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September 1, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Proposed Policy Statement and Order Re: Amended Policy Statement
on Diversity at Major Jurisdictional Utilities, Docket No.: M-2020-
3018089**

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Proposed Policy Statement and Order at the above-referenced docket. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

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

Donna M.J. Clark

Vice President & General Counsel

CC: Joseph P. Cardinale, Jr., Assistant Counsel, Law Bureau
Rhonda L. Daviston, Assistant Counsel, Law Bureau
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Amended Policy Statement on Diversity at	:	
Major Jurisdictional Utilities	:	Docket No.: M-2020-3018089
	:	

**COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA IN RESPONSE
TO THE PROPOSED AMENDED POLICY STATEMENT ON DIVERSITY AT MAJOR
JURISDICTIONAL UTILITIES**

I. INTRODUCTION

The Energy Association of Pennsylvania (“EAP” or “Association”) submits these comments on behalf of its electric distribution company and natural gas distribution company members¹ in response to the proposed amendments to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Diversity Policy Statement and Order entered May 21, 2020 at the above docket (“Diversity Policy Statement”).

**II. GENERAL COMMENTS AND DISCUSSION OF EXISTING DIVERSITY
REPORTING SCHEMES**

EAP appreciates the opportunity to comment on the Diversity Policy Statement. The Diversity Policy Statement addresses diversity reporting for utility employees, diversity reporting for utility vendors, and the development and implementation of utility policies to promote diversity. As a general matter, EAP members are supportive of the Commission’s efforts to

¹ Citizens’ Electric Company; Columbia Gas of Pennsylvania, Inc.; Duquesne Light Company; Leatherstocking Gas Company, LLC; Metropolitan Edison Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Peoples Natural Gas Company LLC; Peoples Gas Company LLC; Philadelphia Gas Works; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities Inc.; Valley Energy Inc.; Wellsboro Electric Company; and West Penn Power Company.

promote and implement effective diversity programs within utility companies. EAP further supports Commission efforts to promote measures that support veterans and people who identify as LGBTQ. EAP's suggestions in response to the proposed amendments and provisions of the existing Diversity Policy Statement focus largely on the existing definitions and proposed definitional changes that guide the data already collected and reported by major jurisdictional utilities. It is EAP's recommendation that the definitions in the Commission's regulations reflect, to the extent possible, those definitions utilized in other regulatory contexts, both federal and state, for reporting employment and vendor statistics. The goals of EAP's comments and suggestions in this regard are the standardization of data, reduction of administrative burden, and ability to make apple-to-apple comparisons between data collected from Pennsylvania utilities with that of their cohorts in other jurisdictions.

Additionally, although not discussed in the Proposed Policy Statement and Order, the Chairman's Motion approved at Public Meeting in February 2020 directed the Law Bureau to begin a rulemaking proceeding by December 31, 2020 to require diversity reporting. EAP respectfully suggests that the PUC finalize the amendments to the current Policy Statement on Diversity and allow for a period of updated reporting and review before initiating a rulemaking proceeding. EAP believes that the information gathered through implementation of an updated policy statement over a few reporting cycles will aid the PUC and stakeholders in a future rulemaking proceeding.

A. Applicability

As an initial matter, EAP recommends that the applicability of this policy statement be based not on the value of net plant in service of EAP member utilities, but on the employee headcount of those utilities. EAP's member companies range in size from entities with thousands

of employees to entities with less than ten. For smaller utilities, though the value of their facilities may classify them as “major jurisdictional utilities” under the existing Diversity Policy Statement, meeting the objectives of that reporting is burdensome in light of their small workforce. EAP would recommend that the Commission make the Diversity Policy Statement applicable to those utilities with an employee headcount of 50 or more employees, similar to the threshold utilized for federal reporting, to be discussed in more detail below.²

