



Eye On Washington

Regulatory Update



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EEO-1 Update: Employers No Longer Need to Submit Wage and Hours Worked Information

Yesterday (August 29, 2017), the Office of Regulatory Affairs of the Office of Management and Budget (OMB) announced that the employer pay data reporting obligations, Component 2 of the annual EEO-1 report, are suspended indefinitely. The pay data reporting obligations, included in the revised EEO-1 Form, included new requests for wage and hour data for employees, broken down by race/ethnicity and gender. These new obligations dramatically increased the amount of information employers were required to collect and report to the Equal Employment Opportunity Commission (EEOC). Applicable employers should use the previously approved EEO-1 Form in order to comply with their 2017 reporting obligations.

In explaining its decision, OMB pointed out that the EEOC's data file specifications for employers to use in submitting the new report had not been included in any Federal Register and, thus, the public had not had the opportunity to comment, and the EEOC's burden estimates for the new report did not take into account these specifications. Further, the OMB found that there was reason to stay the effective date of the report "for cause" because it was concerned that portions of the new report "lack practical utility, are unnecessarily burdensome, and do not adequately address privacy and confidentiality issues."

The EEOC issued a press release announcing OMB's decision:

<https://www.eeoc.gov/eeoc/newsroom/wysk/eeo1-pay-data.cfm>

The OMB's letter can be found here:

http://www.affirmativeactionlawadvisor.com/wp-content/uploads/sites/602/2017/08/Review-and-Stay-Memo-for-EEOC-8-29-17_FINAL.pdf

Background

On September 29, 2016, the EEOC had issued a press release and related materials that made final the revised proposal to modify the annual EEO-1 report to include W-2 earnings and hours worked, by race, ethnicity, and gender. Employers with 100 or more employees were going to be required to

file the new EEO-1 report in March 2018 for the 2017 calendar year. Details on the changes can be found in a previous *Eye on Washington*, [Pay Equity: Revised EEO-1 Report to Include Pay Data and Hours](#).



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What does this mean for employers?

Since changes to the form are suspended, the EEOC will revert back to the previous version of the EEO-1 Form. Applicable employers must still comply with Component 1 of the EEO-1 and submit data on race, ethnicity, and gender by occupational category. Generally, employers with 100 or more employees, and federal government contractors subject to Executive Order 11246 with 50 or more employees and a contract amounting to \$50,000 or more, must submit the EEO-1 Form.

The next filing date is March 1, 2018.

The EEOC remains committed to enforcing the federal Equal Pay Act (EPA). The EPA prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions. In addition, several states and local jurisdictions have pay discrimination-related laws, which employers should monitor and take actions to comply with.

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