

New EEO 1 Reporting Requirements Reinstated

On March 4, 2019, the U.S. District Court for the District of Columbia reinstated the new Employer Information Report EEO 1 (EEO 1) reporting requirements, which were suspended by the federal Office of Management and Budget (OMB) on August 29, 2017. While the immediate effect of the Court's order is unclear, EEO 1 filers should be prepared to provide the federal government with data on W-2 wages and hours worked by covered employees.

Private employers with 100 or more employees and federal government contractors and first tier subcontractors with 50 or more employees and a federal contract, subcontract or purchase order worth \$50,000 or more must annually file the EEO 1 with the Equal Employment Opportunity Commission (EEOC). The EEO 1 requires covered employers to report employment data categorized by sex, race, ethnicity and job category. Both the EEOC and the Office of Federal Contract Compliance Programs use this information to analyze employment patterns and support the enforcement of civil rights laws.

On September 29, 2016, the OMB approved the EEOC's proposed revision to the EEO 1 that required employers to collect and report data on W 2 earnings and hours worked on the EEO 1. However, on August 29, 2017, the OMB suspended the new EEO-1 reporting requirements pending further review. According to the OMB, the suspension was proper because the public did not have an opportunity to comment on the method of submitting data on W-2 earnings and hours worked by covered employees to the EEOC.

On November 15, 2017, the National Women's Law Center and the Labor Council for Latin American Advancement (collectively, "Plaintiffs") petitioned the Court to reinstate the new EEO 1 reporting requirements. Among other injuries, Plaintiffs claimed that had the OMB not suspended the new EEO-1 reporting requirements, Plaintiffs would have been able to better focus their resources, analysis, and advocacy on the jobs, industries, and regions where intervention is most urgent.

On March 4, 2019, the Court lifted the OMB's suspension, noting that the OMB's stated reason for suspending the new EEO 1 reporting requirements "conflicted with its prior findings that EEOC's data collection had practical utility . . . was designed to minimize the burden on reporting employers . . . and provided adequate privacy and confidentiality protections."

Despite the Court's ruling, the EEOC likely will not require EEO 1 filers to provide

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W-2 wages and hours worked by the May 31, 2019, EEO-1 filing deadline. However, covered employers should review their internal reporting systems and actively collect the relevant data until the EEOC issues further guidance.

We are monitoring this matter closely and will provide updates as new information becomes available. If you have any questions regarding the new EEO 1 reporting requirements discussed above, please contact Christopher K. Schuele or your Reinhart attorney.

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