B. Consistency with Existing Employment Reporting.

There are a number of forums in which some of EAP’s member utilities already report on the demographic makeup of their workforce and vendors.³ There are two main federal reports that contain information on employee diversity:

- **The United States Equal Employment Opportunity Commission (“EEOC”)** – the EEOC is an independent federal agency that promotes equal opportunity in employment through administrative and judicial enforcement of the federal civil rights laws and through education and technical assistance. Reporting to the EEOC includes the EEO-1 Form. EAP would note that federal government contractor employers with fewer than 50 employees would not be required to file an EEO-1. Non-contractor employers with fewer than 100 employees are not required to file an EEO-1. A copy of EEO-1 is provided as **Exhibit A**.
- **The United States Department of Labor (“DOL”)** – the DOL has two agencies which deal with Equal Employment Opportunity (“EEO”) monitoring and enforcement – the Civil Rights Center and the Office of Federal Contract Compliance Programs (“OFCCP”). The former oversees EEO for programs and activities receiving federal financial assistance whereas the latter oversees employers holding federal contracts and subcontracts. Utilities selected for audit by OFCCP submit a VETS-4212 Report on veteran statistics in employment. The requirement to file a VETS-4212 annually is triggered by having a federal contract or subcontract of \$150,000 or more. A copy of VETS-4212 is provided as **Exhibit B**. Utilities who are federal contractors also complete affirmative action plans in compliance with OFCCP requirements, maintain them on file, and are subject to audit on those plans.

² Alternatively, if the Commission retains the “net plant in service” valuation as the criteria for defining “major jurisdictional utility company”, EAP suggests increasing the value from \$10 million to \$30 million.

³ EAP would like to emphasize that not all of its member utilities report using the EEO-1 and VETS-4212.

Maintaining consistency with the reporting and planning performed pursuant to the requirements of the above-referenced entities will further the aforementioned goals of administrative efficiency and consistency. EAP notes that the Diversity Policy Statement contains one definitional section for both employment and vendor data. However, it is EAP's understanding that while there are standard defined terms for federal reporting of employment demographics, the terms are not the same as those used for vendors.

C. Consistency with Existing Vendor Metrics

With respect to vendor diversity metrics, EAP member utilities generally are guided by the small business program representations set out in the Federal Acquisition Regulations ("FAR") at 48 CFR § 52.219-1. This section of the FAR establishes the general categories of representations, which include:

- Women-owned small business concern;
- Veteran-owned small business concern;
- Black American;
- Hispanic American;
- Native American;
- Asian-Pacific American;
- Subcontinent Asian;

EAP notes that the Commission's Diversity Policy Statement generally follows the rubric set out in FAR 52.219-1.

Because federal regulations distinguish between employee and vendor diversity, EAP suggests that the Commission consider updating its Diversity Policy Statement to create a definitions section for employment statistics based on federal EEOC reporting and a separate

definitions section for procurement based on FAR as augmented by the Commission's definitions of LGBTQ and "Persons with disabilities" for reporting concerning both employees and vendors/contractors. In support of looking to the federal regulations for guidance, EAP notes that a number of its member utilities confirm that a potential vendor's or contractor's claim of diversity is valid via third party entities who certify or otherwise provide information regarding these metrics.⁴ And, in confirming the claim of diversity, those third party entities, in turn, rely upon definitions set forth in federal regulations. Use of definitions for vendor diversity reporting to the Commission that are also used by federal agencies will ease the work of reporting and facilitate consistency across multiple data sets.

III. COMMENTS ON SPECIFIC PROVISIONS OF THE AMENDED POLICY STATEMENT

A. Attachment A - Demographic Composition of Workforce of Major Jurisdictional Utility Companies.

As an initial matter, EAP recommends that the race and ethnicity information reported in Attachment A for utility employees match the information that most utilities currently report on the federal EEO-1 Form. The race and ethnicity categories captured by the EEO-1 are as follows:

- **Hispanic or Latino** - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
- **White (Not Hispanic or Latino)** - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

⁴ Examples of organizations that provide certification include, *inter alia*, the Association for Service Disabled Veterans, the National Gay Lesbian Chamber of Congress, the National Minority Supplier Development Council, the National Native American Business Directory, and the Women's Business Enterprise National Council. Similarly, Dunn and Bradstreet and the federal Small Business Administration provide information regarding diversity of business ownership.

