

EEOC PROPOSES TO COLLECT PAY DATA FROM CERTAIN EMPLOYERS

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The Equal Employment Opportunity Commission (“EEOC”) recently proposed a revision to the Employer Information Report (“EEO-1”) that would require certain employers to submit aggregate data on employee pay and hours worked.

Employers with 100 or more employees and federal contractors with 50-99 employees already are required to submit the EEO-1 to the EEOC by September 30 of each year. The current version of the EEO-1 requires employers to report the number of individuals they employ by ten job categories, sex, race, and ethnicity. Under the new proposal, beginning with the September 30, 2017 report, private employers and federal contractors with 100 or more employees would also report the number of employees and the employees’ total W-2 earnings for the prior twelve month period within twelve designated pay bands.

For example, an employer would report that it employs 5 Latina women who are Senior Level Officials in the twelfth pay band (\$208,000 and over). Employers would not report individual salary information. An employer would also report the total number of hours worked by its employees in each pay band for the last twelve month period by their sex, race, and ethnicity. For example, an employer would report that the total hours worked by the 5 Latina women who are Senior Level Officials in the twelfth pay band is 10,000 hours.

Federal contractors with 50-99 employees would not be required to submit data regarding pay or hours worked, but they would still be required to report data regarding sex, race, and ethnicity by job category. The proposed revision would not require private employers with 99 employees or less or federal contractors with 49 employees or less to submit the EEO-1 report.

The EEOC aims to use the revised EEO-1 as a tool to help identify and remedy pay discrimination. The EEOC intends to publish the aggregated data in an annual salary report that would include the average pay for employees across various sectors throughout the country, without revealing any particular employer’s data.

The 60-day public comment period on the proposal ended on April 1, 2016. The EEOC will next vote on a final version of the revised EEO-1 survey, and submit the proposed revision to the Office

of Management and Budget for final review and approval. If the revised EEO-1 is approved, the EEOC will post a notice of its approval on its website, www.eeoc.gov. The EEO-1 that is due on September 30, 2016 does not require pay data and is not affected by the recent proposal. The EEOC will notify EEO-1 respondents of the revision, if approved.

MEET THE TEAM



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