to base an estimate. VETS is aware that the total costs are dependent on the number of employers that apply and the number could be much lower or higher than VETS’ baseline estimates.

At the stakeholder meetings, some representatives from larger employers stated their willingness to pay up to several thousand dollars, while representatives for smaller employers didn’t specify a fee amount they would be willing to pay. It would seem reasonable to assume a fee of more than several hundred dollars would discourage many small employers from applying. The total cost, burden plus fees, is estimated to range from \$404 for small employers to \$1,264 for large employers. Depending on the success of outreach and other messaging, these efforts could attract more applicants than CBO’s estimate. Over the long term, employers will want to apply if there are quantifiable benefits in the form of increased revenue if this award attracts more customers, and by increasing the pool of veteran applicants when they are hiring. These factors have the

potential to increase the number of participating employers to close to 50,000. Higher participation would result in increased costs relative to the overall cost burden and overall Government cost. However, considering all costs, the program will most likely not have costs in excess of \$100 million per year. Such costs would only occur if 100 percent of potentially eligible medium and large employers and 25 percent of potentially eligible small employers apply every year.

### **Total Annualized Costs**

VETS estimated annualized costs to employers for participation in this award program over a 10-year period using 3 percent and 7 percent discount rates based on the costs of application and costs to the Government developed above. These total costs are provided in Table 7.

**Table 7. Total Annualized Costs of the Final Rule**

<b>Cost Element</b>	<b>Annualized Costs at 3%</b>	<b>Annualized Costs at 7%</b>	<b>First Year Costs (if different from annualized costs)</b>
Costs for Preparing Applications	\$5,845,415	\$5,735,649	\$2,703,038
Costs to Government of Processing Application (to be reimbursed through fees)	\$2,357,854	\$2,318,462	\$1,246,449
Total Private Sector Costs, Including Fees for Government Processing	\$8,203,269	\$8,054,111	\$3,949,487
Costs to Government for Developing System (not reimbursed by fees)	\$109,388	\$132,852	\$933,099
Total	\$8,312,657	\$8,186,963	\$4,882,586

VETS Estimates (See Spreadsheets, Docket No. VETS-2017-0001-0002 for details)

### **Alternatives**

VETS considered alternative quantitative criteria for small and medium employers. One alternative would have been to change the proposed criteria for small and medium employers that require applicants to have both a retention rate of 75 percent (for

gold)/85 percent (for platinum) and a veteran employee percentage of 7 percent (for gold)/10 percent (for platinum). Instead, this first proposed alternative criterion would have dropped the veteran employee percentage requirement. Keeping all the participation rates the same, VETS estimates that this change would have increased the number of potentially eligible employers by 38 percent, increased participation in the program by 19 percent, and increased annualized costs from approximately \$8 million per year to \$11.9 million a year. This alternative had the disadvantage that it would have allowed employers who had not recently achieved a 7 percent hiring goal to win the award.

VETS also considered an option in which small and medium employers could have qualified if they met either of the following: 1) 7 percent of the employer's new hires during the previous year were veterans, or 2) 7 percent of the employees it hired over the last 2 years were veterans and the employer retained 75 percent of those veterans hired in the first year of that timeframe (previous year of the previous year). This alternative would have broadened the hiring eligibility timeframe. This option would have also slightly increased program eligibility, but it would have done so by significantly increasing small employer eligibility while lowering eligibility for medium employers. VETS concluded that this was not a useful effect given that medium employers are more likely to participate in the program than small employers are.

VETS also examined an option in which the only hiring and retention criteria for small and medium employers would have been that 7 percent of new hires over the last 2 years were veterans along with a 75 percent retention criterion from the first of the 2 years (previous year of the previous year). Under this option, employers would no longer have been able to satisfy the hiring and retention criteria solely by having 7 percent of

their new hires in the previous year be veterans. This approach also would have increased small employer eligibility at the expense of decreasing medium employers' eligibility. Again, because of expected high participation rates by medium employers relative to small employers, VETS decided not to adopt this alternative.

None of these estimates take into account the cost savings to both the private sector and the Government of these alternatives.

VETS solicited comments on these proposed alternatives for medium and small employers but did not receive any specific comments to the alternatives proposed. Therefore, the criteria presented in the NPRM will not change for the final rule and VETS will not adopt the alternatives discussed here.

### **Benefits**

VETS expects that employers will want to apply for the award if there are quantifiable benefits in the form of increased revenue generated by attracting more or repeat customers, or a better pool of veteran applicants for jobs.

The unemployment rate of veterans trends lower than the civilian unemployment rate, but regionally, the unemployment rate for veterans can vary from a low of 1.8 percent in Indiana to a high of 7.6 percent in the District of Columbia, as reported in the March 2016 Employment Situation of Veterans release by BLS. The higher unemployment rate for veterans in the District of Columbia can be attributed to the labor market there, which is mostly composed of professional and service industry occupations where historically there are lower employment rates for veteran workers. These veterans are experienced, mission-focused, responsible, independent, and capable workers who

often face difficulties finding jobs that match their skills. In a 2016 *Forbes* article<sup>19</sup> highlighting veterans' issues as they adjusted to the civilian workforce, the top challenges reported for veterans are a lack of training or education for the work, lack of advancement opportunities, and employers undervaluing their military experience.

Many employers who seek out veterans to hire have stated there are many benefits in attracting veterans, such as the experience they bring, more focused attention, and the ability to work independently.<sup>20</sup> Employers who attain the award will be able to market themselves as a veteran friendly employer and be able to attract more veterans for job openings.