- **Black or African American (Not Hispanic or Latino)** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Pacific Islander (Not Hispanic or Latino)** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian (Not Hispanic or Latino)** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **Native American or Alaska Native (Not Hispanic or Latino)** - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- **Two or More Races (Not Hispanic or Latino)** - All persons who identify with more than one of the above five races.

EAP members would also like to acknowledge that as race and ethnicity are fluid and open to interpretation, it is impossible to land upon a “perfect” definition. However, consistency with currently-reported metrics is preferable to inconsistency, where existing reporting is not on its face inadequate or exclusive of a particular demographic.

B. Existing and Proposed Definitions in 52 Pa. Code § 69.802 for Reporting Employee Diversity

As stated in Section I of these comments, EAP recommends the creation of two definitions sections in this policy statement – one for employment reporting that is consistent with Form EEO-1 and VETS-4212 – and another for vendor reporting. The comments and suggestions in this section of EAP’s comments are designed to align the Diversity Policy Statement’s defined terms with those of the EEO-1.

African-Americans

Currently the Diversity Policy Statement defines “African-Americans” as “United States citizens or legal aliens with permanent residence status in the United States who have origins in any racial groups of Africa.” EAP would recommend that for employee reporting purposes, the

reference to citizenship or permanent residence status be removed from this definition and that the Commission adopt the EEO-1 defined term of “Black or African-American” see discussion supra Part III.A. EAP members may employ people who are legally entitled to work in the United States but who are in the process of obtaining permanent legal status. Excluding such individuals from diversity reporting would provide an incomplete view of this reporting statistic.

Asian Pacific-Americans

EAP would recommend elimination of this current definition and the adoption of the EEO-1 “Asian (Not Hispanic or Latino)” definition.

Diversity

The Commission proposes to expand the definition of diversity to include “minorities, women, persons with disabilities, LGBTQ and veterans.” As stated above, EAP members are supportive of this more inclusive definition of diversity and recommend only that the additional terms included in the diversity definition be consistent with established definitions that are used elsewhere and which member utilities may already be relying on in their current data collection activities. EAP agrees with the Commission that member companies should explore opportunities for outreach towards and promotion of LGBTQ employees and vendors, and, at the same time, notes that the Commission does not include the collection or reporting of statistics related to LGBTQ status via these proposed policy statement amendments.^{5,6}

⁵Many of EAP’s members do not currently collect information from employees concerning LGBTQ designation either at the time of employment or in an annual survey and, when the information is solicited, the employee option to respond is voluntary. EAP notes, however that this circumstance does not inhibit the development of diversity policies/programing for LGBTQ employees as contrasted with requiring data from employees and further notes that members can solicit and require this information as part of their procurement/contractor process. The issue of how to compile verifiable data from employees in this regard is one that merits further discussion and thought but need not be resolved in the context of a policy statement which encourages, but does not mandate, reporting.

⁶ Starting with the 2021 EEO-1 filing, there will be an opportunity for employers to provide other aggregate information in a comment area and, with respect to gender, this could include information provided by employees who self-identify as LGBTQ or who do not make an affirmative selection for gender.

Hispanic-Americans

Currently the Diversity Policy Statement defines “Hispanic-Americans” as United States citizens or legal aliens with permanent residence status in the United States who have origins in Mexico, Puerto Rico, Cuba, South America, Central America and the Caribbean. Similar to the comments on African-Americans, EAP would recommend removing the reference to citizenship or permanent residence status from this definition and adopting the EEO-1 defined term of “Hispanic or Latino” set forth in Section III.A. of these comments. EAP members may employ people who are legally entitled to work in the United States but who are in the process of obtaining permanent legal status. Excluding such individuals from diversity reporting would provide an incomplete view of this reporting statistic.

