



DATE JUL 24 2017

Mr. David B. Cohen
Mr. David S. Fortney
Mr. Mickey Silberman
Co-Chairs, The Institute for Workplace Equality
1920 I Street, NW
Washington, D.C. 20006

Dear Messrs. Cohen, Fortney, and Silberman:

Your June 2017 letter to Secretary R. Alexander Acosta has been forwarded to the Department of Labor's Veterans' Employment and Training Service (VETS) for review and response. In your letter to Secretary Acosta, you request that the Department of Labor consider moving the filing period of the VETS-4212 Report to correspond with the new filing period for the Equal Employment Opportunity Commission's (EEOC) EEO-1 Report, now scheduled to be no later than March 31, 2018. You indicate that changing the deadline for filing the VETS-4212 Report would allow Federal contractors to align the timing of their VETS-4212 and EEO-1 reports, allowing for greater efficiency and reduced burden for contractors. In addition, you seek to have the Department provide clarification as to whether it would allow covered Federal contractors to file their VETS-4212 Reports using December 31, as the basis for reporting the number of employees and as the ending date for the 12-month covered period.

Your letter raises two related but distinct issues: the appropriate *data collection* period for VETS-4212 data; and when that data, recorded on the VETS-4212 form, must be *reported* to the Department. As to the data collection period, you and the EEOC correctly note that the VETS regulations "allow contractors to select December 31, as the basis for reporting the number of employees as the ending date of the twelve month period, if the federal contractor has 'previous written approval'" to do so.¹ The EEOC interpreted their Notice on the revised EEO-1 Report as providing this written approval to all contractors required to file VETS-4212 forms. We agree with this interpretation. Accordingly, contractors may use the same calendar year data collection period for VETS-4212 purposes as well as for purposes of the EEO-1.

As to the reporting period, VETS' regulations clearly provide that contractors must file their reports between August 1 and September 30, of the year following that which they held the contract.² The EEOC's Notice did not, and indeed could not, change this reporting period.

¹ 41 CFR 61-300.10(d)(2)

² 41 CFR 61-300.11(b)

Because these dates were established through notice and comment rulemaking, pursuant to the Administrative Procedures Act, any revision to these dates would be subject to the same process. Such a rulemaking could be considered in a future update to the Department's Regulatory Agenda. Accordingly, contractors may collect data for the same period of time as they do for purposes of the EEO-1, they simply must wait until at least August 1, to file the VETS-4212 report with the Department.

Thank you for bringing this matter to our attention and for your support of our nation's service men and women.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. S. Shellenberger", with a long horizontal flourish extending to the right.

J. S. Shellenberger
Deputy Assistant Secretary