VETS received some comments regarding the benefits described in the NPRM. The purpose of the HIRE Vets Medallion Award is to recognize employers who have recruited and retained veterans, as well as the efforts by these employers to establish employee development programs for veterans and to offer veteran specific benefits to improve retention. Those employers who meet the criteria to receive the award most likely recognize the benefits of employing veterans and would want to attract more veteran employees in the future. A recipient of this award would have the opportunity to utilize the medallion in the marketing of their firm when hiring, as well as to attract additional business. One commenter stated that employers already have a means to “advertise that they hire vets,” concluding that this award would not result in new added benefits to employers. In addition, a couple commenters questioned if employers would

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<sup>19</sup> Strauss, Karsten, (2016) How Veterans Adjust To The Civilian Workforce, November 11th, 2016. Retrieved from: <https://www.forbes.com/sites/karstenstrauss/2016/11/11/how-veterans-adjust-to-the-civilian-workforce/2/#2d316ff8395d>

<sup>20</sup> Military & Defense team, (2016) 10 Reasons Companies Should Hire Military Veterans, November 11, 2016. Retrieved from: <http://www.businessinsider.com/reasons-companies-should-hire-military-veterans-2016-11>

be interested in applying given the burden of applying and the lack of quantifiable benefits. While benefits were not quantified, the employers in the stakeholder meetings and in the 2016 *Forbes* article<sup>19</sup> discussed above both asserted that there are benefits employers receive from hiring veterans, and this award will enable employers to attract more veterans to their job openings.

Other comments supported the idea that a HIRE Vets Medallion Award would yield tangible benefits to employers. For example, a commenter expressed that “[o]nce employers who participate in this program start hiring more veterans, other companies will see the positive impact it has on business and hopefully will follow in the same direction” (VETS-2017-0001-0018). This award program was mandated by an act of Congress to recognize those employers who currently meet those criteria in hiring, retaining, and supporting veteran employees. These employers have engaged with veteran employees because there are benefits gained, but as stated above, these benefits are not easily quantified. A *Time* article from April 25, 2016, “Paying Their Workers’ College Tuition Can Pay Off for Companies,” stated that tuition reimbursement, “reduced employee turnover and lower[ed] recruiting costs,” demonstrating the financial benefit these programs can have to employers’ bottom lines.<sup>21</sup> Employee resources groups, leadership training, differential pay, and tuition reimbursement have all been shown to reduce turnover.<sup>22</sup> In an article from the *Huffington Post*, “How Much Does Employee Turnover Really Cost,” posted on January 19, 2017, the author found that “the cost of

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<sup>21</sup> Mulhere, Kaitlin, (2016) Paying Their Workers’ College Tuition Can Pay Off for Companies. April 25, 2016. Retrieved from: <http://time.com/money/4305549/paying-their-workers-college-tuition-can-pay-off-for-companies/>

<sup>22</sup> Altman, Jack, (2017) How Much Does Employee Turnover Really cost? January 18th, 2017. Retrieved from: [https://www.huffingtonpost.com/entry/how-much-does-employee-turnover-really-cost\\_us\\_587fbaf9e4b0474ad4874fb7](https://www.huffingtonpost.com/entry/how-much-does-employee-turnover-really-cost_us_587fbaf9e4b0474ad4874fb7)

losing an employee can range from tens of thousands of dollars to 1.5–2.0x the employee’s annual salary.” As these articles demonstrate, employers applying for a HIRE Vets Medallion Award are reaping many benefits, and this award will allow them to maximize the return on their investment in the employee programs they offer.

Attaining awards can also result in benefits to businesses in the form of increased marketing potential, improved standing in their industry, recognition as a leader, and improved employee engagement.<sup>23</sup> These benefits discussed are all reasons that businesses participate in awards and offer employee development programs.

### **Regulatory Flexibility Certification**

For regulatory flexibility purposes for this rule, economic impacts are considered significant in any given sector if costs are greater than 1 percent of revenues or 5 percent of profits. For the purpose of determining impacts on small employers, VETS considered costs as a percentage of revenues and profits by industry sector for employers with 5 to 500 employees. (Note that this definition of “small employers” is consistent with SBA’s definition and differs from that established by Congress for purposes of the HIRE Vets Medallion Program.) Table 8 shows the minimum and maximum impacts for each 3-digit subsector within the 2-digit sector shown. (Full impacts and derivation are given in the supplemental spreadsheets, Docket No. VETS-2017-0001-0002.) Table 8 shows that no industry sector has costs in excess of 1 percent of revenues or 5 percent of profits.

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<sup>23</sup> Narayanan, Sukruti, (2017) The 5 Benefits of Receiving Corporate Awards. January 15, 2017. Retrieved from: <https://www.linkedin.com/pulse/5-benefits-receiving-corporate-awards-sukruti-narayanan>.