Minority-Owned Business Enterprise

The Commission proposes that “Minority-Owned Business Enterprise” be defined to include a business enterprise that is at least 51% owned by minority individuals or groups that, in this amended policy statement, are expanded to include “Subcontinent Asian-Americans and Asian Pacific-Americans.” EAP would note that the definitional terms “Subcontinent Asian-Americans and Asian Pacific-Americans” exist in the current policy statement. As stated elsewhere in these comments, EAP recommends that the Commission adopt the EEO-1 definition of “Asian (Not Hispanic or Latino)” for reporting employee diversity. Minority-Owned Business Enterprise, as set out in the Diversity Policy Statement generally follows the FAR rubric. EAP would suggest that this defined term be included in a separate definition section for vendor diversity.

Native-Americans

Currently the Diversity Policy Statement defines Native-Americans as “United States citizens or legal aliens with permanent residence status in the United States who have origins in any of the original peoples of North America or Hawaiian Islands, in particular, American Indians, Eskimos, Aleutes and Native Hawaiians.” EAP proposes that this definition be changed to comport to that reported on EEO-1, which defines Native-Americans as “A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. The EEO-1 definition notably does not include Native Hawaiians in the Native-American definition but includes them in the “Native Hawaiian or Pacific Islander (Not Hispanic or Latino)” category, defined as “a person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.” EAP would recommend the creation of a “Native Hawaiian or Pacific islander (Not Hispanic or Latino) category to comport with EEO-1.

Persons with disabilities

The Commission proposes to add a defined term “Persons with disabilities” which would be defined as “An individual who has a disability as defined in the Americans with Disabilities Act (ADA), 42 U.S.C.A. § 12102.” EAP is supportive of the use of this definition for “Persons with disabilities.” However, EAP members would recommend clarification that reported information be based on employee self-identification as disabled⁷, not on employee short/long term accommodation requests.

⁷ EAP member utilities do not necessarily require employees to disclose a disability; rather, upon hire, an employee is provided with a voluntary self-identification of disability form to complete.

Veteran

The Commission proposes a new definitional term of “Veteran” that is defined as “An individual who served in the United States Armed Forces, including a reserve component or the National Guard, and who was discharged or released from service under conditions other than dishonorable.” This definition is identical to that of 51 Pa. C.S. § 9601, which defines veteran in the context of business ownership. While that definition might be appropriate in the context of vendor reporting, for employment reporting, it is inconsistent with what is reported by those EAP members who file a VETS-4212 report. That report captures the total number of veterans, as well as the following “protected” categories of veterans: (1) active duty wartime or campaign badge veteran; (2) armed forces service medal veteran; (3) disabled veteran; (4) recently separated veteran. EAP member companies who report these detailed veteran statistics as part of the VETS-4212 would ask for confirmation from the Commission that such reporting, if submitted to the PUC, would be deemed to satisfy this employee reporting requirement.

C. Defined Terms for Vendor Diversity Reporting

As noted above, EAP suggests that the definition for “Minority-Owned Business Enterprise” include the single definition of Asian (Not Hispanic or Latino) in lieu of two categories, i.e. Subcontinent Asian-Americans and Asian Pacific-Americans, so as to align vendor/procurement reporting to the Commission with that provided to the federal government. Otherwise, the existing Diversity Policy Statement appear to align with industry standards for vendor/procurement reporting as reflected in FAR at 48 CFR § 52.219-1. Again, this section would need to also include the Commission’s definitions of LGBTQ and “Persons with Disabilities.”

