



EEO-1 Pay Data Now Due September 2019

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Employers who must file EEO-1 reports with the EEOC will now have to provide pay data by September 30, 2019. Many employers are familiar with Component 1 of the EEO-1 Form. Component 1 requires covered employers to submit certain race, ethnicity, and sex data by occupational category. However, the pay data requirement, Component 2, has been the source of tremendous confusion since its adoption.

Component 2 was introduced by the Obama administration as an additional requirement to identify gender and race-based pay inequality. However, in 2017, the Office of Management and Budget (“OMB”) stayed the requirement after its Office of Information and Regulatory Affairs reviewed the requirement for compliance with the Paperwork Reduction Act. In staying the Component 2 requirement, the OMB cited concerns ranging from undue burden to privacy issues. After the OMB stayed the requirement, an advocacy group filed suit. It became unclear when, if ever, covered employers would be required to submit the pay data. However, in early March of 2019, Judge Tanya S. Chutkan ruled against the OMB, vacating its decision to stay the Component 2 requirement.

Because Judge Chutkan’s ruling revived the Component 2 requirement, employers have been unsure whether the data was required and when they must submit it. The EEOC indicated that it does not have the infrastructure to handle the Component 2 data but suggested that it could accept the data by September 30, 2019 if it hired a contractor. Judge Chutkan finalized the September 30 deadline and further required the EEOC to determine which years of data it would collect. The EEOC recently elected to accept pay data from 2017 and 2018.

Despite an appeal filed by the Department of Justice, the September 30, 2019 deadline for Component 2 reporting is still valid. Additionally, the U.S. Senate confirmed Janet Dhillon as chair of the EEOC, giving the agency a quorum and the ability to proceed with collection of EEO-1 data. The EEOC has indicated that it will begin accepting the data this July. We will monitor the situation and provide further updates. For now, covered employers must submit Component 1 demographic data by May 31, 2019 and Component 2’s pay data (including compensation and hours worked) by September 30, 2019.

To discuss further, please contact:

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