**Table 8. Economic Impacts**

NAICS	Title	Average Revenue Per Establishment	Average Cost to Revenues		Average Cost to Profits	
			Minimum	Maximum	Minimum	Maximum
11	Agriculture, Forestry, Fishing, and Hunting	4,244,996	0.009%	0.026%	0.176%	0.844%
21	Mining	13,371,157	0.002%	0.009%	0.068%	0.068%
22	Utilities	21,521,736	0.003%	0.003%	-0.220%*	-0.220%*
31-33	Manufacturing	10,225,679	0.002%	0.021%	0.030%	0.485%
42	Wholesale Trade	20,024,426	0.002%	0.006%	0.014%	0.203%
44-45	Retail Trade	3,928,643	0.005%	0.042%	0.243%	0.243%
48-49	Transportation	5,700,083	0.004%	0.039%	0.051%	4.545%
51	Information	4,990,489	0.009%	0.020%	-0.165%*	0.192%
52	Finance and Insurance	5,367,956	0.007%	0.019%	0.015%	0.314%
53	Real Estate	4,371,291	0.007%	0.025%	0.038%	0.566%
54	Professional, Scientific, and Technical Services	2,986,458	0.020%	0.020%	0.517%	0.517%
55	Management	2,306,072	0.026%	0.026%	0.131%	0.131%
56	Administrative and Support, Waste Management and Remediation Services	2,727,336	0.018%	0.030%	0.426%	0.765%
61	Educational Services	2,514,535	0.024%	0.024%	0.522%	0.522%
62	Health Care	8,435,099	0.003%	0.051%	0.052%	0.964%
71	Arts, Entertainment, and Recreation	2,963,512	0.014%	0.039%	0.236%	2.414%
72	Accommodation and Food Services	1,381,321	0.033%	0.065%	0.505%	1.224%
81	Other Services	1,319,709	0.030%	0.094%	1.222%	2.905%

Source: VETS based on data from IRS (U.S. Internal Revenue Service), 2013. Corporation Source Book, 2013. <https://www.irs.gov/statistics/soi-tax-stats-corporation-source-book-us-total-and-sectors-listing>, Accessed by Eastern Resource Group, Inc., 2016.

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See Spreadsheets, Docket No. VETS-2017-0001-0002, for full derivation.

\*Negative profit rates reported for these industries.

As a result of these considerations, per section 605 of the Regulatory Flexibility Act (RFA), VETS certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VETS did not receive comments on this certification. Further, it should be noted that small employers are only subject to this rule if they choose to apply for the award. Thus, no small business needs to incur the costs unless they find that the benefits exceed the costs for them.

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Eligibility estimates by VETS. See text and spreadsheets (Docket No. VETS-2017-0001-0002).

## **Paperwork Reduction Act**

### *Overview*

The final HIRE Vets Medallion Award regulations contain collections of information (paperwork) requirements that are subject to review by OMB. The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq., and its implementing regulations, 5 CFR part 1320, require that the Department consider the impact of paperwork and other information collection burdens imposed on the public. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person may generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

### *Solicitation of Comments*

On August 18, 2017, VETS published two separate Federal Register Notices that allowed the public an opportunity to comment on the proposed Information Collection

Request (ICR) containing the collections of information contained in the proposed regulations and the HIRE Vets Medallion Award application and forms. First, in accordance with the PRA (44 U.S.C. 3507), the HIRE Vets Medallion Program NPRM provided 30 days for the public to comment on the ICR (82 FR 39390). However, the PRA requires that agencies provide a 60-day public comment period on the collections of information in accordance with 44 U.S.C. 3506(c). As a result, VETS published a second companion notice to the NPRM (82 FR 39460) allowing the public the full 60 days to comment on the collections of information contained in the proposal. On August 18, 2017, VETS submitted an ICR for the proposed rule to OMB for review in accordance with 44 U.S.C. 3507(d).

On October 25, 2017, OMB issued a Notice of Action (NOA) commenting on the proposal's ICR. OMB commented that the NOA is not an approval to conduct or sponsor the collections of information contained in the proposal. OMB noted that this action has no effect on any current approvals and assigned the ICR control number 1293-0015 to be used in future ICR submissions. Also, OMB instructed the Agency to resubmit this ICR when the final rule is issued.

#### *Collection of Information Requirements*

VETS received comments addressing the collections of information and the burden hour cost analysis. Responses to these comments are found in the *Section-by-Section Summary of the Final Rule and Discussion of Comments* and *Executive Orders 12866 and 13563: Regulatory Planning and Review Introduction* sections of the preamble.

As related to this rulemaking, VETS submitted the final ICR, containing the full analysis and description of the burden hours and costs associated with the final rule, to OMB on the date of publication for approval. A copy of this ICR is available at <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1293-0015> (this link will become active on the day following publication of the final rule). This request also seeks authority for VETS to engage in a demonstration of the information collection and award in 2018, before the implementation of this rule; this demonstration would not involve the collection of application fees.

The regulations implementing the HIRE Vets Act require the Secretary annually to solicit and accept voluntary information from employers for consideration of employers to receive a HIRE Vets Medallion Award. The Act establishes specific criteria at two levels, “Gold” and “Platinum,” for large employers (those with 500 or more employees) and allows the Secretary discretion in establishing criteria for small and medium employers to qualify for similar awards.

The final rule includes the application process and criteria VETS will use to receive, review, and process applications; verify the information provided; and award the HIRE Vets Medallion Award to those employers meeting the criteria. VETS developed the HIRE Vets application forms [VETS–1011LP, VETS–1011LG, VETS–1011MP, VETS–1011MG, VETS–1011SP, VETS–1011SG] for employers to complete and submit to VETS to fulfill the regulatory requirements to receive an award. The Act establishes a fund, designated as the “Hire Vets Medallion Award Fund,” and allows the Secretary to assess a reasonable fee from the applicants to cover the costs associated with carrying out

the HIRE Vets Medallion Program. The final rule provides the fee amount and how to submit the fee.

