

Client Alert

Employment Law



EEOC Component 2 Pay Data Portal Opened/Due September 30

Private employers with more than 100 employees, and certain federal contractors, have long been required to submit workforce demographic information annually to the EEOC (i.e., information regarding sex, race, ethnicity, organized by job category). This is accomplished through the filing of an EEO-1 report.

However, this year for the first time, following several years of legal wrangling, employers are also required to provide pay data about the workforce. A new component has been added to the EEO-1 form for this purpose, Component 2. By September 30, covered employers are required to complete Component 2, which will include aggregated W-2 wage information, total number of employees and employee hours worked for calendar years 2017 and 2018, sorted by job category, and organized by one of 12 pay bands, sex, and race/ethnicity.

New EEOC Online Filing System

On July 15th, the EEOC's Component 2 EEO-1 Online Filing System went live, providing an online web-based method for covered employers to submit the required pay data. In mid-August, employers will also be able to upload their reports as an electronically transmitted data file in a CSV format.

All covered employers must file and certify their data via one of these two methods by **September 30**.

Recommendations

Covered employers should begin preparing their data now and plan on filing ahead of the September 30 deadline to minimize potential technical issues and to be certain they satisfy all reporting requirements. Covered employers should also make sure they are able to log in to the EEOC Filing System. To activate your account, identify the 8-digit User ID from NORC that you should have received via mail or email, then visit the Component 2 EEO-1 Online Filing System and [log in](#) using the User ID. If issues arise, employers may contact the NORC Help Desk at (877) 324-6214 or eeocompdata@norc.org.

Employers will need to decide which method they intend to use to file the EEO-1 Component 2 data and will need to file before September 30.

About Component 2 Pay Data

Workforce Snapshot Period. To begin, employers will select a pay period between October 1 and December 31 of the reporting year (2017 and 2018). Filers are not required to use the same workforce snapshot date they used to file Component 1 reports for 2017 and 2018.

Total Number of Employees Report. Employers will report the total number of full-time and part-time employees on their payroll during the workforce snapshot period. Each employee is counted individually, regardless of whether they are full-time or part-time. Even if an employee resigned or was terminated before December 31 of that year, the employee should be counted if the employee was employed during the snapshot period. Most employers will not count temporary workers or leased employees, unless the employer is an employment agency; employers should check the rules to confirm. Do not count independent contractors.

Multi-establishment Employers must file several reports including (1) a headquarters report; (2) a separate establishment report for each establishment with more than 50 employees; (3) a separate establishment report or an establishment list for each establishment with fewer than 50 employees; and (4) a consolidated report.

Job Categories. Employers will assign employees to one of the ten job categories (same as for the EEO-1 Component 1 report). [Consult the EEO-1 Job Classification Guide](#) if you are unsure what category a particular job title falls into.

Salary Compensation Bands. Employers will count employees in one of 12 compensation bands. Refer to W-2, Box 1 – Wages, tips, other Compensation as the measure. Do not calculate an employee's annualized salary to determine compensation band.

Sex and Race/Ethnicity. Employers will count employees by Sex and Race/Ethnicity within each job category and salary band, being sure to count each employee in only one category.

Total Number of Hours Worked Report. Employers will report aggregated hours worked for all employees in the snapshot in their job category and pay band, and further organized by hours worked by sex and race/ethnicity.

For non-exempt employees, "hours worked" means the annual sum of hours they worked within the meaning of the Fair Labor Standards Act (FLSA) during the EEO-1 reporting year.

For exempt employees, employers may count their "hours worked" during the EEO-1 reporting year by (1) either using a proxy of 40 hours per week for a full-time exempt employee, and 20 hours per week for a part-time exempt employee, multiplied by the number of weeks the individual was employed during the EEO-1 reporting year; or (2) using actual hours worked by an exempt employee if the employer already maintains accurate records of this information .

For wages actually paid in the next calendar year for work done in the last days of the past calendar year, employers will count those hours worked in the next year, because that is when the pay is reported on the W-2.

For More Information

Employers are encouraged to [visit the EEOC website](#). For more information about EEO-1 Component 2 reporting, please contact Kathleen Berney (kberney@hrwlawyers.com /617-348-4335) or any other HRW attorney.