

One Minute Memo®



VETS-4212 Report: 2017 Filing Cycle starts August 1, 2017

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Seyfarth Synopsis: Tomorrow marks the first day that Federal contractors subject to reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA or "the Act") may file their VETS-4212 reports. Generally, a contractor with a federal contract of \$150,000 or more must submit the annual reports, which provide information on the contractor's efforts to hire and employ protected veterans. In 2017, the report must be submitted no later than September 30th.

What to file?

VEVRAA requires Federal contractors and subcontractors covered by the Act's affirmative action provisions to report annually the number of employees in their workforces who are "protected veterans." "Protected veteran" includes:

- Disabled veterans;
- Active duty wartime or campaign badge veterans;
- Armed Forces service medal veterans (veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985); and
- Recently separated veterans (veterans within 36 months from discharge or release from active duty).

To complete the VETS-4212 Report, contractors must report employee counts for all full- and part-time employees as of the selected payroll period end date, and aggregated employee counts for all protected veterans. Employee data used for the VETS-4212 Report must be from a pay period with an ending date that is between July 1st and August 31st of the current year. The 12-month period preceding the selected payroll period end date is the 12-month "reporting period."

Covered contractors must also report the number of new hires and protected veteran hires during the "reporting period." An electronic copy of the VETS-4212 Report with instructions is available on the Department of Labor's Veterans' Employment & Training Service (VETS) [website](#).

How to file?

Contractors are “encouraged” to file electronically via the VETS-4212 website, available [here](#). First time filers must register via the website, found [here](#) to obtain a user name and password to log in to the system. Contractors that have filed the VETS-4212 electronically before may access their account with the most recent user name and password. Additional information on filing the VETS-4212 Report can be found [here](#).

But what about the EEO-1 Report?

Absent any changes, beginning in 2018, employers with more than 100 employees (regardless of Federal contractor status) must submit an EEO-1 “Component 2” report, which discloses previous year W-2 earnings and Fair Labor Standards Act (FLSA) “hours worked” for all employees.¹ Employers will submit information based on an employee workforce snapshot taken from the end of any pay period between October 1st and December 31st, in addition to aggregated W-2 and FLSA “hours worked” information.

In years past, both the VETS-4212 Report and EEO-1 Report had overlapping data collection periods (July-August and July-September respectively) and filing deadlines (September 30th). Due to recent changes to the EEO-1 Report, the survey period for the EEO-1 has changed to **October-December**, and the filing deadline has moved to **March 31, 2018**.

For 2017 filings, federal contractors subject to both EEO-1 Component 2 and VETS-4212 requirements will not be able to pull employee demographic data for both reports at the same time. This is just one of many challenges associated with the revised EEO-1 Report.

In future years, contractors will be able to align the VETS-4212 and EEO-1 reporting data collection periods; but, the filing deadline for the two reports will still be different unless changed by the DOL. Footnote 49 of the [notice](#) published in the Federal Register by the EEOC regarding the EEO-1 report stated:

Under regulations implementing VEVRAA, certain federal contractors must report annually on form VETS-4212 the number of employees and new hires protected under VEVRAA. 41 CFR 61-300.10(d) (1)...the regulations allow contractors to select December 31st as the basis for reporting the number of employees and as the ending date of the twelve-month covered period, if the federal contractor has “previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report).” 41 CFR 61-300.10(d)(2). The implementation notice for the revised EEO-1 will serve as “previous written approval” from the EEOC pursuant to this Department of Labor VEVRAA rule.

[VETS FAQ #14](#) confirms the EEOC’s statement regarding the VETS-4212 data collection period. While VETS has not issued any public guidance as to how the reporting period realignment will be implemented, DOL officials have confirmed to industry groups that Federal contractors will be able to file their 2018 VETS-4212 reports using the data collected in connection with the 2018 EEO-1 filing if contractors use December 31st as the snapshot date for data collection.

¹ Note that Federal contractors with between 50 and 99 employees will only be required to submit the current EEO-1 form without the compensation and hours worked data required in the Component 2 report.

For more on the changes to the EEO-1 Report and how employers can prepare themselves for the upcoming filing, please join Seyfarth attorneys for an August 2017 webinar. Topics will include:

- Description and explanation of the new EEO-1 requirements;
- Important considerations that employers should make when preparing their data for filing
- Discussion of how employers may see this data used
- Best practices for government contractors when filing EEO-1 reports

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