The final rule, like the proposed rule, provides specific award criteria for large employers to qualify for the gold and platinum awards. Although the number of criteria an employer is required to satisfy in the final rule differs by award, the large employer criteria established by statute are generally incorporated across the large employer, medium employer, and small employer awards. The applications require employers to provide information to meet award criteria dependent upon the size of the employer and the level of award the employer is requesting, gold or platinum. The following table provides the corresponding regulatory citation for each award type. In addition, employers must maintain documentation of the information relied upon to complete the application for 2 years after the application is submitted to VETS (§ 1011.600).

Final Regulatory Provision		
<i>Employer Size</i>	<i>Gold Award</i>	<i>Platinum Award</i>
Large	§ 1011.100(a)	§ 1011.100(b)
Medium	§ 1011.105(a)	§ 1011.105(b)
Small	§ 1011.110(a)	§ 1011.110(b)

The applications solicit information that VETS will review and evaluate to determine if an employer will receive an award. Employers are required to maintain information relied upon to complete their application for 2 years, as previously noted. VETS may request this information if additional verification is needed, or in case VETS becomes aware of facts that may indicate information submitted on the application may be incorrect.

*Title of Collection:* Honoring Investments in Recruiting and Employing American Military Veterans Act.

*OMB Control Number:* 1293-0015.

*Total Estimated Number of Respondents:* 7,036.

*Total Estimated Number of Responses:* 34,245.

*Total Estimated Annual Time Burden Hours:* 58,716.

*Total Estimated Annual Other Costs Burden:* \$1,847,746.

### **Small Business Regulatory Enforcement Fairness Act of 1996**

VETS has determined that this final rule does not impose a significant economic impact on a substantial number of small entities under the RFA; therefore, VETS is not required to produce any Compliance Guides for Small Entities, as mandated by the Small Business Regulatory Enforcement Fairness Act for rules with such impacts.

### **Unfunded Mandates Reform Act of 1995**

For purposes of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, this final rule does not include any Federal mandate that may result in excess of \$100 million in expenditures by State, local, and Tribal governments in the aggregate or by the private sector.

### **Executive Order 13132 (Federalism)**

VETS has reviewed this final rule in accordance with Executive Order 13132 regarding federalism and has determined that it does not have “federalism implications.” This rule will not “have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

**Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments)**

This final rule does not have Tribal implications under Executive Order 13175 that require a Tribal summary impact statement. The final rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

**Plain Language**

The final rule uses plain language.

**Effects on Families**

The undersigned hereby certifies that the final rule would not adversely affect the well-being of families.

**Executive Order 13045 (Protection of Children)**

This final rule would have no environmental health risk or safety risk that may disproportionately affect children.

**Environmental Impact Assessment**

A review of this final rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq.; the regulations of the Council on Environmental Quality, 40 CFR part 1500 et seq.; and DOL NEPA procedures, 29 CFR part 11, indicates the final rule would not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental assessment or an environmental impact statement.

**Executive Order 13211 (Energy Supply)**

This final rule is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

#### **Executive Order 12630 (Constitutionally Protected Property)**

This final rule is not subject to Executive Order 12630 because it does not involve implementation of a policy that has takings implications or that could impose limitations on private property use.

#### **Executive Order 12988 (Civil Justice Reform Analysis)**

This final rule was drafted and reviewed in accordance with Executive Order 12988 and will not unduly burden the Federal court system. The final rule was reviewed to eliminate drafting errors and ambiguities, written to minimize litigation, and written to provide a clear legal standard for affected conduct and to promote burden reduction.

#### **List of Subjects in 20 CFR Part 1011**

Employment, Veterans, Employer Recognition, Medallion

For the reasons set out in the preamble, the Veterans' Employment and Training Service amends 20 CFR chapter IX by adding part 1011 to read as follows:

#### **PART 1011—HIRE VETS MEDALLION PROGRAM**

##### **Subpart A—General Provisions**

Sec.

1011.000 What is the HIRE Vets Medallion Program?

1011.005 What definitions apply to this part?

1011.010 Who is eligible to apply for a HIRE Vets Medallion Award?

1011.015 What are the different types of the HIRE Vets Medallion Awards?

##### **Subpart B—Award Criteria**

1011.100 What are the criteria for the large employer HIRE Vets Medallion Award?

1011.105 What are the criteria for the medium employer HIRE Vets Medallion Award?

1011.110 What are the criteria for the small employer HIRE Vets Medallion Award?

1011.115 Is there an exemption for certain large employers from the dedicated human resources professional criterion for the large employer platinum HIRE Vets Medallion Award?

1011.120 Under what circumstances will VETS find an employer ineligible to receive a HIRE Vets Medallion Award for a violation of labor law?

### **Subpart C—Application Process**

1011.200 How will VETS administer the HIRE Vets Medallion Award process?

1011.205 What is the timing of the HIRE Vets Medallion Award process?

1011.210 How often can an employer receive the HIRE Vets Medallion Award?

1011.215 How will the employer complete the application for the HIRE Vets Medallion Award?

1011.220 How will VETS verify a HIRE Vets Medallion Award application?

1011.225 Under what circumstances will VETS conduct further review of an application?

1011.230 Under what circumstances can VETS deny or revoke an award?

### **Subpart D—Fees and Caps**

1011.300 What are the application fees for the HIRE Vets Medallion Award?

1011.305 May VETS set a limit on how many applications will be accepted in a year?

### **Subpart E—Design and Display**

1011.400 What does a successful applicant receive?

1011.405 What are the restrictions on display and use of the HIRE Vets Medallion Award?

### **Subpart F—Requests for Reconsideration**

1011.500 What is the process to request reconsideration of a denial or revocation?

### **Subpart G—Record Retention**

1011.600 What are the record retention requirements for the HIRE Vets Medallion Award?

Authority: Division O, Pub. L. 115-31, 131 Stat. 135.

