

## EEO-1 Filers: 2017 – 2018 Pay Data Due by September&nbsp;30

May 13, 2019

On May 3, 2019, the Equal Employment Opportunity Commission announced that it would collect employee pay data from EEO-1 employers beginning this summer. The announcement came after Judge Tanya Chutkan overturned the stay on the Obama administration's addition of employee pay data, called "Component 2," to the Employer Information Report (EEO-1) and ordered the EEOC to outline a plan for collection of the new data. Though the agency has filed a notice of appeal of Judge Chutkan's decision, the pay data requirement will remain in place in the meantime. Covered employers should plan to submit pay data for calendar years 2017 and 2018 by the court-ordered deadline of September 30, 2019. Additionally, the May 31, 2019, deadline for submitting 2018 employee demographic data, called "Component 1," remains unchanged.

In its online statement and court-ordered report, the EEOC announced pay data collection will begin in mid-July and advised covered employers to begin the process of preparing to submit pay data as soon as possible. The agency also reported it has selected a third-party vendor, NORC at the University of Chicago, to construct an online reporting tool and assist with the collection process. The EEOC and NORC will work together to launch an email and phone helpdesk to assist employers with the EEO-1 filing process in the coming weeks.

The EEOC has yet to provide specifics on the types of pay data employers will be required to submit as part of the Component 2 reporting process. However, based on existing guidance, employers should be prepared to report the total number of full-time and part-time employees by demographic categories (ethnicity, race, gender) in each of 12 pay bands listed for each EEO-1 job category based on W-2 earnings. For FLSA non-exempt employees, employers will need to report the number of hours worked in each year by employees in each pay band. For FLSA exempt employees, employers can report either the actual hours worked by exempt employees or estimate the number of hours worked using 40 hours as the standard workweek for full-time employees.

As a reminder, these recent Component 2 developments have not changed the deadlines or reporting requirements for Component 1 data. EEO-1 employers are still required to submit all Component 1 data, including workforce numbers, employee locations and demographic data, by the agency's May 31, 2019 deadline.

With this recent flurry of judicial and administrative activity, the EEO-1 Component 2 reporting process is still very fluid. We recommend that covered employers stay apprised of further developments as the government's appeal progresses and the EEOC provides additional guidance on the filing process. We will continue to monitor these issues and provide updates as they become available.

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