

Eye on Washington Regulatory Update

EEOC Will Not Seek Renewal of Component 2 Requirement

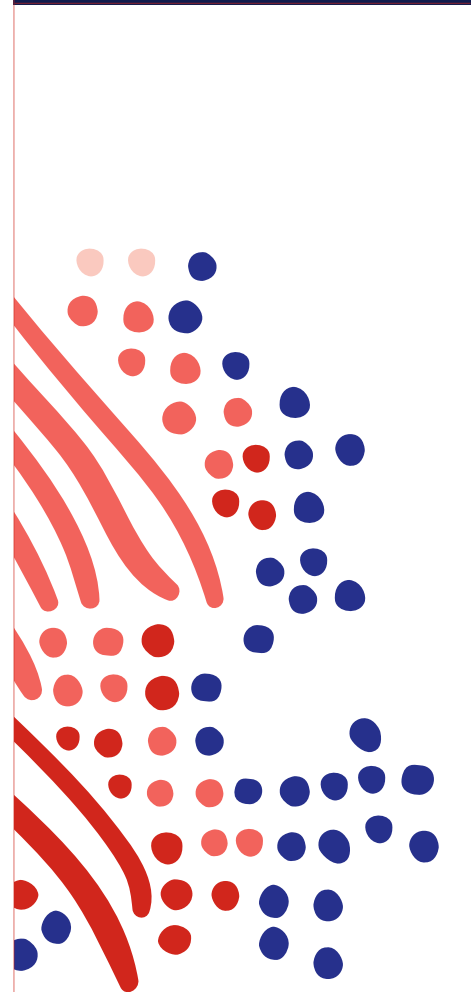
On September 12, 2019, the Equal Employment Opportunity Commission (EEOC) announced its intention to continue seeking Component 1 data in the years 2019 through 2021, but discontinue seeking the much more detailed Component 2 data. This means that, going forward, employers may not have to go through the challenging process of gathering Component 2 data. While **this announcement does NOT alter or remove the requirement for employers to file Component 2 data for the years 2017 and 2018 by September 30, 2019**, it may offer relief in future years. The EEOC proposes to continue to collect Component 1 data, but the burden on employers will be reduced significantly. To complete Component 1, employers need to fill in 140 data fields, while Component 2 requires employers to complete 3,360 fields.

Background

The EEOC has been collecting Component 1 data, which includes information about employees' job categories, race/ethnicity and gender, since 1966 as part of its mandate to prevent discrimination in employment under Title VII of the Civil Rights Act of 1964.

The requirement to submit Component 2 data, which includes detailed information about employee pay and hours worked, started in 2016 when the EEOC announced that certain employers would be required to provide compensation data with their annual EEO-1 reports on the race, ethnicity and gender of their workforces. In 2017, the Office of Management and Budget (OMB) decided to indefinitely suspend the EEOC's collection of pay data, but this stay was challenged in federal court litigation. The stay officially ended on April 25, 2019, when the United States District Court of the **District of Columbia issued an order reinstating employers' obligation to report Component 2 data**. This order, which approves the collection of Component 2 data through April 5, 2021, is now at the center of a legal appeal.

Pursuant to the Court's April 25 order and the **EEOC's May 3, 2019 announcement**, private employers — including federal contractors and first-tier subcontractors — with 100 or more employees have until **September 30, 2019 to submit 2017 and 2018 Component 2 data to the EEOC**. As stated above, this requirement is unchanged by the EEOC's announcement that it will not seek to collect this information in future years.



Eye on Washington Regulatory Update

EEOC Will Not Seek Component 2 Data Going Forward

In its September 11, 2019 Notice, the EEOC explained that it intends to submit to the OMB a request for a three-year approval of Component 1 of the EEO-1. Moreover, it also stated that it "does not intend to submit to OMB a request to renew Component 2." It explained that it believes that the 2016 estimates of the cost of collection of Component 2 data were "insufficiently calculated." The prior estimate of the annual burden costs for EEO-1 preparation was \$53,546,359.08, but with revised methodology, the EEOC now estimates the cost actually is dramatically higher. Based on its new analysis, the EEOC estimates that the costs for submitting both Components 1 and 2 would be \$614,391,388 for 2017 and \$622,015,798 for 2018.

Because of this significant cost burden and in the absence of proven utility of Component 2 information, the EEOC stated that it would not seek authorization to collect Component 2 data in future years. However, it will continue to collect Component 1 data, because it "believes that

the collection of Component 1 data is necessary for the proper performance of the agency's functions and has a practical utility to the fulfillment of the EEOC's mission."

What Comes Next?

As of now, it appears that the EEOC will not seek to collect Component 2 data other than for the years 2017 and 2018, and that employers may be relieved of this obligation.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP Eye on Washington Web page located at www.adp.com/regulatorynews.

ADP is committed to assisting businesses with increased compliance requirements resulting from rapidly evolving legislation. Our 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. This information is provided as a courtesy to assist in your understanding of the impact of certain regulatory requirements and should not be construed as tax or legal advice. Such information is by nature subject to revision and may not be the most current information available. ADP encourages readers to consult with appropriate legal and/or tax advisors. Please be advised that calls to and from ADP may be monitored or recorded.

If you have any questions regarding our services, please call 855-466-0790.