### **Subpart A—General Provisions**

#### **§ 1011.000 What is the HIRE Vets Medallion Program?**

The HIRE Vets Medallion Program is a voluntary employer recognition program administered by the Department of Labor's Veterans' Employment and Training Service.

Through the HIRE Vets Medallion Program, the Department of Labor solicits voluntary applications from employers for the HIRE Vets Medallion Award. The purpose of this award is to recognize efforts by applicants to recruit, employ, and retain veterans and to provide services supporting the veteran community.

**§ 1011.005 What definitions apply to this part?**

*Active Duty in the United States National Guard or Reserve* means active duty as defined in 10 U.S.C. 101(d)(1).

*Dedicated human resources professional* means either a full-time professional or the equivalent of a full-time professional dedicated exclusively to supporting the hiring, training, and retention of veteran employees. Two half-time professionals, for example, are equivalent to one full-time professional.

*Employee* means any individual for whom the employer furnishes an IRS Form W-2, excluding temporary workers.

*Employer* means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employee opportunities, except for the Federal Government or any State or foreign government. For the purposes of this regulation, VETS will recognize employers based on the Employer Identification Number, as described in 26 CFR 301.7701-12, used to furnish an IRS Form W-2 to an employee. However, in the case of an agent designated pursuant to 26 CFR 31.3504-1, a payor designated pursuant to 26 CFR 31.3504-2, or a Certified Professional Employer Organization recognized pursuant to 26 U.S.C. 7705, the employer shall be the common law employer, client, or customer, respectively, instead of the entity that furnishes the IRS Form W-2.

*Human Resources Veterans' Initiative* means an initiative through which an employer provides support for hiring, training, and retention of veteran employees.

*Post-secondary education* means post-secondary level education or training courses that would be acceptable for credit toward at least one of the following: associate's or bachelor's degree or higher, any other recognized post-secondary credential, or an apprenticeship.

*Salary* means an employee's base pay.

*Temporary worker* means any worker hired with the intention that the worker be retained for less than 1 year and who is actually retained for less than 1 year.

*Veteran* has the meaning given such term under 38 U.S.C. 101.

*VETS* means the Veterans' Employment and Training Service of the Department of Labor.

#### **§ 1011.010 Who is eligible to apply for a HIRE Vets Medallion Award?**

All employers who employ at least one employee are eligible to apply for a HIRE Vets Medallion Award. To qualify for a HIRE Vets Medallion Award, an employer must satisfy all application requirements.

#### **§ 1011.015 What are the different types of the HIRE Vets Medallion Awards?**

- (a) There are three different categories of the HIRE Vets Medallion Award:
- (1) *Large Employer Awards* for employers with 500 or more employees.
  - (2) *Medium Employer Awards* for employers with more than 50 but fewer than 500 employees.
  - (3) *Small Employer Awards* for employers with 50 or fewer employees.

(4) *Timing.* The correct category of award is determined by the employer's number of employees as of December 31 of the year prior to the year in which the employer applies for an award.

(b) Within each award category, there are two levels of award:

(1) A Gold Award; and

(2) A Platinum Award.

### **Subpart B—Award Criteria**

#### **§ 1011.100 What are the criteria for the large employer HIRE Vets Medallion Award?**

(a) *Gold Award.* To qualify for a large employer gold HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:

(1) The employer is a large employer as specified in § 1011.015 of this part;

(2) The employer is not found ineligible under § 1011.120 of this part;

(3) Veterans constitute not less than 7 percent of all employees hired by such employer during the prior calendar year;

(4) The employer has retained not less than 75 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired;

(5) The employer has established an employee veteran organization or resource group to assist new veteran employees with integration, including coaching and mentoring; and

(6) The employer has established programs to enhance the leadership skills of veteran employees during their employment.

(b) *Platinum Award*. To qualify for a large employer platinum HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:

- (1) The employer is a large employer as specified in § 1011.015 of this part;
- (2) The employer is not found ineligible under § 1011.120 of this part;
- (3) Veterans constitute not less than 10 percent of all employees hired by such employer during the prior calendar year;
- (4) The employer has retained not less than 85 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired;
- (5) The employer has established an employee veteran organization or resource group to assist new veteran employees with integration, including coaching and mentoring;
- (6) The employer has established programs to enhance the leadership skills of veteran employees during their employment;
- (7) The employer employs a dedicated human resources professional as defined in § 1011.005 of this part to support hiring, training, and retention of veteran employees;
- (8) The employer provides each of its employees serving on active duty in the United States National Guard or Reserve with compensation sufficient, in combination with the employee's active duty pay, to achieve a combined

level of income commensurate with the employee's salary prior to undertaking active duty; and

- (9) The employer has a tuition assistance program to support veteran employees' attendance in post-secondary education during the term of their employment.