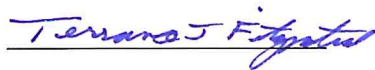
D. Filings under 52 Pa. Code §69.809

With respect to the proposed amendments at section 69.809(a)(1) of the Diversity Policy Statement, EAP notes that many of its member companies already prepare affirmative action programs to OFCCP that address corporate-wide diversity programs for women, minorities, veterans, and the disabled. Such programs mirror corporate policy. Member companies may opt to submit these existing affirmative action programs, with any supplemental information on programs geared to LGBTQ employees and contractors, in order to evidence their corporate policy.

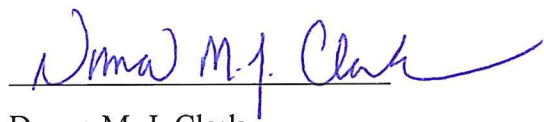
IV. CONCLUSION

The Association appreciates the opportunity to offer input on the proposed amendments to the Diversity Policy Statement and Order and asks that the Commission favorably consider its suggestion to align its definitions with existing federal reporting requirements for employment and vendor statistics. In addition, EAP asks the Commission to consider delaying the initiation of a rulemaking proceeding in order to allow for the submission and review of several years of annual reports under the updated Diversity Policy Statement. Information and statistics compiled upon implementation of a revised policy statement will then inform the work of the Commission and stakeholders as regulations are developed. EAP and its member companies look forward to working with the Commission and stakeholders to improve diversity in their workforce and vendor practices.

Respectfully submitted,



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Donna M. J. Clark
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Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17102

Date: September 1, 2020

EXHIBIT A

- Joint Reporting Committee
- Equal Employment Opportunity Commission
- Office of Federal Contract Compliance Programs (Labor)

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Standard Form 100
REV. 01/2008

O.M.B. No. 3048-0007
FORM APPROVAL: www.reginfo.gov/public/do/PRAMain
100-214

Section A—TYPE OF REPORT

Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted. (MARK ONLY ONE BOX).

(1) ☐ Single-establishment Employer Report

Multi-establishment Employer:

(2) ☒ Consolidated Report (Required)

(3) ☒ Headquarters Unit Report (Required)

(4) ☒ Individual Establishment Report (submit one for each establishment with 50 or more employees)

(5) ☒ Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only) _____

Section B—COMPANY IDENTIFICATION (To be answered by all employers)

1. Parent Company

a. Name of parent company (owns or controls establishment in item 2) omit if same as label

Address (Number and street)

City or town

State

ZIP code

2. Establishment for which this report is filed. (Omit if same as label)

a. Name of establishment

Address (Number and street)

City or Town

County

State

ZIP code

b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)

c. Was an EEO-1 report filed for this establishment last year? ☐ Yes ☐ No

Section C—EMPLOYERS WHO ARE REQUIRED TO FILE (To be answered by all employers)

☐ Yes ☐ No 1. Does the entire company have at least 100 employees in the payroll period for which you are reporting?

☐ Yes ☐ No 2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 100 or more?

☐ Yes ☐ No 3. Does the company or any of its establishments (a) have 50 or more employees AND (b) is not exempt as provided by 41 CFR 60-1.5, AND either (1) is a prime government contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more, or (2) serves as a depository of Government funds in any amount or is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Savings Notes?

If the response to question C-3 is yes, please enter your Dun and Bradstreet identification number (if you have one):

NOTE: If the answer is yes to questions 1, 2, or 3, complete the entire form, otherwise skip to Section G.

EXHIBIT A

Section D-EMPLOYMENT DATA

SF 100 - Page 2

Employment at this establishment - Report all permanent full- and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

Job Categories	Number of Employees (Report employees in only one category)															Total Col A - N
	Race/Ethnicity															
	Hispanic or Latino		Not-Hispanic or Latino													
			Male							Female						
	Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or more races		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Senior Level Officials and Managers 1.1																
First/Mid-Level Officials and Managers 1.2																
Professionals 2																
Technicians 3																
Sales Workers 4																
Administrative Support Workers 5																
Craft Workers 6																
Operatives 7																
Laborers and Helpers 8																
Service Workers 9																
TOTAL 10																
PREVIOUS YEAR TOTAL 11																

1. Date(s) of payroll period used: _____ (Omit on the Consolidated Report.)

Section E - ESTABLISHMENT INFORMATION (Omit on the Consolidated Report.)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity.)

