

EEOC Clarifies EEO-1 Reporting Requirements

Last month, the Office of Management and Budget stayed the EEOC’s expanded pay data collection that had been slated to start with the 2017 reporting cycle. The EEOC has now confirmed that employers should not submit aggregate pay and hours worked data for 2017 and provided other important clarifications with respect to the EEO-1 filing due in March 2018. Employers will want to review their reporting practices to ensure compliance.

Background

Last year, the EEOC proposed new EEO-1 reporting requirements for employers – including federal contractors – with 100 or more employees, adding summary pay and total hours worked data to the demographic data that already had to be disclosed. In addition, the EEOC proposal extended the due date of the first expanded filing to March 31, 2018 and revised the “workforce snapshot” period used for data collection purposes in prior years. (See our [July 19, 2016 For Your Information](#).)

The Office of Management and Budget (OMB) approved a revised EEO-1 report on September 29, 2016, and the EEOC announced that it would collect the summary employee pay data starting in March 2018. (See our [October 6, 2016 For Your Information](#).) Last month, OMB suspended the expanded data collection in the revised EEO-1 form, citing Paperwork Reduction Act standards, as well as privacy and confidentiality concerns, but allowed the EEOC to continue collecting EEO-1 data as in prior years. (See our [August 30, 2017 FYI Alert](#).)

2017 EEO-1 Reporting

On September 15, the EEOC issued a [notice](#) staying the effectiveness of the EEO-1 pay data collection and clarifying employers’ reporting obligations during the stay. The 2017 EEO-1 will continue to collect race, ethnicity and gender data by job category from employers with at least 100 employees and federal contractors with at least 50 employees and \$50,000 in contract(s).

The notice directs employers subject to the EEO-1 reporting requirement not to submit aggregate W-2 income and hours worked data (the information required by “Component 2” of the EEO-1 report approved on September 29, 2016) in their 2017 filings. Since the OMB stay does not



extend to data collection on the race, ethnicity, and sex of workers by job category (“Component 1” of the EEO-1 report), filers must continue to submit Component 1 data as in the past.

For the 2017 EEO-1 report, employers will be required to use employment data collected using a “workforce snapshot” period. The notice confirms that filers should select the data and count employees using a pay period between October 1 and December 31, 2017, rather than using a period during the third quarter (July through September) as in prior years.

The EEOC also confirmed the EEO-1’s new reporting schedule. Even with the stay, the deadline for submitting the 2017 reports will still be March 31, 2018. Approximately two months prior to that date, employers that filed EEO-1 data in the last cycle should receive a notification letter indicating that the 2017 EEO-1 Survey is open along with filing instructions. Information about when filers can start submitting data will also be posted on the EEO-1 Survey [webpage](#). An updated [fact sheet](#) and [FAQs](#) provide additional information about the survey.

In Closing

Pay data reporting is on hold, but the EEO-1 filing requirement is continuing. For the 2017 reporting cycle, employers should prepare to submit the same type of employment data as in past years and file their reports by March 31, 2018.

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