**§ 1011.105 What are the criteria for the medium employer HIRE Vets Medallion Award?**

- (a) *Gold Award.* To qualify for a medium employer gold HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:

- (1) The employer is a medium employer per § 1011.015 of this part;
- (2) The employer is not found ineligible under § 1011.120 of this part;
- (3) The employer has achieved at least one of the following:
  - (i) Veterans constitute not less than 7 percent of all employees hired by such employer during the prior calendar year; or
  - (ii) The employer has achieved both of the following:
    - (A) The employer has retained not less than 75 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired; and
    - (B) On December 31 of the year prior to the year in which the employer applies for the HIRE Vets Medallion Award, at least 7 percent of the employer's employees were veterans; and

(4) The employer has at least one of the following forms of integration assistance:

- (i) The employer has established an employee veteran organization or resource group to assist new veteran employees with integration, including coaching and mentoring; or
- (ii) The employer has established programs to enhance the leadership skills of veteran employees during their employment.

(b) *Platinum Award*. To qualify for a medium employer platinum HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:

(1) The employer is a medium employer as specified in § 1011.015 of this part;

(2) The employer is not found ineligible under § 1011.120 of this part;

(3) The employer has achieved at least one of the following:

(i) Veterans constitute not less than 10 percent of all employees hired by such employer during the prior calendar year; or

(ii) The employer has achieved both of the following:

(A) The employer has retained not less than 85 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired; and

(B) On December 31 of the year prior to the year in which the employer applies for the HIRE Vets Medallion Award, at least 10 percent of the employer's employees were veterans;

- (4) The employer has the following forms of integration assistance:
- (i) The employer has established an employee veteran organization or resource group to assist new veteran employees with integration, including coaching and mentoring; and
  - (ii) The employer has established programs to enhance the leadership skills of veteran employees during their employment; and
- (5) The employer has at least one of the following additional forms of integration assistance:
- (i) The employer has established a human resources veterans' initiative;
  - (ii) The employer provides each of its employees serving on active duty in the United States National Guard or Reserve with compensation sufficient, in combination with the employee's active duty pay, to achieve a combined level of income commensurate with the employee's salary prior to undertaking active duty; or
  - (iii) The employer has a tuition assistance program to support veteran employees' attendance in post-secondary education during the term of their employment.

**§ 1011.110 What are the criteria for the small employer HIRE Vets Medallion Award?**

- (a) *Gold Award.* To qualify for a small employer gold HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:
- (1) The employer is a small employer as specified in § 1011.015 of this part;
  - (2) The employer is not found ineligible under § 1011.120 of this part; and

- (3) The employer has achieved at least one of the following:
- (i) Veterans constitute not less than 7 percent of all employees hired by such employer during the prior calendar year; or
  - (ii) The employer has achieved both of the following:
    - (A) The employer has retained not less than 75 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired; and
    - (B) On December 31 of the year prior to the year in which the employer applies for the HIRE Vets Medallion Award, at least 7 percent of the employer's employees were veterans.

(b) *Platinum Award*. To qualify for a small employer platinum HIRE Vets Medallion Award, an employer must satisfy all of the following criteria:

- (1) The employer is a small employer as specified in § 1011.015 of this part;
- (2) The employer is not found ineligible under § 1011.120 of this part;
- (3) The employer has achieved at least one of the following:
  - (i) Veterans constitute not less than 10 percent of all employees hired by such employer during the prior calendar year; or
  - (ii) The employer has achieved both of the following:
    - (A) The employer has retained not less than 85 percent of the veteran employees hired during the calendar year preceding the preceding calendar year for a period of at least 12 months from the date on which the employees were hired; and

- (B) On December 31 of the year prior to the year in which the employer applies for the HIRE Vets Medallion Award, at least 10 percent of the employer's employees were veterans; and
- (4) The employer has at least two of the following forms of integration assistance:
- (i) The employer has established an employee veteran organization or resource group to assist new veteran employees with integration, including coaching and mentoring;
  - (ii) The employer has established programs to enhance the leadership skills of veteran employees during their employment;
  - (iii) The employer has established a human resources veterans' initiative;
  - (iv) The employer provides each of its employees serving on active duty in the United States National Guard or Reserve with compensation sufficient, in combination with the employee's active duty pay, to achieve a combined level of income commensurate with the employee's salary prior to undertaking active duty;
  - (v) The employer has a tuition assistance program to support veteran employees' attendance in post-secondary education during the term of their employment.

**§ 1011.115 Is there an exemption for certain large employers from the dedicated human resources professional criterion for the large employer platinum HIRE Vets Medallion Award?**

Yes. Large employers who employ 5,000 or fewer employees need not have a dedicated human resources professional to support the hiring and retention of veteran employees. A large employer with 5,000 or fewer employees can satisfy the criterion at § 1011.100(b)(7) by employing at least one human resources professional whose regular work duties include supporting the hiring, training, and retention of veteran employees.

**§ 1011.120 Under what circumstances will VETS find an employer ineligible to receive a HIRE Vets Medallion Award for a violation of labor law?**

(a) Any employer with an adverse labor law decision, stipulated agreement, contract debarment, or contract termination, as defined in paragraphs (b) through (e) of this section, pursuant to either of the following labor laws, as amended, will not be eligible to receive an award:

(1) Uniformed Services Employment and Reemployment Rights Act (USERRA); or

(2) Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA);

(b) For purposes of this section, an adverse labor law decision means any of the following, issued in the calendar year prior to year in which applications are solicited or the calendar year in which applications are solicited up until the issuance of the award, in which a violation of any of the laws in paragraph (a) of this section is found:

(1) A civil or criminal judgment;

(2) A final administrative merits determination of an administrative adjudicative board or commission; or

(3) A decision of an administrative law judge or other administrative judge that is not appealed and that becomes the final agency action.