Section F - REMARKS

Use this item to give any identification data appearing on the last EEO-1 report which differs from that given above, explain major changes in composition of reporting units and other pertinent information.

Section G - CERTIFICATION

- Check 1 ☐ All reports are accurate and were prepared in accordance with the instructions. (Check on Consolidated Report only.)
 one 2 ☐ This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person to contact regarding this report	Title	Address (Number and Street)	
City and State	Zip Code	Telephone No. (including Area Code and Extension)	Email Address

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII.
 WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001

FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT VETS-4212

EXHIBIT B

Federal Contractor Veterans' Employment Report (VETS-4212)

WHO MUST FILE: This VETS-4212 Report is to be completed by all nonexempt Federal contractors and subcontractors with a contract or subcontract in the amount of \$150,000 or more with any department or agency of the United States for the procurement of personal property or non-personal services. Services include but are not limited to the following services: utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. Entering into a covered Federal contract or subcontract during a given calendar year establishes the requirement to file a VETS-4212 Report during the following calendar year.

WHEN TO FILE: This annual report must be filed no later than September 30.

LEGAL BASIS FOR REPORTING REQUIREMENTS: Title 38, United States Code, Section 4212(d) mandates that Federal contractors and subcontractors subject to the statute's affirmative action provisions in 38 U.S.C. 4212(a) report, at least annually, the number of employees in their workforces by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified protected veterans. In addition, Federal contractors and subcontractors must report the total number of new hires during the period covered by the report and the number of such new hires who are qualified protected veterans. Further, Federal contractors and subcontractors must report on the maximum and minimum number of employees during the period covered by the report. The Department of Labor's Veterans' Employment and Training Service (VETS) has promulgated regulations found at 41 CFR part 61-300 to implement the reporting requirements of 38 U.S.C. 4212(d). The regulations require contractors and subcontractors to file the VETS-4212 Report to comply with the requirements of 38 U.S.C. 4212(d). The regulations in 41 CFR part 61-300 can be found at http://www.dol.gov/general/cfr/title_41.

HOW TO FILE THE VETS-4212 REPORT: The preferred method for filing VETS-4212 Reports is electronically through the VETS web-based filing system. Instructions for electronically filing the VETS-4212 Report are found on the VETS website at <http://www.dol.gov/agencies/vets/programs/vets4212>. Alternative filing methods are described below in these instructions.

Single Establishment Employers: Employers doing business at one hiring location may complete and submit a single VETS-4212 Report using the web-based filing system, or submit a single paper version of the VETS-4212 Report, as described below under Alternative Filing Methods.

Multi-Establishment Employers: Employers doing business at more than one hiring location, must file: (A) a VETS-4212 Report covering the principal or headquarters office; (B) a separate VETS-4212 Report for each hiring location employing 50 or more persons; and (C) EITHER, (i) a separate VETS-4212 Report for each hiring location employing fewer than 50 persons, OR (ii) consolidated reports that cover hiring locations within one State that have fewer than 50 employees. Multi-establishment employers doing business at more than 10 locations must submit their VETS-4212 Reports in the form of an electronic data file that complies with current Department of Labor specifications for the format of these records, and any other specifications established by the Department for the applicable reporting year. Multi-establishment employers with fewer than 10 hiring locations are strongly encouraged to submit their VETS-4212 Reports in the form of an electronic data file, but are not required to do so. In these cases, state consolidated reports count as one location each. VETS-4212 Reports in the form of electronic data files may be submitted through the web-based filing system. Electronic data files also may be transmitted electronically as an e-mail attachment (if they do not exceed the size stated in the specifications), or submitted on compact discs or other electronic storage media.

