

Additional Pay Data Must Be Submitted by September 30, 2019 for EEO-1 Filers

May 14, 2019

After a lengthy legal debate, additional data will be required from employers who file an annual EEO-1 form. Covered employers will also have to provide that additional data retrospectively, for both 2017 and 2018, by September 30, 2019.

What is required?

Employers who have more than 100 employees or who employ certain types of federal contractors must submit an annual EEO-1 form. The EEO-1 form requires covered employers to report certain demographic data regarding their workforce, including the gender, race and ethnicity of their employees (Component 1 data). Employers will now also have to report wage information and total hours worked for all employees by race, ethnicity and gender within 12 proposed pay bands for each of the 10 EEO-1 job categories (Component 2 data). The reported hours should show each employee's actual hours worked, except that employers may use an estimate of 20 hours per week for part-time exempt employees and 40 hours per week for full-time exempt employees.

What is the historical background?

In 2016, the United States Equal Employment Opportunity Commission ("EEOC") issued a proposed amendment to the EEO-1 form, which required the additional pay data. After President Trump took office in 2017, that proposed amendment was rescinded. A workers' rights group challenged the Trump administration's reversal in court. Recently, a U.S. District Court Judge has ruled that employers must provide the additional data required by the EEO-1 form by September 30, 2019. The court gave the EEOC the option to collect data from 2018 and either 2017 or 2019. The EEOC recently selected 2017 as the second year for which data will be collected.

This means that covered employers will have to submit Component 2 data for both 2017 and 2018 by September 30, 2019. The EEOC anticipates collecting this data beginning mid-July. This ruling does not change any of the requirements or deadlines for reporting Component 1 data.

What does the future hold?

While the agency has appealed the judge's order, the requirement for employers to provide Component 2 data by the September deadline remains in full effect. In addition, the U.S. Senate confirmed Janet Dhillon as chair of the EEOC on May 8, 2019, reinstating quorum to the agency.

The deadline for reporting Component 1 data is May 31, 2019. While the deadline for reporting the new Component 2 data is September 30, 2019, employers are advised to start collecting this new data early so that they can meet the reporting deadline. Attorneys at Miller Canfield are ready to assist you with any questions that might arise regarding this additional reporting requirement