- (c) For purposes of this section, a stipulated agreement means any agreement (including a settlement agreement, conciliation agreement, consent decree, or other similar document) to which the employer is a party, entered into in the calendar year prior to the year in which applications are solicited or the calendar year in which applications are solicited up until the issuance of the award, that contains an admission that the employer violated either of the laws cited in paragraph (a) of this section.
- (d) For purposes of this section, a contract debarment means any order or voluntary agreement, pursuant to the laws listed in paragraph (a) of this section, that debars the employer from receiving any future Federal contract. Employers shall be ineligible for an award for the duration of time that the contract debarment is in effect.
- (e) For purposes of this section, a contract termination means any order or voluntary agreement, pursuant to the laws listed in paragraph (a) of this section, that terminates an existing Federal contract prior to its completion. Employers shall be ineligible for the award if this termination occurred in the calendar year prior to the year in which applications are solicited or the calendar year in which applications are solicited up until the issuance of the award.
- (f) VETS may delay issuing an award to an employer if, at the time the award is to be issued, VETS has credible information that a significant violation of one of the laws in paragraph (a) of this section may have occurred that could lead to an

employer being disqualified pursuant to any of paragraphs (b) through (e) of this section.

### **Subpart C—Application Process**

#### **§ 1011.200 How will VETS administer the HIRE Vets Medallion Award process?**

The Secretary of Labor will annually—

- (a) Solicit and accept voluntary applications from employers in order to consider whether those employers should receive a HIRE Vets Medallion Award;
- (b) Review applications received in each calendar year;
- (c) Notify such recipients of their awards; and
- (d) At a time to coincide with the annual commemoration of Veterans Day—
  - (1) Announce the names of such recipients;
  - (2) Recognize such recipients through publication in the *Federal Register*; and
  - (3) Issue to each such recipient—
    - (i) A HIRE Vets Medallion Award; and
    - (ii) A certificate stating that such employer is entitled to display such HIRE Vets Medallion Award.

#### **§ 1011.205 What is the timing of the HIRE Vets Medallion Award process?**

VETS will review all timely applications that fall under any cap established in § 1011.305 of this part to determine whether an employer should receive a HIRE Vets Medallion Award, and, if so, of what level.

- (a) *Performance period*—except as otherwise noted in § 1011.120 of this part, only the employer's actions taken prior to December 31 of the calendar year prior to

the calendar year in which applications are solicited will be considered in reviewing the award.

- (b) *Solicitation period*—VETS will solicit applications not later than January 31 of each calendar year for the HIRE Vets Medallion Award to be awarded in November of that calendar year.
- (c) *End of acceptance period*—VETS will stop accepting applications on April 30 of each calendar year for the awards to be awarded in November of that calendar year.
- (d) *Review period*—VETS will finish reviewing applications not later than August 31 of each calendar year for the awards to be awarded in November of that calendar year.
- (e) *Selection of recipients*—VETS will select the employers to receive HIRE Vets Medallion Awards not later than September 30 of each calendar year for the awards to be awarded in November of that calendar year.
- (f) *Notice of awards and denials*—VETS will notify employers who will receive HIRE Vets Medallion Awards not later than October 11 of each calendar year for the awards to be awarded in November of that calendar year. VETS will also notify applicants who will not be receiving an award at that time.

**§ 1011.210 How often can an employer receive the HIRE Vets Medallion Award?**

Per section 2(d) of the HIRE Vets Act, an employer who receives a HIRE Vets Medallion Award for 1 calendar year is not eligible to receive a HIRE Vets Medallion Award for the subsequent calendar year.

**§ 1011.215 How will the employer complete the application for the HIRE Vets Medallion Award?**

- (a) VETS will require all applicants to provide information to establish their eligibility for the HIRE Vets Medallion Award.
- (b) VETS may request additional information in support of the application for the HIRE Vets Medallion Award.
- (c) The chief executive officer, the chief human resources officer, or an equivalent official of each employer applicant must attest under penalty of perjury that the information the employer has submitted in its application is accurate.
- (d) Interested employers can access the application form via the HIRE Vets website accessible from <https://www.hirevets.gov/>.
- (e) Applicants will complete the application form and submit it electronically.
- (f) Applicants who need a reasonable accommodation in accessing the application form, submitting the application form, or submitting the application fee may contact VETS at (202) 693-4700 or TTY (877) 889-5627 (these are not toll-free numbers).
- (g) Should the information provided on the application be deemed incomplete, VETS will attempt to contact the applicant. The applicant must respond with the additional information necessary to complete the application form within 5 business days or VETS will deny the application.

**§ 1011.220 How will VETS verify a HIRE Vets Medallion Award application?**

VETS will verify all information provided by an employer in its application to the extent that such information is relevant in determining whether or not such employer

meets the criteria to receive a HIRE Vets Medallion Award or in determining the appropriate level of HIRE Vets Medallion Award for that employer to receive. VETS will verify this information by reviewing all information provided as part of the application.