EXHIBIT B

ALTERNATIVE FILING METHODS: The VETS-4212 Report may also be filed in paper format. Reporting organizations may download a paper version of the VETS-4212 Report from the VETS website at <http://www.dol.gov/agencies/vets/programs/vets4212> or send a written request for the paper version of the VETS-4212 Report to: Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-1325, Washington, DC 20210, Attn: VETS-4212 Report Form Request.

WHERE TO FILE: VETS-4212 Reports in paper format or electronic data files on compact discs or other electronic storage media may be delivered by U.S. mail or courier delivery service to: Veterans' Employment and Training Service, c/o Department of Labor National Contact Center, 7425 Boston Blvd Springfield, VA 22153. Paper copies of the VETS-4212 Reports and electronic data files (if they do not exceed the size stated in the specifications) also may be sent as e-mail attachments to: VETS4212-customersupport@dol.gov

HOW TO PREPARE THE VETS-4212 REPORT: All fields and answers to questions in all areas of the VETS-4212 Report are mandatory unless otherwise specified below. If the multi-establishment employer has hiring locations employing fewer than 50 persons, the employer may file separate reports for each hiring location or consolidated reports that cover multiple hiring locations within one state.

Type of Reporting Organization: Indicate the type of contractual relationship (prime contractor or subcontractor) that the organization has with the Federal Government. If the organization serves as both a prime contractor and a subcontractor on various federal contracts, check both boxes. If a reporting organization submits only one VETS-4212 Report for a single location, check the Single Establishment box. If the reporting organization submits more than one VETS-4212 Report, one report should be checked as Multiple Establishment-Headquarters. The remaining VETS-4212 Reports should be checked as either Multiple Establishment-Hiring Location or Multiple Establishment-State Consolidated. For state consolidated reports, the number of hiring locations included in that report should be entered in the space provided. For each report, only one box should be checked within this block.

Company Identification Information: . Please note: If a Federal Contractor Report has been filed in the past, you need to utilize the company number assigned in previously submitted reports. If a company number is not available please leave the field blank. If there are any questions regarding a Company Number, please call the VETS-4212 Customer Support Center at (866) 237-0275 or e-mail VETS4212-customersupport@dol.gov.

Twelve Month Period Ending: Enter the end date for the twelve month reporting period used as the basis for filing the VETS-4212 Report. To determine this period, select a date in the current year between July 1 and August 31 that represents the end of a payroll period. The selected date will be the basis for reporting the Number of Employees, as described below. The twelve-month period preceding that date is your twelve-month covered period. This period is the basis for reporting New Hires, as described below. Any Federal contractor or subcontractor that has written approval from the Equal Employment Opportunity Commission to use December 31 as the ending date for the EEO-1 Report may also use that date as the ending date for the payroll period selected for the VETS-4212 Report.

Name and Address for Single Establishment Employers: Complete the identifying information under the Parent Company name and address section.

Name and Address for Multi-Establishment Employers: For parent company headquarters location, complete the name and address for the parent company headquarters and leave blank the name and address of the Hiring Location. For hiring locations of a parent company, complete the address for the Parent Company location, complete the name and address for the Hiring Location.

EXHIBIT B

NAICS Code, DUNS Number, and Employer ID Number: Single Establishment and Multi-Establishment Employers must complete the North American Industry Classification System (NAICS) Code, Dun and Bradstreet I.D. Number (DUNS), and Employer Identification Number (EIN) as described below:

- **NAICS Code:** Enter the six (6) digit NAICS Code applicable to the hiring location for which the report is filed. If there is not a separate NAICS Code for the hiring location, enter the NAICS Code for the Parent Company.
- **DUNS Number:** If there is a specific Dun and Bradstreet Identification applicable to the hiring location for which the report is filed, please enter the nine (9) digit in the space provided. If the hiring location does not have a DUNS Number, enter the DUNS number for the Parent Company. If an appropriate DUNS Number cannot be identified, leave this field blank.
- **Employer I.D. Number (EIN):** Enter the nine (9) digit number assigned by the I.R.S. to the contractor. If there is a specific EIN applicable to the hiring location for which the report is filed, enter that EIN. Otherwise, enter the EIN for the Parent Company.

