



Managing the Pay Data Changes to the EEO-1 Report

Government regulations are constantly changing. The updated U.S. Equal Employment Opportunity Commission (EEOC) EEO-1 reporting form could impact your organization. The following article explains the ins and outs of what you need to know to remain compliant with the new report. We also discuss what needs to be done now so you're prepared for the reporting changes.

The EEO-1 report, which is a compliance survey mandated by federal statute and regulations, requires employment data to be compiled and then categorized and filed by race/ethnicity, gender, and job category. The EEOC's updated form is a significant change, as it's the first time pay information

and hours worked will be required on the report. According to EEOC Chair Jenny Yang, pay data is now being required as part of a "significant step forward in addressing discriminatory pay practices." The EEOC also believes the new form will assist employers in evaluating their pay practices to prevent pay discrimination and strengthen enforcement of federal anti-discrimination laws.

Which employers are required to file an EEO-1 report?

Your organization must file if:

- You have at least 100 employees.
- You're a government contractor with 50 or more employees.

It's important to note that only employers with at least 100 employees must include pay information and hours worked in their EEO-1 report.

When will employers have to file the new EEO-1 report?

CHANGES FOR 2017

- No EEO-1 report filing for 2017. However, employers with at least 100 employees will need to track employee hours starting on January 1, 2017 in order to comply with the filing of the new report in 2018.

CHANGES FOR 2018

- New filing deadline: March 31 instead of September 30.
- Employers are required to file the pay data and hours worked, along with the existing EEO-1 report.

What data will be reported?

Covered employers must submit all employees' W-2 earnings data and actual hours worked beginning on January 1, 2017 for the 2018 EEO-1 report. Employers must report W-2 earnings as the "measure of pay" for the new pay data collection report. Employers will use Box 1 of the Form W-2 to complete their EEO-1 filings.

EEO-1 report next steps

- Determine if the new reporting rules apply to your company.
- Proactively develop a strategy for collecting the necessary data.
- Review and analyze your data now to flag any potential issues.
- If any issues exist, develop a plan to remedy the situation.

On the new EEO-1 form, each employee will be classified into one of 12 pay bands within each job category. A separate section of the form for hours worked details the aggregate annual hours worked for each pay band/job category/race/ethnicity and gender category. While the current report has 140 boxes for employee counts, the revised report has 1,680 boxes with employee counts by pay band/job classification, race, ethnicity, and gender. There are another 1,680 boxes for hours worked by pay band/job classification, race, ethnicity, and gender.

As to hours worked, the EEOC provides two options for employers to report hours worked for exempt employees: (1) a proxy of 40 hours a week for full-time exempt employees, or 20 hours for part-time exempt employees, or (2) or actual hours worked if the employer already maintains accurate records of this information.

EEO-1 Report

Job Categories	Number of employees (Report employees in only one category)														Total
	Race and ethnicity														
	All employees in office														
	Male						Female								
White	Black	Hispanic or Latino	Asian	Native Hawaiian or Other Pacific Islander	Two or more races	White	Black	Hispanic or Latino	Asian	Native Hawaiian or Other Pacific Islander	Two or more races	Not classified or other	Not reported		
Executive, administrative, and professional	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Professional, technical, and related	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Service, sales, and related	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
Operative, craft, and related	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
Construction, maintenance, and repair	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
Production, craft, and related	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90
Unemployed	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105
Not classified or other	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120
Total	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135

How will the pay data be used?

Armed with the data and intent on identifying pay disparities causing the “wage gap” for women and minorities, the EEOC and the Office of Federal Contract Compliance Programs will monitor and test employer data and investigate in detail the pay practices of those employers whose data suggests indefensible pay disparities. For example, the EEOC explains the collected pay data will be used in the following ways:

1. Early assessment of charges of discrimination
2. EEOC publication of reports on pay disparities based on analysis of aggregation of collected pay data by:
 - Race
 - Sex
 - Industry
 - Occupational groupings
 - Metropolitan Statistical Area (MSA)
3. EEOC training on how pay data can “improve the agency’s enforcement work”

How will the confidentiality of pay data be protected?

The new rule goes into detail about how the EEOC will protect the confidentiality of the collected pay data, including the process for protection under Freedom of Information Act (FOIA) requests and Title VII confidentiality provisions, as well as outlining internal protocols for protection of the data.

ADP® can help you prepare for the new EEO-1 report

ADP is committed to assisting businesses with increased compliance requirements resulting from rapidly evolving legislation, including changes to the EEO-1 reporting form. ADP has the professionals and tools necessary to help you prepare your EEO-1 report. ADP’s goal is to help minimize your administrative burden across the entire spectrum of employment-related payroll, tax, HR, and benefits, so that you can focus on running your business.

What should employers do now?

Determine whether your organization is required to file the report:

Larger employers are well-aware of EEO-1 reporting obligations. Covered employers who have not previously filed, but have reached the 100-employee threshold, are required to file EEO-1 reports. EEOC has sued employers solely for failure to file EEO-1 reports in the past. It may use the failure to file an EEO-1 report to support a substantive discrimination claim.

Start coordinating human resources and payroll functions:

The EEO-1 report has often been prepared by human resources. However, with the addition of pay and hours worked data, the new form will likely require human resources and payroll to coordinate on completing the form. Companies should start planning now about how they will coordinate their internal departments and resources to prepare the new report.

Conduct proactive EEO pay analyses to assess risk:

Employers cannot afford to turn over pay data to the EEOC and OFCCP without first knowing what it says and whether and where risks may lie. Employers are advised to begin preparations now, starting with pay analyses, to identify and address pay issues that could emerge from the EEO-1 pay data and arise in systemic investigations by EEOC or OFCCP.