**§ 1011.225 Under what circumstances will VETS conduct further review of an application?**

If at any time VETS becomes aware of facts that indicate that the information provided by an employer in its application was incorrect or that the employer does not satisfy the requirements at § 1011.120, VETS may conduct further review of the application. As part of that review, VETS may request information and/or documentation to confirm the accuracy of the information provided by the employer in its application or to confirm that the employer is not ineligible under § 1011.120. Depending on the result of the review, VETS may either deny or revoke the award. If VETS initiates such review prior to issuing the award, VETS will not be required to meet the timeline requirements in this part.

**§ 1011.230 Under what circumstances can VETS deny or revoke an award?**

(a) *Denial of award.* VETS may deny an award for any of the following reasons:

- (1) The applicant fails to provide information and/or documentation as requested under § 1011.225 of this part;
- (2) VETS determines that the chief executive officer, the chief human resources officer, or an equivalent official of the applicant falsely attested that the information on the application was true;
- (3) The employer is ineligible to receive an award pursuant to § 1011.120 of this part; or
- (4) The application does not satisfy all application requirements.

(b) *Revocation of award.* Once the HIRE Vets Medallion Award has been awarded, VETS may revoke the recipient's award for the following reasons:

- (1) The HIRE Vets Medallion Award recipient fails to provide information and/or documentation as requested under § 1011.225 of this part;
- (2) VETS determines that the chief executive officer, the chief human resources officer, or an equivalent official of the recipient falsely attested that the information on the application was true;
- (3) The employer was ineligible to receive an award pursuant to § 1011.120 of this part; or
- (4) The employer violated the display restrictions at § 1011.405 of this part.

(c) If VETS decides to deny or revoke an award, it will provide the employer with notice of the decision. An employer may request reconsideration of VETS' decision to deny or revoke an award pursuant to § 1011.500 of this part.

#### **Subpart D—Fees and Caps**

##### **§ 1011.300 What are the application fees for the HIRE Vets Medallion Award?**

- (a) The Act requires the Secretary of Labor to establish a fee sufficient to cover the costs associated with carrying out the HIRE Vets Medallion Program.
- (b) Table 1 to § 1011.300 sets forth the fees an employer must pay to apply for the HIRE Vets Medallion Award. VETS will adjust the fees periodically according to the Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce and notify potential applicants of the adjusted fees.
  - (1) If a significant adjustment is needed to arrive at a new fee for any reason other than inflation, then a proposed rule containing the new fees will be published in the *Federal Register* for comment.

(2) VETS will round the fee to the nearest dollar.

**Table 1 to § 1011.300**

<b>Application Fees</b>	
Small Employer Fee	\$90.00
Medium Employer Fee	\$190.00
Large Employer Fee	\$495.00

(c) All applicants must submit the appropriate application processing fee for each application submitted. This fee is based on the fees provided in table 1 to § 1011.300. Payment of this fee must be made electronically through the U.S. Treasury pay.gov system or an equivalent.

(d) Once a fee is paid, it is nonrefundable, even if the employer withdraws the application or does not receive a HIRE Vets Medallion Award.

**§ 1011.305 May VETS set a limit on how many applications will be accepted in a year?**

Yes, VETS may set a limit on how many applications will be accepted in any given year.

**Subpart E—Design and Display**

**§ 1011.400 What does a successful applicant receive?**

(a) The award will be in the form of a certificate and will state the year for which it was awarded.

(b) VETS will also provide a digital image of the medallion for recipients to use, including as part of an advertisement, solicitation, business activity, or product.

**§ 1011.405 What are the restrictions on display and use of the HIRE Vets Medallion Award?**

It is unlawful for any employer to publicly display a HIRE Vets Medallion Award, in connection with, or as a part of, any advertisement, solicitation, business activity, or product—

- (a) For the purpose of conveying, or in a manner reasonably calculated to convey, a false impression that the employer received the award through the HIRE Vets Medallion Program, if such employer did not receive such award through the HIRE Vets Medallion Program; or
- (b) For the purpose of conveying, or in a manner reasonably calculated to convey, a false impression that the employer received the award through the HIRE Vets Medallion Program for a year for which such employer did not receive such award.

**Subpart F—Requests for Reconsideration**

**§1011.500 What is the process to request reconsideration of a denial or revocation?**

- (a) An applicant may file a request for reconsideration of VETS' decision to deny or revoke a HIRE Vets Medallion Award or of VETS' decision as to the level of award by mailing a request for reconsideration to the following address no later than 15 business days after the date of VETS' notice of its decision. Requests for reconsideration must be sent to:

HIRE Vets Medallion Program  
DOL VETS  
200 Constitution Ave, NW  
Room S1325  
Washington, DC 20210

(b) Requests for reconsideration pursuant to paragraph (a) of this section must contain the following:

- (1) The employer name and identification number;
- (2) The reason for the request; and
- (3) An explanation, accompanied by any necessary documentation to support that explanation, of why VETS' decision was incorrect.

(c) VETS may request from the employer filing such request any additional evidence or explanation it finds necessary for reconsideration.

(d) Within 30 business days after the later of the receipt of the request or the receipt of any additional evidence or explanation requested, VETS will issue a determination about whether to grant or deny the request.

(e) No additional Department of Labor review is available.

#### **Subpart G—Record Retention**

##### **§ 1011.600 What are the record retention requirements for the HIRE Vets Medallion Award?**

Applicants must retain a record of all information used to support an application for the HIRE Vets Medallion Award for 2 years from the date of application.

Signed at Washington, DC this 1<sup>st</sup> day of November 2017

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J.S. Shellenberger,  
*Deputy Assistant Secretary for the Veterans' Employment and Training Service.*  
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