



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Vietnam Era Veterans Readjustment
Assistance Act (VEVRAA)

Date: **SEP 29 1997**

From: Chief, Highway Operations Division

Reply to HNG-22
Attn. of:

To: Mr. Robert E. Hollis
Division Administrator (HDA-AZ)
Phoenix, Arizona

This is in response to your request for an interpretation of whether the VEVRAA of 1974 applies to the programs administered by the Arizona Department of Transportation (ADOT). Since the ADOT is unfamiliar with the VEVRAA program and its requirements, ADOT requested assistance in resolving this issue with the U.S. Department of Labor (DOL) considering that the Federal Highway Administration (FHWA) is the Federal agency from whom they receive their federal funding.

After reviewing the requirements of 41 C.F.R. 60-250 and consulting with the Office of Chief Counsel, we believe that VEVRAA does not apply to the programs administered by a State Department of Transportation (State DOT) for the following reasons:

1. The FHWA considers a State DOT to be a "grantee," rather than a "contractor." The Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. § 6301-6308) defines three types of Federal award instruments (contract, grant, and cooperative agreement). Under a grant, a Federal agency pays Federal funds to benefit a State or to spur an activity which the agency wishes to encourage whereas, in a contract situation, the Federal agency pays money and receives a service or a product of some value in return which is for the direct benefit or use of the Federal government. Our interpretation is that, as a grantee, the State DOT would not be required to comply with VEVRAA for its programs. This interpretation is consistent with the definition of "Government" and "Government contract" as defined in Part 60-250.
2. The VEVRAA nondiscrimination requirements apply only to Federal contracts that a Federal agency awards and administers on its own behalf. The implementing regulations (41 C.F.R. 60-250.2) specifically exempt federally-aided contracts (such as a State DOT would award using its own procurement requirements) from the definition of "Government contract."

For these reasons, we believe that the State DOT's, including ADOT, are not subject to the requirements of VEVRAA in their implementation of the Federal-aid highway construction program.

Following our review, Jerry Yakowenko and Jennifer Balis contacted Ms. Bonnie Corley, Regional Liaison for DOL's Office of Federal Contract Compliance Programs, to discuss our interpretation. Based on their telephone conversation of September 22, Ms. Corley agreed that VEVRAA does not apply to the State DOT's or the Federal-aid highway construction program.

Please contact Jennifer Balis (202-366-4631) if you require any additional information.



Donald P. Steinke

cc: Julie A. Cirillo, Regional Administrator, HRA-09

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