Number of Employees: Report the total number of employees who are protected veterans for each of the 10 occupational categories (Lines 1.1 through 9) in column A. Report the total number of employees, including protected veterans, for each of the 10 occupational categories (Lines 1.1 through 9) in column B. Blank spaces will be considered zeros.

New Hires (Previous 12 Months): Report the total number of employees who were hired and included in the payroll for the first time during the 12-month period preceding the ending date of the selected payroll period. Report the total number of new hires who are protected veterans in column C. Report the total number of new hires, including protected veterans, in column D. Providing new hire data for each of the occupational categories (columns C and D, lines 1.1 through 9) is optional. Blank spaces will be considered zeros.

Maximum/Minimum Employees: Report the maximum and minimum number of employees on board during the twelve-month period covered by this report, as indicated by 41 CFR 61-300.10(a)(3).

DEFINITIONS:

'Employee' – means any individual on the payroll of an employer who is an employee for purposes of the employer's withholding of Social Security taxes except insurance sales agents who are considered to be employees for such purposes solely because of the provisions of 26 U.S.C. 3121 (d)(3)(B) (the Internal Revenue Code). Part-time employees and leased employees are included in the definition of 'employee.' The definition does not include persons hired on a casual basis for a specific job (e.g., persons at a construction site whose employment relationship is expected to terminate with the end of the employee's work at the site); persons employed temporarily in an industry other than construction who are hired through a hiring hall or some other referral arrangement; or persons on the payroll of an employment agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control, as provided in 41 CFR 61-300.2(b)(5).

'Hiring location' – means an establishment as defined at 41 CFR 61-300.2(b)(6).

'Job Categories' – means any of the following: Officials and Managers (Executive/Senior Level Officials and Managers and First/Mid-Level Officials and Managers), Professionals, Technicians, Sales Workers, Administrative Support Workers, Craft Workers, Operatives, Laborers and Helpers, and Service Workers and are defined in 41 CFR 61-300.2(b)(7).

'Protected Veteran' – means a veteran who is protected under the nondiscrimination and affirmative action provisions of the Vietnam Veterans' Readjustment Assistance Act, 38 U.S.C. 4212; specifically a veteran who may be classified as an active duty wartime or campaign badge veteran, disabled veteran, Armed Forces service medal veteran, or recently separated veteran,

EXHIBIT B

- ***'Active duty wartime or campaign badge Veteran'*** – means a veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.
- ***'Armed Forces Service Medal Veteran'*** – means any veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209, 3 CFR, 1996 Comp., p. 159).
- ***'Disabled Veteran'*** – means (1) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or (2) A person who was discharged or released from active duty because of a service-connected disability.
- ***'Recently Separated Veteran'*** – means a veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

RECORD KEEPING: Employers must keep a copy of the completed annual VETS-4212 Report(s) submitted to DOL for a period of three years.

Public Burden Statement: Public reporting burden for this collection is estimated to average 20 minutes per location to make an electronic filing and 40 minutes per location to make a paper filing, including the time for reviewing instructions, searching existing data source, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Department of Labor, Veterans' Employment and Training Service, Office of Information Management, Room N-1316, 200 Constitution Avenue, NW, Washington D.C. 20210 or electronically transmitted to VETS4212-customersupport@dol.gov All completed VETS-4212 Reports should be sent to the address indicated on the front of the form. See actual VETS-4212 Report for additional disclosures.